The liquidator of such a company appearing for the first time in the action on appeal.

Held, that he should have only such costs as he could have

obtained on an application to a judge in Chambers.

Taylor, K.C., and Twigg, for defendant Johnston, appellant. Prior, for liquidator. Russell, for plaintiffs, respondent.

## SUPREME COURT.

Clement, J.1

A. v. A. AND K.

| Feb. 2.

Divorce—Petition by husband—Husband and wife both leading immoral lives after separation—Discretion of court.

On the husband's petition for dissolution of marriage on the ground of infidelity by the wife after separation, if it be shewn that the petitioner is himself leading an immoral life, the court will exercise its discretionary power under the divorce jurisdiction, and refuse the relief prayed for.

R M. Macdonald, for the petitioner. Respondent did not

appear.

Clement, J.]

[Feb. 10.

HARVEY v. B.C. BOAT & ENGINE CO.

Highway-Obstruction-Nuisance-Prevention of access to property-Right of action by owners.

The right of ingress from and egress to a public highway parting a person's land, is a private right differing not only in degree, but in kind from the right of the public to pass and repass along such highway; and any disturbance of the private right may be enjoined in an action by the land owner alone.

Belyea. K.C., for plaintiff. Ellis and Creayh, for defen-

dants.

Clement. J.

Feb. 12.

NATIONAL TRUST CO. v. DOMINION COPPER CO.

Practice—Special case—Questions of fact—Proceedings extra cursum curiae.

A special case, asking the court to determine suggested or possible points of law in advance of an agreement or determination of the facts, is not to be encouraged.