

Nor is much assistance derived from the cases in which a distinction between a contempt which is punishable as a crime and one not so punishable is considered and pointed out. . . .

[Reference to remarks of Lindley and Lopes, L.JJ., in *O'Shea v. O'Shea*, 15 P. D. 59, 64; *In re Freston*, 11 Q. B. D. 545, 556, 557; *Harvey v. Harvey*, 26 Ch. D. 644, 654; *In re Tuck*, [1896] 1 Ch. 692, 696; *D. v. A. & Co.*, [1900] 1 Ch. 484; *Spokes v. Banbury Board of Health*, L. R. 1 Eq. 42; *Berry v. Donovan*, 21 A. R. 14; *Kerr on Injunctions*, 4th ed., p. 593 et seq.]

The objections to the jurisdiction of Mulock, C.J., to make the order failing, and the Court being of opinion that the jurisdiction included power to punish for a wilful breach of the prohibition of the injunction, it follows that the appeal fails and must be dismissed with costs.

The defendants should, however, have a further day of grace granted to them to comply with the terms upon which the issue of the writ of sequestration should be suspended, and they will be allowed until 4th June to file with the registrar a notice of their election to comply with the terms mentioned in the recitals in the order appealed from, and in the event of their doing so they should have liberty, on proper terms, to apply to vary the order appealed from so as to make it such an order as would have been made if they had filed a proper notice of their election within the time limited by the order.

MAY 30TH, 1907.

DIVISIONAL COURT.

MUNRO v. SMITH.

MACKIE v. SMITH.

RICHARDSON v. SMITH.

Mines and Minerals — Ontario Mines Act, 1906 — Application to Record Staking out of Mining Claim—Duty of Mining Recorder to Receive—Ministerial Act—Result of Failure to Record—Rights of Applicants—Previous Adverse Claims Undisposed of—Bar to Recording Fresh Claims—Affidavit—Form—Construction of Act.

Appeals by defendant Smith, the mining recorder of the Temiskaming mining division, from orders of ANGLIN, J.,