

DIARY FOR APRIL.

- 1. Tues....County Court Non-Jury Sittings, except in York.
- 4. Fri.....Good Friday.
- 5. Sat....Canada discovered 1499.
- 6. Sun....Easter Sunday.
- 7. Mon....County Court Sittings for motions begin. Surrogate Court Sittings.
- 8. Tues....County Court Non-Jury Sittings, except in York.
- 12. Sat....County Court Sittings for Motions end.
- 13. Sun....First Sunday after Easter.
- 14. Mon....County Court Non-Jury Sittings in York. Princess Beatrice born 1857.
- 15. Tues....President Lincoln assassinated 1865.
- 18. Fri....First Newspaper in America 1704.
- 20. Sun....Second Sunday after Easter.
- 23. Wed....St. George's Day.
- 25. Fri....St. Mark.
- 27. Sun....Third Sunday after Easter.

Early Notes of Canadian Cases.

SUPREME COURT OF JUDICATURE FOR ONTARIO.

HIGH COURT OF JUSTICE.

Queen's Bench Division.

Divl Ct.]

[March 8.

HAMILTON v. GROESBECK.

*Master and servant—Injury to workman by unguarded saw—Action for negligence—“Moving,” meaning of, in s. 15 of Factories’ Act, R.S.O., c. 208—“Defect,” meaning of, in s. 3 of Workmen’s Compensation for Injuries Act, R.S.O., c. 141.*

By s. 15 of the Factories’ Act, R.S.O., c. 208, it is provided that all belting, shafting, gearing, fly-wheels, drums, and other moving parts of the machinery, shall be guarded.

*Held*, that the word “moving” is used in its transitive sense, and signifies “propelling,” and that no duty is imposed by the section upon owners of saw mills to guard the saws which are propelled by the moving parts of the machinery.

By s. 3 of the Workmen’s Compensation for Injuries Act, R.S.O., c. 141, where personal injury is caused to a workman by reason of any defect in the condition of the ways, works, machinery, or plant connected with or used in the business of the employer, the workman shall have the same right of compensation and remedies against the employer as if he had not been engaged in his work.

*Held*, that the want of a guard to a saw was

not a defect within the meaning of this provision

Such a defect must be an inherent defect, a deficiency in something essential to the proper use of the machine.

And where a workman in a saw mill was injured by being thrown against an unguarded saw, and it was shown that a guard would have prevented the injury;

*Held*, that an action for negligence was not maintainable against the owners at common law, nor by virtue of either of the above mentioned statutes.

*Aylesworth* for the plaintiff.

*J. S. Fraser* for defendants.

Common Pleas Division.

MACMAHON, J.]

BROWN v. DAVY.

*Donatio mortis causa—Gift inter vivos—Evidence of—Board, nursing, and attendance on parent—Right to recover for.*

J. W., who was inflicted with cancer on the face and neck, in September went to his married daughter’s at the city of K., and was tended and nursed by her and another daughter. In November he was joined by his wife, who remained with him until his death, which took place in January following. Nearly three months after he had been at defendant’s, another daughter asked him to give defendant the price of a piano, when he said he would not do that, but, pointing to a box in which he kept some money and promissory notes, and which he kept locked, retaining the key, said it was defendant’s, to do what she liked with; but it appeared he had reference merely to satisfying defendant for her care and attention, saying there was sufficient for all. No change was made in the possession of the box and its contents, the same continuing in J. W. up to the time of his death, taking what money he required for his own use and for presents to his wife and daughters, the defendant at his request sometimes taking out money for him for such purposes. The notes were never alluded to except in the way indicated.

*Held*, that neither a good *donatio mortis causa* nor gift *inter vivos* to defendant was shewn; but that J. W.’s intention was that defendant should be paid for her services; and