

staked his claim in conformity with the regulation of the 3rd August, 1912; and, therefore, the Act could not be strictly applied as against Neilly so as to allow the fraction in dispute to be included in the Lessard claim; and he ordered that mining claim C-940, as shewn on the plan of survey prepared by G. F. Summers, dated the 8th July, 1913, should stand as recorded, and that a patent should issue therefor.

The appeal from that order was heard by MEREDITH, C.J.C.P., RIDDELL, SUTHERLAND, and ROSE, JJ.

A. G. Slaght, for the appellants.

J. M. Ferguson, for Neilly, respondent.

At the conclusion of the argument, the judgment of the Court was delivered by MEREDITH, C.J.C.P., who said that what a discoverer is entitled to is 20 acres laid out in the manner imperatively and minutely (with diagrams) prescribed by the Act. (See secs. 51 et seq.) The provision upon which the respondent relied, sec. 59, sub-sec. (5), added by 4 Geo. V. ch. 14, sec. 2, meant only this: that, notwithstanding the fact that the discoverer has not laid out his claim in the way which the Act requires, he may, in the circumstances there provided for, have that which the Act so gives to him, not that which he has inaccurately laid out. And, that being so, the ruling of the Commissioner was wrong; the claims of both parties should be laid out as the Act imperatively prescribes; and, that being done, there is no conflict; the boundaries of the one do not come in contact anywhere with those of the other.

*Appeal allowed with costs.*

---

SECOND DIVISIONAL COURT.

JANUARY 18TH, 1917.

SNITZLER ADVERTISING CO. v. DUPUIS.

*Account — Reference — Procedure—Direction to File Statement of Account—Settled Account—Surcharge.*

Appeal by the plaintiffs from the order of FALCONBRIDGE, C.J.K.B., ante 165, dismissing an appeal from a ruling of a Local Master.