Held, that R. S. C. c. 129, like the Insolvent Act of 1875, which provided for the winding-up of incorporated companies, is intended to be put into operation at the instance of creditors only.

Dr. Snelling, for the petitioners.

Bain, Q.C., and *McGregor*, for the Company.

Boyd, C.] [Dec. 16, 1887.

Re THE CENTRAL BANK OF CANADA.

Winding-up Act, R. S. C. c. 129—Shareholders' and creditors' nominees for liquidators — Interested liquidators — Parties mostly concerned in realizing assets—Liquidators' compensation.

Under ss. 98 and 99 of the Winding-up Act, R. S. C. c. 129, meetings of shareholders and creditors respectively were held. The shareholders' meeting recommended the appointment of C., G. and S. as liquidators. The creditors' meeting recommended C., G. and H. On the application to the court for the appointment of three liquidators, it was not denied that it would be necessary to resort to the double liability of shareholders to satisfy the claims of creditors under R. S. C. c. 120, s. 70.

Held, that the choice of the creditors, they having the chief and immediate concern in realizing the assets, would be adopted by the court, and their nominees, C., G. and H., should be appointed.

As between H. and S. preference should be given to the former, because he was neither a creditor nor a shareholder, while S. was both, and so at a disadvantage, the general rule being that it is desirable that liquidators should be disinterested persons.

Sec. 28 of the Winding-up Act intends that the remuneration is not necessarily to be increased because three are to be paid instead of one. The recompense for services is usually a percentage based on the time occupied, work done, and responsibility imposed, and when fixed goes to the liquidator, and if more than one, is distributed amongst them.

Bain, Q.C., for the petitioning creditor.

Robinson, Q.C., and *S. H. Blake*, Q.C., for the bank.

Practice.

Rose, J.] [Feb. 24.

HARDY *v.* PICKARD.

Costs—Omission to order at Trial—Subsequent order—Rule 338.

The trial Judge reserved a judgment, and afterwards delivered a written judgment in the plaintiff's favour, but inadvertently omitted to make any order as to costs.

Held, that the case came within Rule 338, and that the Judge had power, even after an appeal to a Divisional Court which left his judgment undisturbed, to make an order as to costs.

Fricker v Hobson, 14 Chy. D. 542, followed.

R. A. Dickson, for the plaintiff.

W. T. Douglas, for the defendant.

Chy. Divisional Court.] [Feb. 27.

In re SMART, INFANTS.

Infants—Custody—Habeas corpus—Petition.

The order of FERGUSON, J., 12 P. R. 312, was affirmed with one variation, viz., the *habeas corpus* is to run concurrently with the petition directed to be filed, and to be disposed of with it.

J. Maclennan, Q.C., and *H. J. Scott*, Q.C., for David Smart.

S. H. Blake, Q.C., and *H. Cassels*, for Emily A. Smart.

Q. B. Divisional Court.] [Mar. 9.

BANK OF HAMILTON *v.* BAINE.

Absconding debtor — Successive applications for writ of attachment—Fact of prior application not disclosed—Cause of action—Particularity in stating.

An application was made to a County Judge for an order to issue a writ of attachment under the Absconding Debtors' Act; the judge did not finally determine against the application, but gave leave to renew it upon a further affidavit.

Held, that there was no reason why the application should not afterwards be made to another judge.