

Nova Scotia.

SUPREME COURT.

Full Court.]

HALLETT v. ROBINSON.

[Nov. 15, 1898.]

Partnership in mining venture—Constituted by equal participation in profits and liability to loss—Wages—Rights of party hired by one partner to recover.

The defendants—R., a practical miner, and M., a medical practitioner—entered into an agreement with S., trustee for a mining company, to employ labour and to do certain work in connection with the development of a property owned by the company, in consideration of which R. and M. were to be entitled to three-fourths of the ore mined, and a one-tenth interest in the property itself. R. acted as superintendent of the mine and made up the pay rolls and paid wages. The accounts as between R. and M. were made up on the basis of and equal right to profits, and an equal liability to loss.

Held, that R. and M. were partners and that M. was jointly liable with R. to plaintiff, who was employed by R., to do certain work in connection with the mine.

Full Court.]

IN RE ESTATE OF DAVID MORSE.

[Dec. 3, 1898.]

Probate Court decree set aside with costs as made without jurisdiction—Fund set apart and separated from assets of estate—Parties entitled to interest arising from, held not interested in estate.

By the third clause of his will, testator bequeathed to A.E.R. and C.C.M. the interest arising from certain sums of money; the principal moneys, on the death of A.E.R. and C.C.M., to be divided share and share alike among other children of testator. By a subsequent clause of the will a further sum of money was set apart, the interest arising from which was to be paid to testator's sons, J.A.M. and L.R.M., as compensation for their trouble in investing and taking care of the moneys to be invested for the purposes mentioned in the previous clause.

On the petition of A.E.R. and C.C.M. a citation was issued to the executors of D.M., requiring them to appear and settle the estate, and a decree was made by the judge of probate for the County of Annapolis against the executors and in favor of A.E.R. and C.C.M. for arrears of interest claimed to be due to them. The fund set apart for A.E.R. and C.C.M., prior to the proceedings in the Court of Probate, having been set apart and separated from the assets of the estate.