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SUPREME COURT OF CANADA.

May 10, 1894.

New Brunswick]

GRANT v. MACLAREN.

*Executors and trustees—Probate Court—Passing of accounts—
Res judicata.*

G. was executor and trustee under a will, and as such passed his accounts yearly in the Probate Court. The accounts so passed contained all the charges and disbursements of G., both as executor and trustee, and the beneficiaries under the will were not represented by counsel on any occasion before the Probate Court. A suit in equity having been brought to remove G. from his position as executor and trustee, the judge in equity, before entering upon the merits, ordered a reference to take the accounts of G., and the reference reported that having taken them, a number of items were disallowed as improper charges. On exceptions to this report the equity judge held that the action of the Probate Court in reference to the accounts was final and not open to review by the court in such suit. On appeal this ruling was reversed by the Supreme Court of New Brunswick, and the referee's report confirmed. On appeal to the Supreme Court of Canada,

Held, affirming the decision of the court appealed from, that the Probate Court had no jurisdiction over the accounts of G. as