

at p. 28, and by Warrington, J., in *In re Darby's Estate*, [1907] 2 Ch. at p. 470, may also be of importance.

Upon all the facts being brought out, the Master will be in a position to apply the law. In his report he should set out the facts upon which he proceeds, that in case of an appeal the Court may have all necessary material.

As it may turn out that the new facts are wholly immaterial or should have been brought out by the appellants, I think we should leave the costs of this appeal and of the motion before Mr. Justice Sutherland in the discretion of the Master.

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DIVISIONAL COURT.

OCTOBER 19TH, 1912.

RE CAMPSALL AND ALLEN.

*Mines and Minerals—Recording Mining Claims—Priorities—Dispute — Appeal — Refusal of Mining Commissioner to Consider Merits of Staking—Extension of Time for Doing Work—Mining Act of Ontario, 1908, secs. 60, 62, 63, 65, 66, 80, 130, 140.*

Appeal by W. Campsall and others from a decision of the Mining Commissioner of the 4th March, 1912.

The appeal was heard by FALCONBRIDGE, C.J.K.B., BRITTON and RIDDELL, JJ.

J. J. Gray, for the appellants.

H. E. Rose, K.C., for the respondents.

The judgment of the Court was delivered by RIDDELL, J.:—On the 3rd July, 1911, the Mining Commissioner decided adversely to certain claims which are referred to in *Re Burns and Hall* (1911), 25 O.L.R. 168. The judgment is said to have been received at the Mining Recorder's office on the 5th July. On the 6th July, the respondents appeared at the Recorder's office with five claims based upon discoveries purporting to have been made that morning. The applications were regular in all respects in point of form; but the Recorder thought they should not be recorded, because the time for appealing to a Divisional Court from the decision of the Mining Commissioner had not run. The claims were accordingly filed under the provisions of sec. 62 (2) of the Mining Act of Ontario, 8 Edw. VII. ch. 21.