

TRUSTEE—BREACH OF TRUST—STATUTE OF LIMITATIONS—CONSENT OF CESTUI QUE TRUST—IMPOUNDING INTEREST OF CESTUI QUE TRUST—SOLICITOR PARTY TO BREACH OF TRUST—PARTNER—TRUSTEE ACT, 1888 (51 & 52 VICT., c. 59), ss. 6, 8—TRUSTEE ACT, 1893 (56 & 57 VICT., c. 53), s. 45—54 VICT., c. 19, ss. 11, 13 (O.)

*Mara v. Browne*, (1895) 2 Ch. 69, is one of those cases which incidentally illustrates the truth of the old saying that "a man who is his own lawyer has a fool for his client," but this aspect of the case will probably not find its way into the digest. The plaintiffs were the *cestuis que trustent* and the trustees of a marriage settlement, and the defendants were solicitors, one of whom defended in person. The object of the action was to compel the defendants to make good certain trust moneys subject to the settlement which had been lost by improper investments, to which the defendants were parties under the following circumstances: The two original trustees of the settlement were Walker and James, and in 1884 they were willing to retire from the trusts, and the trust fund was paid into a bank to the joint credit of James and Arthur Reeves, it being the intention that Arthur Reeves and his sister, Marian Reeves, should be appointed new trustees. Hugh Browne, who was in partnership with his brother and co-defendant, acted as solicitor for the husband and wife, and advised and carried out the investments complained of before the new trustees were actually appointed. The wife consented to two of the investments, but it did not appear that she knew that they were of such a character as to involve a breach of trust. The trust moneys were from time to time received by the defendants' firm, and paid over to the borrowers, but Hugh Browne alone transacted the business, and his brother took no part in it. The investments were all made in April, 1884; shortly afterwards the new trustees were regularly appointed, and the investments which had been so made before their appointment were scheduled as the investments of the trust estate, and the new trustees never took any steps against the defendants. By the trusts of the settlement the money of the wife was vested in the trustees, but there seems to be a discrepancy in the report as to the amount, for, from the statement of facts, it appears that the settlement only included £5,000 worth of the wife's property, and yet it appears that the investments complained of amounted to £9,200. Where the £4,200 was derived from does not appear, though this seems to be important in view of the decision of the court as to