

made upon payment into Court of her appraised value and the amount of her freight, if any.

3. This relief not having been asked before the local judge, the Court on appeal declined to allow the costs of appeal to either party.

*Newcombe*, K.C., for appellant. *Borden*, K.C., for respondent.

Burbidge, J.]

THE KING *v.* DUGAS.

[Dec. 9, 1905.]

*Public officer—Judge of Yukon Court—Living expenses—“Appointee of Dominion”—Recovery of money paid.*

The defendant was appointed a judge of the Supreme Court of the Yukon Territory, Sept. 12th, 1898. By s. 5 of the Yukon Territorial Act, 1898, 61 Vict. c. 6, s. 5 (3), he became as such judge a member of the council constituted to aid the commissioner in his administration of the territory. An order-in-council was passed Oct. 7, 1898, appointing him “to aid the commissioner in the administration of the territory,” and since that time up to action brought he had continued to act as a member of the council. In addition to the salary paid to him as such judge, certain provision for living expenses was made from time to time by Parliament in his behalf. By orders-in-council of July 7, 1898, and Sept. 5, 1899, relating to officers for the administration of the Yukon District, it was provided that such officers were, in addition to their salaries, to be furnished with “quarters and such living allowance as may from time to time be fixed by the Minister of the Interior;” and it was further provided therein that the provision mentioned should apply to “all appointees of the Dominion” who had been or might be appointed to the staff for the administration of the Yukon Territory.

From Oct. 19, 1900, until June 30, 1902, the defendant was furnished with a residence at Dawson City and supplied with light and fuel, the bills for rent and for light and fuel, and for certain other domestic requirements being paid by or under the authority of the commissioner of the Yukon Territory. The payments so made were fully reported to the Minister of Public Works, who was responsible for the administration of the appropriation, and vouchers, shewing on the face of them the service for which the moneys were expended and giving full