

FISHERY—Continued.

by Act of Assembly they are directed to be annually sold by the city. *Held*, that where the city is bounded by low water mark it has not a title to sell the right of fishing beyond such mark, though within the harbour. **THE CITY OF SAINT JOHN v. WILSON**398

FISHERY LICENSE—Holder not Entitled to Renewal—Exclusion of Former Co-Licensee—Tenants in Common of Personal Property—Use and Possession—Exclusion of Co-tenant—Title to Profits—Account—Stat. 4 Anne, c. 16, s. 27.] A Dominion Government fishery license for one year, without right of renewal, was taken out a number of consecutive years by the plaintiff and defendants until 1899, in which year and in the year following, the license was taken out and the fishing thereunder was carried on by the defendants. The plaintiff and defendants owned as tenants in common fishing gear used in fishing under the license. They were not partners in respect of the license, and each catch of fish was divided at the time it was made among such of the licensees as assisted in it. The expense of repairing the fishing gear was proportionately borne by the plaintiff and defendants up to the years 1899 and 1900, when it was borne by the defendants. In the years 1899 and 1900 the fishing gear was possessed and used exclusively by the defendants in fishing under the license. *Held*, that the plaintiff was not entitled to a declaration of interest in the license, nor to a share of the earnings thereunder for the years 1899 and 1900, and that the defendants were not liable to account to him for profits from the use by them of the fishing gear in those years. **GUPTILL v. INGERSOLL**252

FLOATABLE RIVER — Riparian rights — Use of stream — Mill owner—Timber driving—Obstruction — Injunction — Removal of obstruction before hearing — Assessment of damages—Absence of ground of relief in equity. .488
See INJUNCTION, 6.

FRAUD—Mortgage—Payment—Authority of solicitor of mortgagee to receive mortgage debt341
See MORTGAGE, 3.

— Charges of — Pleading — Failure of proof—Costs539
See COMPANY, 1.

FRAUDS, STATUTE OF — Crown Land Lumber License—Interest in Land —Parol Agreement — Purchase Money — Resulting Trust.] An agreement under which a Crown land-lumber license

FRAUDS, STATUTE OF—Continued.

was bid in at public sale at the upset price by the defendant, in whose name the license was issued, for the plaintiff, who had paid to the defendant the upset price previous to the sale, does not relate to an interest in land within the Statute of Frauds, and if it does, as the purchase money for the license was paid by the plaintiff, and a trust thereby resulted in his favor by construction of law, it can be established by parol evidence under the Statute of Frauds, c. 76, C. S. N. B. s. 9. **MCGREGOR v. ALEXANDER**54

FRAUDULENT ASSIGNMENT — Conflict of laws — Foreign assignment of personal property in New Brunswick — "Mobilia sequuntur personam" — Prejudice of creditor38
See CONFLICT OF LAWS.

FRAUDULENT CONVEYANCE — Suit to Set aside—Stat. 13 Eliz., c. 5—Necessity of Judgment—Delay—Statute of Limitations—Allegation of Subsisting Debt—Pleading.] In a suit to set aside a conveyance as fraudulent under the Stat. 13 Eliz., c. 5, it is not necessary for the plaintiff to allege that he has obtained, or is in course of obtaining, a judgment upon his debt. Delay cannot be set up against a creditor seeking to set aside a conveyance of lands as fraudulent under the Stat. 13 Eliz., c. 5, where the creditor's debt is not barred under the Statute of Limitations at the commencement of the suit. In a suit, commenced in 1899, by a creditor to set aside as fraudulent under the Stat. 13 Eliz., c. 5, a conveyance of land, the bill stated the debt arose upon two promissory notes, dated respectively in March and April, 1885, payable with interest three and twelve months after date, that the notes "were renewed and carried along from time to time by new or renewal or other notes, but have never been paid, but with interest thereon are still due to the plaintiff." *Held*, that the allegations were too vague, general and uncertain to shew a valid and subsisting debt, not barred by the Statute of Limitations, at the time of the commencement of the suit, and that the bill was therefore demurrable. **TRITES v. HUMPHREYS**1

2. — Stat. 13 Eliz., c. 5—Conveyance for Valuable Consideration — Judgment Creditor — Action in Tort — Cause of Action Arising Subsequently to Date of Conveyance.] In 1893 the defendant and his son entered into a parol agreement that the defendant should convey his farm to the son, and that the son should labor upon the farm and support his parents. The