

RECENT ENGLISH DECISIONS.

ceedings against the solicitor who, from his evidence given in a cause which had been before the Court by way of appeal, appeared to have been guilty of gross misconduct, and the question was discussed whether the Court of Appeal could strike him off the rolls or whether the proceedings for that purpose should not have been instituted in one of the Divisions of the High Court. The Court of Appeal, though not seeing fit to exercise the jurisdiction, nevertheless, were unanimous that they had the power to do so. The solicitor not having derived any pecuniary benefit from his misconduct, and being in reduced circumstances, and not having taken out his certificate for three years, the Court, instead of striking him off the rolls or suspending him, restrained him from renewing his certificate without the leave of the Court.

INCUMBRANCE—PRIORITY—LEGAL ESTATE.

Passing by two or three cases which do not appear to need any notice, we come to the case of *Newman v. Newman* (28 Ch. D. 674), which is an illustration of the well-known maxim of equity, that "where the equities are equal the law must prevail." One Brown was the owner of an undivided three-eighths of a certain leasehold, as to one moiety thereof for himself, and as to the other in trust for one Edwin Newman. Edwin Newman assigned his share in this leasehold, and also a policy of life insurance to his mother-in-law, Mrs. Armstrong, as security for £5,700. Subsequently Edwin Newman became indebted to Brown, and he and Mrs. Armstrong thereupon by deed, reciting the previous assignment to the latter, conveyed the leasehold and policy to Brown to secure £3,180, and subject thereto for Mrs. Armstrong. Edwin Newman died.

The action was brought by one of his children claiming to recover the value of

his interest in the leasehold and life policy as one of the *cestuis que trustent* under his marriage settlement, whereby it was claimed that the leasehold and policy had been settled by Edwin Newman prior to the assignment to Brown, it being claimed that the £5,700 due to Mrs. Armstrong was so due to her as a trustee of the settlement. Brown alleged he took the assignment without notice of the settlement, which the Court on the evidence held to be the fact. Under these circumstances it was held by North, J., that Brown having the legal estate, and having no notice of the plaintiff's alleged prior equity at the time he took security for his debt from Edwin Newman, was entitled to priority over the plaintiff.

QUIA TIMET—INJUNCTION—NUISANCE.

The case of *Fletcher v. Bealey* (28 Ch. D. 688) is the next case which seems to call for observation here, and shows the principle on which the Court acts in entertaining *quia timet* actions for the purpose of restraining threatened injuries. The plaintiff carried on business as a paper manufacturer on the banks of the river Irwell, the water of which he used to a large extent in his business, and it was of great importance that it should be free from impurities. The defendants were alkali manufacturers, and were depositing on the banks of the river a quantity of refuse known as "vat waste" from which a highly noxious liquid was liable to percolate, and the plaintiff, being apprehensive that this liquid would get into the stream, brought the action to restrain the deposit of the vat waste near the river. No actual damage had been done. Pearson, J., thus stated what he considered to be the principle on which the Court should act in such cases: "There must, if no actual damage is proved, be proof of imminent danger, and there must also be proof that the apprehended damage will, if it comes, be very substantial. I should