



in care, although the orders by which they were placed in care have subsequently been revoked and the three step-children (although it hadn't been planned when the parties married in 1985) eventually joined the B household.

The principle which the Court observes in deciding whether to maintain the position now achieved by the wife is to consider the welfare of the children. It is not necessarily paramount but it is very important. The decisions in T -v- L and N -v- P indicate that the Court attaches great importance to the welfare of the children. We are of course at a disadvantage because apart from what the parties have told us, through their Advocates, we do not know what the condition of the children is. It is impossible for us to consider the interests of the children at all until we know what the Children's Office considers about them and the whole history of the children will be of assistance to us in due course.

That being so, we have to consider the relative hardships of the two parties. The husband has been able to move into his mother and father's house where there is sufficient accommodation, although there is some difficulty inasmuch as the guest room or spare bedroom where he is presently sleeping is normally used as a study. In addition, his father suffers from a heart condition and finds the present position something of a strain, which we can understand. On the other hand, if the husband were allowed to return and the wife felt that she had to leave, she has nowhere to go. It has been made clear to her that Elizabeth House is not open to her and the children on a permanent basis and it is obviously much easier for a man to temporarily move out. I stress the word temporarily - until this is resolved.

Therefore Mrs Whittaker, although you urged all you could and although you pointed out the allegations of the wife we are not able to go into these in detail. It would be impossible to pre-judge these issues as a large number of them are pleaded in a divorce petition by the husband and we are told

that in due course the wife is going to bring one as well, although this has yet to be filed. In any case, the allegations are denied and there are undoubtedly cross-allegations, all of which will have to be gone into in detail if the parties pursue these matrimonial matters in a defended divorce. That is in the future, but for the time being we think that we must order a Children's Office Report and we therefore do so.

We feel, having considered the hardships of the parties and the position of the children, that the injunction should remain. On the other hand, the husband should have reasonable access to C whilst the child is with her mother and we therefore make those orders. Costs will be in the cause.

Authorities referred to in the judgment:

T -v- L (1977 1 C of A 139 - unreported)  
N -v- P (1985/86 JLR Part 2 144)

