

claim of the appellants and from another decision finding in favour of the claim of Cashman.

The appeal was heard by FALCONBRIDGE, C.J., BRITTON, J., RIDDELL, J.

J. E. Day, for the appellants.

George Ross, for Cashman, the respondent.

RIDDELL, J.—One Landrus, to whose rights the appellants have succeeded, claimed to have made a valuable discovery, and alleges that he staked the claim as required by the Act. Cashman also claimed to have a right to the property in question. The claims were adjudicated upon by the Mining Commissioner, who decided in favour of Cashman. It is admitted that if the claim of the appellants were valid, it has precedence over that of Cashman; and therefore the first question is whether the appeal of the company against the decision of the Commissioner disallowing their claim is well founded.

The Mining Commissioner had before him the witnesses, and he has found as a fact that Landrus made no discovery of valuable mineral within the Act, and further that the alleged discovery is not within the boundaries of the property staked by Landrus or the appellants, but some little distance south of their south boundary. It is admitted that if either finding be sustained, this part of the appeal must fail.

There is abundant evidence upon which the Commissioner might find as he has, and unless we are prepared to reverse our own recent decision in *Bishop v. Bishop*, ante 177, and a long line of cases which are followed therein, we cannot give effect to the contention of the appellants.

This being the case, I do not think that the appellants can be heard as against the claim of Cashman. Section 52 (3) gives "any licensee or person feeling aggrieved by any decision," etc., the right to appeal; but sec. 75 makes it clear that what is meant is, any licensee feeling aggrieved, and not generally any licensee whatsoever, who is given the right to appeal. The notice is to be served "upon all parties adversely interested"—unless an intending appellant has himself some interest or claims some interest in the property, there can be no "parties adversely interested." If the appeal against the allowance of Cashman's claim were to succeed,