

had without lawful excuse omitted to provide medical treatment for his infant child, under sixteen years of age when it was reasonable and proper that such treatment should be provided, and that the child died from such neglect.

*Held*, that the defendant had been guilty of an indictable offence under s. 210 of the Code, which enacts that every one who as parent, guardian, or head of a family, is under a legal duty to provide necessaries for any child under sixteen, is criminally responsible for omitting without lawful excuse to do so, etc.

*Aylesworth*, K.C. and *Vickers* for prisoner. *Cartwright*, K.C. and *Ford* for Crown.

## Province of New Brunswick.

### SUPREME COURT.

Barker, J.]

MASTERS v. MASTERS.

[July 9.

*Partition—Proving lunacy—Costs—Apportionment.*

In a suit for partition and sale of lands made necessary by a co-tenant being a lunatic, her lunacy was proven by affidavit under s. 80 of 53 Vict., c. 4. A motion that the costs of appointing a guardian to such lunatic and of proving the lunacy be charged upon the lunatic's share of the proceeds of the sale of the land in the above suit was refused.

*Teed*, K.C., for plaintiffs.

Barker, J.]

WATSON v. PATTERSON.

[Aug. 18.

*Injunction—Obstruction of river—Log driving—Removal of obstruction before motion—Dismissal of suit—Costs—Assessment of damages—Remedy at law.*

Plaintiff was prevented from driving lumber down a tributary of the St. John River by the closing of the passage by a pier and booms erected by the defendant in connection with his saw mill and by logs of the defendant. Defendant is the owner of both sides of the river. This suit was for a mandatory injunction to compel the removal of the pier, booms and logs so as to open up and keep open a passage for the plaintiff's lumber, and for an assessment of damages. The bill was filed and motion heard May 23, two days before the obstructions had been removed.

*Held*, that the injunction in respect of future obstructions should be refused, and plaintiff left to his remedy at law for recovery of damages, if any, but that the bill should be dismissed without costs; plaintiff to have costs of obtaining and serving interim injunction.

*Lawson*, K.C., for plaintiff. *Alward*, K.C., for defendant.