

to show that James Alfred Taylor was a friend of the testator, and that the testator had little acquaintance with Robert Bilton Taylor; and having considered such evidence, he directed probate to issue to James Alfred Taylor. He was, however, of opinion that the declarations of the testator as to the person intended were not admissible.

TRUSTEE—BREACH OF TRUST—IMPROPER INVESTMENT—STATUTE OF LIMITATIONS
—IMPOUNDING INTEREST OF BENEFICIARY—TRUSTEE ACT, 1888 (51 & 52
VICT., c. 59), SS. 4, 5, 6, 8—(54 VICT., c. 19 (O.), SS. 9-14).

In re Somerset, Somerset v. Poulett, (1894) 1 Ch. 231, was an action brought by *cestuis que trustent* against their trustees for a breach of trust in making an improper investment of the trust fund, and several points arising under the Trustee Act, 1888 (see 54 Vict., c. 19 (O.)), are discussed. One of the plaintiffs in the action was the tenant for life; the others were his children, who were entitled in remainder. The investment attacked was made in 1878 upon the security of a mortgage, the interest on which had been duly paid to the tenant for life down to the year 1890. The investment had been suggested to the trustees by the tenant for life, who desired that as much of the trust fund should be advanced upon the security of the mortgaged property as possible. The trustees, unfortunately, were too ready to yield to the suggestion of the tenant for life. They employed the same solicitors to act for them as acted for the mortgagor. The valuation they procured was obtained on instructions to the valuer, which informed him that all parties desired that as much as possible should be advanced; and upon a valuation of the estate at £42,750, producing a net yearly income of only £1,070, they advanced £34,612, or, as Kekewich, J., found, £8,612 at least more than they ought to have done. Kekewich, J., though finding the trustees liable to make good to the remaindermen the loss occasioned by the improvident investment, nevertheless held that under the Trustee Act, 1888, s. 5 (Ont. Act 54 Vict., c. 19, s. 10), the security was to be deemed a good security for £26,000, and that the trustees were liable only for the excess advanced; and he also held that, under s. 6 (Ont. Act, s. 11), the tenant for life's life estate should be impounded, in ease of the trustees, to make good the loss; and, under s. 8 (Ont. Act, s. 13), that the right of action of the tenant for life first accrued when the investment was