

DIARY FOR MARCH.

1. Sat. St. David.
2. Sun. *Second Sunday in Lent.*
3. Mon. Serfdom abolished in Russia, 1863.
4. Tues. Court of Appeal Sits. General Sessions and County Court Sittings for trial in York.
5. Wed. York changed to Toronto, 1834.
9. Sun. *Third Sunday in Lent.*
10. Mon. Prince of Wales married, 1863.
13. Thu. Lord Mansfield born, 1704.
16. Sun. *Fourth Sunday in Lent.*
17. Mon. St. Patrick's Day.
18. Tues. Arch. McLean, 8th C.J. of Q.B., 1862. Princess Louise born, 1848.
23. Sun. *Fifth Sunday in Lent.*
26. Wed. Bank of England incorporated 1694.
58. Fri. Canada ceded to France 1832.
30. Sun. *Palm Sunday.* B.N.A. Act assented to 1867. Reformation in England began 1534.
31. Mon. Slave Trade abolished by Britain 1807.

Reports.

ENGLAND.

COURT OF APPEAL.

(Reported for THE CANADA LAW JOURNAL, by A. C. Galt, Barrister-at-Law, Toronto.)

MULLER v. NASH.

Solicitor's liability—Misappropriation before partnership—Improper investment—Liability of firm—Negligence—Damages.

D. and N. entered into partnership as solicitors, in September, 1885. D. had previously received £450 as solicitor for M.

In January, 1886, M. instructed D. & N. to reinvest the money on a mortgage of the life interest of W., in £2,000 (under a marriage settlement), and an assignment of a policy for £600, on W.'s life. These securities were vested in D., but were already mortgaged by him to their full value, of which M. had no notice. At D.'s request, M. executed a reconveyance (prepared by the firm) of the property originally mortgaged to her, and in February, 1885, D. executed a mortgage and assignment (also prepared by the firm) of the new securities, in favor of M., but no notice thereof was given to the trustees of the marriage settlement or to the insurance company. In May, 1887, D. paid off the prior charge on the securities, and sold them to H. for £350. The insurance company went into liquidation, and D., after having paid a year's interest to M., died a bankrupt, in July, 1887.

Held, affirming Grantham, J., that N. was liable for the fraud and negligence of D.; that the debt due from D. to M. at the date of the partnership, was capable of being treated as money in the hands of the firm for investment; and that the measure of damages was the amount of M.'s loss, irrespective of the insolvency of D., or of the insurance company.

[GRANTHAM, J., Nov. 7, 1888—C.A., Mar. 30, 1889.

Action for damages against defendant, as member of a firm of solicitors, for fraud and negligence.

The plaintiff had employed Messrs. Deane & Chubb, as her solicitors, to invest £450, and they invested it on a mortgage. Chubb died in May, 1885. In July, 1885, the mortgagor repaid the money to Deane, who appropriated it to his own use. On September 1st, 1885, a partnership was formed between Deane and the defendant, under the name of Dean & Nash, notice of which was given to the plaintiff.

In January, 1886, Deane informed the plaintiff that the mortgage had been paid off, and he received instructions from the plaintiff to reinvest the money upon a mortgage of certain securities, suggested by Deane, the particulars of which were not given to the plaintiff. A reconveyance of the prior mortgaged property was thereupon prepared by a clerk of the firm, under the instructions of Deane, and was executed by the plaintiff. In February, 1886, a mortgage and assignment from Deane to the plaintiff were also prepared by the firm, whereby Deane purported to mortgage the life interest of one Woodhouse in £2,000 (under a marriage settlement), and to assign a policy for £600 in the Briton Medical Insurance Company, upon the life of said Woodhouse, to the plaintiff.

These securities had, by various assignments, become vested in Deane, who had already mortgaged them to their full value. No notice of the plaintiff's mortgage or assignment was given either to the trustees of the marriage settlement or to the insurance company, but Deane paid interest to the plaintiff for about one year. On May, 17th, 1887, Deane paid off the prior charge upon the securities, and a few days later, sold and assigned them to one Hartland for £350, without the plaintiff's knowledge. The insurance company had gone into liquidation, so that the value of the life policy was greatly depreciated. Deane died, hopelessly insolvent, in July, 1887.

At the trial before GRANTHAM, J., on Nov. 7th, 1888, *Willis*, Q.C., appeared for the plaintiff; *Bompas*, Q.C., for the defendant.

It was admitted on the part of the plaintiff, that the defendant was entirely innocent of any personal misconduct, and it was shown that he had no knowledge of the particular acts complained of.

The defendant contended, amongst other