

Held, 1. Following *Jost v. McNeil*, 20 N.S.R. 156, that S. K. having accepted letters of administration could not renounce without the order of the Court of Probate, and that the order made on the application and in the names of E. R. and R. K. only was bad and must be set aside.

2. The order was bad because it permitted execution to issue on the judgment "for the benefit of the said E. R. and R. K." instead of requiring any sum realized to be applied according to law under the direction of the Court of Probate.

3. As the appellant had failed on the merits, a larger amount appearing to be due on the judgment than was claimed, there should be no costs to either party either in this Court or in the Court below.

Wade, K.C., for appellant. *Kaulbach*, for respondent.

Province of New Brunswick.

SUPREME COURT.

In Equity, Landry, J.]

[April 2.

CITY OF ST. JOHN v. WILSON.

Charter of the City of St. John—Boundary construction—Fishing privileges.

By the charter of the City of St. John the land given to the city is defined, together with all the lands and waters thereto adjoining or running in, by or through the same," and part of the description of the bounds of the city is, "from thence along the north shore of the said river at low water mark to," etc. By Act 26 Geo. 3, c. 46, the fisheries between high and low water mark is vested in the city. The boundary of the city where fishing lots 3 and 4 are is low water mark.

Held, that the fishing privileges in these lots between high and low water mark was not vested in the city.

Skinner, K.C., for plaintiff. *Pugsley*, A.G., *Earle*, K.C., and *J. R. Campbell*, for defendants.

In Equity, Barker, J.]

TRAVERS v. CASEY.

[April 15.

Will—Construction—Intestacy.

The testator S., the Roman Catholic Bishop of St. John, by his will declared that "although all the Church and ecclesiastical and charitable properties in the diocese are and should be vested in the Roman Catholic Bishop of St. John, New Brunswick, for the benefit of religion, education and charity, in trust, according to the intention and purposes for which they were acquired and established, yet to meet any want or mistake, I give