

Appeal allowed with costs.

Bain, K.C., and Gordon, for appellant. *Matthew Wilson, K.C.,* for respondents.

Province of Ontario.

HIGH COURT OF JUSTICE.

Divisional Court, Ch.D.]

[Dec. 2, 1911.]

BURNS v. HALL.

Mining Act—Time for performance of work—Meaning of “immediately following.”

Appeal and cross-appeal from a decision of a mining commissioner.

Held, that the words “immediately following” in 8 Edw. VII. c. 21, s. 78, which provides “that the recorded holder of a mining claim shall perform work thereon during the three months immediately following the recording,” are synonymous with the words “next after,” so that the time begins to run on the next day after the recording.

Cowan, K.C., for plaintiff. *J. J. Gray,* for defendants.

Boyd, C.]

[Dec. 7, 1911.]

RE STURMER AND TOWN OF BEAVERTON.

Costs—Power of court to make real litigant to pay.

An application was made by one Sturmer to quash a local option by-law. The application was really on behalf of one Alexander Hamilton, an hotelkeeper, but he, fearing a liability for costs got Sturmer to act.

Held, that there is inherent power in the court to make a person who has set the court in motion pay the costs of his unsuccessful application, and this though the person be not formally a party, but one who is the instigator of the movement: see *In re Bombay Civil Fund Act*, 33 Sol. J. 107; *Attorney-General v. Skinners Co.*, C.P. Coop. 1; *Judicature Act*, s. 119; *In re Appleton* (1905), 1 Ch. 749; *Corporation of Burford v. Lenthall*, 2 Atk. 553; *Hutchinson v. Greenwood*, 4 E. & B. 326.

Raney, K.C., for the corporation. *Lynch-Staunton,* for Hamilton.