

N.B.]

JONES v. CITY OF ST. JOHN.

[Nov. 29.

*Municipal assessment—Domicile—Change of domicile—Intention—
59 Vict., c. 61 (N.B.).*

By the St. John City Assessment Act, 59 Vict., c. 61 s. 2, "for the purposes of assessment any person having his home or domicile, or carrying on business, or having any office or place of business, or any occupation, employment or profession, within the City of St. John shall be deemed . . . an inhabitant and resident of the said city." J. carried on business in St. John as a brewer up to 1893 when he sold the brewery to three of his sons and conveyed his house and furniture to his adult children in trust for them all. He then went to New York where he carried on the business of buying and selling stocks and other securities, having offices for such business, and living at a hotel, paying for a room in the latter only when occupied. During the next four years he spent about four months in each at St. John visiting his children and taking recreation. He had no business interests there, but attended meetings of the directors of the Bank of New Brunswick during his yearly visits. He was never personally taxed in New York and took no part in municipal matters there. Being assessed in 1897 on personal property in St. John he appealed against the assessment unsuccessfully and then applied for a writ of certiorari with a view to having it quashed.

Held, reversing the judgment of the Supreme Court of New Brunswick, that as there had been a long continued actual residence by J. in New York, and as on his appeal against the assessment he had avowed his bona fide intention of making it his home permanently, or at least for an indefinite time and his determination not to return to St. John to reside, he had acquired a new home or domicile and that in St. John had been abandoned within the meaning of the Act. Appeal allowed with costs.

Currey, Q.C., for appellant. *C. J. Coster*, for respondent.

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HESSE v. ST. JOHN RAILWAY CO.

[Nov. 29.

Negligence—Action for damages—Improper evidence—Misdirection.

By 60 Vict., c. 24, s. 370 (N.B.) "a new trial is not to be granted on the ground of misdirection or of the improper admission or rejection of evidence unless in the opinion of the Court some substantial wrong or miscarriage has been thereby occasioned in the trial of the action." On the trial of an action against an electric Street Railway Company for damages on account of personal injuries, the vice-president of the company, called on plaintiff's behalf, was asked on direct examination the amount of bonds issued by the company, the counsel on opening to the jury having stated that the company was making large sums of money out of the road. On cross-examination the witness was questioned as to the disposition of the proceeds of debentures, and on re-examination plaintiff's counsel interrogated him at length as to the selling price of the stock on the