

## HIGH COURT OF JUSTICE.

Boyd, C.] METALLIC ROOFING COMPANY v. JOSE. [Sept. 17.

*Costs—Appeal to Privy Council—Practice—Execution—Stay—Set-off of other costs or damages.*

When costs of appeal to the Judicial Committee of the Privy Council have been awarded by the judgment of that tribunal, they are not subject to the rules of practice of the lower courts; there is no right of set-off, and no right to modify the direction to pay, which means forthwith after the amount is fixed, unless by application made before final judgment is completed. *Russell v. Russell* (1898) A.C. 307 applied and followed.

The plaintiffs, having been ordered by the Judicial Committee to pay the costs of the defendants' appeal to that tribunal, were held not entitled to a stay of execution for such costs in the court below (the High Court), with a view to a set-off of other costs or of damages to be recovered upon a new trial ordered by the Judicial Committee.

*Strachan Johnston*, for plaintiffs. *W. T. J. Lee*, for defendants.

Boyd, C.] LANG v. PROVINCIAL NATURAL GAS CO. [Sept. 17.

*Contract—Construction—Lease of oil rights—Condition—Time—Well to be "commenced"—Preparations for drilling.*

An "oil lease," or agreement under which the lessee was to have the right to take oil from the land of the lessors, provided that "if within six months from date a well has not been commenced on said promises, this lease shall be null and void." The well contemplated involved drilling into the ground or through rock several hundred feet. When the six months had expired, it was found that the lessee had done no work on the ground, but had put upon the place where the well was to be drilled some plant suitable for the contemplated operation, at an expense of \$200.

*Held*, that this did not amount to a commencement of the well; the terms of the lease imported that some work was contemplated upon and in the ground—"breaking the ground" in order to the commencement of a well.

*German*, K.C., for Lang. *Douglas*, K.C., for the company. *T. D. Cowper*, for Utz.