

# The Ontario Weekly Notes

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No. 30.

## COURT OF APPEAL.

APRIL 9TH, 1910.

\*CONIAGAS MINES LIMITED v. TOWN OF COBALT.

\*CONIAGAS MINES LIMITED v. JACOBSON.

*Mines and Minerals—Patentees of Mining Rights — Owners of Surface Rights—Roadway from Mines—Right of User—Right to Search for Minerals—Townsite—Streets and Lots—Plan—Survey—Dedication—Sale of Town Lots—Discovery of Minerals—Order in Council — Statutes — Substituted Way — Priority of Claim—Declaration of Rights—Injunction.*

Appeals by the respective defendants from the judgment of BOYD, C., 13 O. W. R 333, in so far as it was adverse to them; and cross-appeal by the plaintiffs against so much of the judgment as denied them further relief.

The appeals were heard by MOSS, C.J.O., OSLER, GARROW, MACLAREN, and MEREDITH, J.J.A.

E. D. Armour, K.C., for the defendants.

H. H. Collier, K.C., for the plaintiffs.

MOSS, C.J.O. (after briefly stating the facts and the Chancellor's findings, and referring to the provisions of secs. 23 and 24 of 7 Edw. VII. ch. 18 (O.)) :—Apart from the effect of the statutory provisions already referred to, the questions seem to resolve themselves into an inquiry into the extent of the rights of a grantee or owner of mines, minerals, and mining rights in, upon, and under lands, as against the grantee or owner of the surface,

\* These cases will be reported in the Ontario Law Reports.