

MCGREGOR v. WITBERS.

[May 19.

Agreement of sale of land to be paid for by share of successive crops—Assignability—Personal contract.

We have received a note of this case; but if the note correctly states the facts and the finding of the learned Judge we should have thought that the contract was assignable. It seems desirable to wait and see if there is an appeal from this judgment.

ED. C.L.J.

Province of British Columbia.

SUPREME COURT.

Full Court.]

BRIGGS v. FLEUTOT.

[Jan. 25.

ChamPERTY and maintenance—Void agreement—Parties entitled to take advantage of—Res judicata—Litigation over specific property—Person not a party but supplying funds for litigation—Estoppel by conduct.

Appeal from judgment of MARTIN, J., declaring that defendant was a trustee for plaintiff of an undivided one-fourth interest in two mineral claims.

Held, that the laws of champerty and maintenance, as they existed in England on Nov. 19, 1858, are in force in British Columbia, and an agreement for a champertous consideration is absolutely null and void.

The defence that an agreement is champertous and therefore void is open to others than those who are parties to the agreement.

Per HUNTER, C.J.: It is not open to a man to stand by and assist another to fight the battle for specific property to which he himself claims to be entitled, and in the event of the latter's defeat claim to fight the battle over again himself. He is not bound to intervene, and if he does not he must accept the result so far as concerns the title to the property.

At the trial plaintiff obtained judgment declaring that defendant was a trustee of an undivided one-quarter interest in two mineral claims: on appeal by defendant plaintiff's interest was declared to be only one-fortieth.

E. P. Davis, K.C., and *R. M. Macdonald*, for appellant. *S. S. Taylor*, K.C., for respondent.

Martin, J.]

DUMAS GOLD MINES v. BOULTBEE.

[March 18.

Mining law—Transfer of mining claim—Time for recording.

Interpleader issue. Sec. 19 of the Mining Act requires the locator of a mining claim to record it within 15 days if the location is within 10 miles of the recorder's office; one additional day is allowed for every additional 10 miles. By s. 49 of the Act every bill of sale of a mining claim shall be recorded within the time allowed for recording claims. The claimant of an interest in a mining claim seized under an execution on May 18, 1903, relied on a bill of sale obtained by him on Feb. 23, 1903, while in Dawson,