

defendants think they may be able to admit. This makes a total claimed by the plaintiff \$22,578.23. There will be judgment for this amount, with costs, but if the defendants desire it, they may have a reference to the local Master at Ottawa to ascertain what sum, if any, is owing the plaintiffs in respect of these two items, and, in that event, the judgment will be for \$21,726.48, including the money in Court, and a reference as to the disputed items amounting to \$852.75, with costs of the reference reserved.

Stay of execution for 30 days.

HON. MR. JUSTICE MIDDLETON.

JUNE 30TH, 1914.

HYATT v. ALLEN.

6 O. W. N. 660.

*Costs—Appeal to Privy Council—Judgment—Interpretation, of—
Costs Incurred in Court of Appeal—Taxation.*

MIDDLETON, J., *held*, that the words "the costs of the appeal to the Privy Council in the Court of Appeal" in a certificate of the Privy Council meant the costs of appeal incurred in Canada before the case was certified in England.

Motion by plaintiffs for a direction to the Taxing Officer to tax to the plaintiffs the costs incurred by them in Ontario in respect of an appeal to the Judicial Committee of the Privy Council.

Featherston Aylesworth, for plaintiffs.

M. L. Gordon, for defendants.

HON. MR. JUSTICE MIDDLETON:—By the certificate of the Privy Council, in addition to the sum taxed for the costs of the appeal incurred in England, the defendants are directed to pay the costs of the appeal to the Privy Council in the Court of Appeal.

The learned Taxing Master has refused to tax any of the costs of the appeal incurred in Canada, owing to the peculiar form of expression used in the certificate.

I think the words used in the certificate, "costs of this appeal incurred in the Court of Appeal," must be taken to mean the costs of the appeal incurred in Canada before the case was certified to England, and that the taxing officer should tax the costs incurred in Canada, taking care to see that there is no overlap and that nothing is allowed which is already covered by the costs taxed in England.

There will be no costs of this application.