

The children are well cared for in a school in the Province of Quebec; and the mother does not object to them being there. The husband has no objection to the wife visiting the children so long as she does not attempt to get possession of them. The mother has no means to enable her to visit the children. Whether she is entitled to be maintained by her husband cannot be decided on this application. The case is full of difficulty; it is one that ought to be settled between the parties. Because of the peculiar circumstances, the learned Judge feels at liberty not to act upon the return of the habeas corpus by attempting to remove the children from the school and from the custody of the father and giving them over to the custody of the mother, she having no home and no present means for maintaining the children. There should be an order that the husband pay to the wife \$50 for her expenses in visiting the children at least once before the expiration of the present term at school. This order will be without prejudice to the rights of either party if the matter of the custody of the children shall come up on a subsequent application or if the right of the wife to maintenance shall be considered in an action for alimony. Upon the \$50 being paid and the visit by the wife to the children made, the motion will be dismissed. The solicitors for the wife must undertake that there shall be no attempt on the part of the mother to influence the children against the father or against remaining where they are during the present term. No costs. W. S. Montgomery, for the applicant. A. J. Anderson, for the respondent.

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BARBER v. JAMES RICHARDSON & SONS LIMITED—FALCONBRIDGE,  
C.J.K.B.—Nov. 12.

*Principal and Agent—Acts of Supposed Agents—Damping Auction Sale — Authority of Agents — Holding-out — Actionable Wrong—Damages—Costs.*]—Action by Henry Barber, assignee for the benefit of creditors of H. E. and M. E. Maddock, to recover damages for the damping by the defendants of an auction sale of the stock in trade of the assignors which passed to the plaintiff under the assignment. The action was tried without a jury at Toronto. FALCONBRIDGE, C.J.K.B., in a written judgment, said that the facts as to the alleged agency of Stephens, Plover, and Grattan, were not in dispute, and, on the law, he was of opinion that they were not agents nor was any one of them agent of the defendants, an incorporated company, in this behalf, and they