

defendants would be embarrassed in their defence without such particulars and that justice requires their delivery.

*Brown v. G. W. Ry. Co.*, 26 L.T.N.S., 398 followed, although perhaps it goes further than would now be required in every case.

*Metcalfe*, for plaintiff. *Hough*, Q.C., for defendants.

## Province of British Columbia.

### SUPREME COURT.

Martin, J.]

IN RE SOY KING, AN INFANT.

[July 26.

*Infant—Right of person standing in loco parentis to custody of, as against stranger—How lost—Habeas corpus—Practice.*

A girl aged fourteen was taken by a Refuge Home from the custody of a person standing in loco parentis who was proved to be leading a bigamous life.

*Held*, on habeas corpus proceedings, that such person had lost his right to the custody of the infant.

An application in vacation for a rule nisi for a writ of habeas corpus should be made in Chambers.

*Fell*, shewed cause. *Helmcken*, Q.C., contra.

Full Court.]

GRUTCHFIELD v. HARBOTTLE.

*Mining law—Failure to record transfer of mineral claim—Right of locator subsequent to such transfer—Mineral Act, ss. 9, 49 and 50.*

The decision of MARTIN, J., reported ante p. 358, was appealed by the defendant to the full court and was reversed, the following judgment of the court being delivered by McCOLL, C.J.—There is apparently a conflict between ss. 49 and 50 of the Act. The former provides that an assignment though not recorded within the time limited shall be valid as between the parties and the latter that it shall be "enforceable" between them only after having been recorded. In my opinion the failure to record did not result in the claim becoming waste lands of the Crown open to location. An assignment is ordinarily enforceable against an unwilling party only by some legal process, and I think that s. 50 can and ought to be construed as meaning merely that a court should not afford relief before record of the assignment, thus giving effect to both sections.

WALKER and IRVING JJ. concurred. Appeal allowed with costs.

*S. S. Taylor*, Q.C., for appellant. *L. P. Duff*, for respondent.