

Province of British Columbia.

SUPREME COURT.

Davie, C.J., Walkem, J., Irving J.]

[Feb.

Re QUAI SHING, AN INFANT.

Custody of infant—Rights of adoptive parent—Welfare of child.

Quai Shing, a Chinese girl of about 14 years of age, was taken from her country folk against her will and placed in the Refuge Home at Victoria, B.C. An application for habeas corpus by her former Chinese custodian was refused by Drake, J. The applicant appealed and the appeal was heard before Davie, C.J., Walkem, J. and Irving, J.

Held, following *R. v. Nash*, 10 Q.B.D. 454, and *Ah Guay's Case*, 2 B.C. 343, that neither the applicant, who is neither parent nor guardian, but has adopted the child at a tender age at request of a relative in whose care she had been committed, nor the respondent, the matron of the Refuge Home, are entitled in law to the custody and possession of the child. In all such questions the benefit or welfare of the child is of primary importance. Both parties being in the eye of the law strangers, the Court will act on its opinion as to what is best for the child.

Per DAVIE, C.J., dissenting, that while an adoptive parent has no status as against parent or guardian, yet as against strangers interfering the adoptive parent is a person having the lawful care or charge of the child of his adoption, so as to make it illegal to take the child out of his custody, unless on account of moral turpitude or the like.

Appeal dismissed.

Walkem, J.]

CONNELL v. MADDEN.

[Feb.

Mineral claim—Initial post.

A prospector staked a claim on the international boundary, some of the stakes being in British Columbia, and some, including the initial post, on American soil.

Held, that a post thus planted in a foreign country could not be a boundary post within the meaning of any of the Mineral Acts, and the location is invalid.