

## DIARY FOR AUGUST.

1. Sat.....Slavery abolished in British Empire, 1834.
2. Sun.....10th Sunday after Trinity.
3. Mon.....Battle of Fort William Henry, 1757.
4. Thur.....Thos. Scott, 4th C.J. of Q.B., 1804.
5. Fri.....Duquesne, Governor of Canada, 1752.
6. Sat.....Last day for filing notices for Call.
7. Sun.....11th Sunday after Trinity. Fort William Henry capitulated, 1757.
8. Mon.....Battle of Lake Champlain, 1814.
9. Thur.....Sir Peregrine Maitland, Lieut.-Gov., 1818.
10. Fri.....Battle of Fort Erie, 1814.
11. Sat.....12th Sunday after Trinity. Battle of Detroit, 1812.
12. Mon.....Last day for Call and Admission notices. General Hunter, Lieut.-Governor, 1799.
13. Wed.....River St. Lawrence discovered, 1535.
14. Sun.....12th Sunday after Trinity.
15. Mon.....St. Bartholomew.
16. Tues.....Francis Gore, Lieut.-Governor, 1806.
17. Sun.....14th Sunday after Trinity.
18. Mon.....Long Vacation ends.

## Early Notes of Canadian Cases.

SUPREME COURT OF JUDICATURE  
FOR ONTARIO.

## COURT OF APPEAL.

[June 30.]

MCMICHAEL v. WILKIE.

*Husband and wife—Separate estate—Contract by implication.*

The implied obligation to pay off the incumbrance which, in the case of a conveyance of land to a person *sui juris*, is imposed by a Court of Equity is not enforceable against a married woman. It cannot be said to be a contract or promise in respect of separate property.

The practice as to giving relief to one defendant against a co-defendant considered.

Judgment of the Common Pleas Division, 19 O.R. 739, reversed.

*E. D. Armour, Q.C.*, for the appellant.

*W. H. P. Clement* for the respondent.

IN RE TOWNSHIP OF ORFORD ET AL. AND  
TOWNSHIP OF HOWARD.

*Drainage—Municipal corporations—Drainage used by another municipality—R.S.O. (1887), c. 184, s. 590.*

Section 590 of R.S.O. (1887), c. 184, applies only to drains strictly so called, that is, to such outlets as have been artificially constructed; and a municipality from which surface water flows, whether by drains or by natural outlets, into a natural water-course, cannot be called on to contribute to the expense of a drainage scheme,

merely because the natural water-course is used as a connecting link between drains constructed under that scheme, and because the drainage scheme is in part necessitated by the large amount of surface water brought into the natural water-course by the municipality in question.

Judgment of ROBERTSON, J., affirmed.

*M. Wilson, Q.C.*, for the appellants.

*W. Douglas, Q.C.*, and *J. A. Walker*, for the respondents.

## HAMILTON v. GROESBECK.

*Master and servant—Negligence—Machinery—Unguarded saw—"Moving"—"Defect"—Factories Act, R.S.O. (1887), c. 208—Workman's Compensation for Injuries Act, R.S.O. (1887), c. 141.*

A defect in the condition of machinery, etc., under s. 3 of the Workman's Compensation for Injuries Act, R.S.O. (1887), c. 141, means some defect with reference to the safe operation of the machine; and where a workman was injured by falling against an unguarded moving saw at a time when he was not working at it, and in such a manner that no reasonable guard would have prevented the injury, it was held that he was without remedy, and that the question whether the want of a guard might be a defect or not need not be considered.

The employer's duty, created by the Act, is merely to see that the machine is in such a condition that it may be worked with safety by a workman using reasonable care and caution.

There being no evidence as to the number of persons employed on the premises in question, the court declined to consider the questions raised as to the construction of the Factories Act, R.S.O. (1887), c. 208.

Judgment of the Queen's Bench Division, 19 O.R. 76, affirmed.

*Aylesworth, Q.C.*, for the appellant.

*J. A. S. Fraser* for the respondent.

THE ATTORNEY-GENERAL EX REL. RICHARD  
HOBBS v. THE NIAGARA FALLS WESLEY  
PARK AND CLIFTON TRAMWAY CO.

*Crown—Injunction—Breach of charter.*

The defendants were incorporated by Letters Patent under the Street Railway Act, R.S.O. (1887), c. 171, which authorised them to construct and operate (on all days except Sundays) a street railway.

*Held* (MACLENNAN, J.A., dissenting), that an