

COMMENTS ON CURRENT ENGLISH DECISIONS.

TRUSTEE ACT, 1850 (13 & 14 VICT., c. 60), ss. 3, 5—APPOINTMENT OF NEW TRUSTEE IN PLACE OF LUNATIC TRUSTEE AND PERSON OUT OF JURISDICTION—VESTING ORDER.

In re Baths, 39 Chy. D., 189, was an application under the Trustee Act, 1850, for the appointment of new trustees. The trust property consisted of money lent upon a mortgage of freeholds vested in the two surviving trustees, and a sum of consols standing in their names. One of the trustees was a lunatic, and the other was resident out of the jurisdiction; and under a power in the settlement two persons were appointed new trustees in their places. Upon a petition by these two new trustees and by all the beneficiaries praying for an order reappointing the new trustees as trustees of the settlement, and vesting the trust property in them, the Court of Appeal (Cotton and Fry, L.JJ.) refused to reappoint the new trustees, but under sec. 3 of the Trustee Act, 1850, vested the lands subject to the mortgage in the new trustees, and under sec. 5 of the same Act vested the mortgage debt, and the right to call for a transfer of the consols, in the trustee of sound mind resident out of the jurisdiction, and, it appearing that he was out of the jurisdiction, vested the mortgage debt and the right to call for a transfer in the new trustees, which seems rather a circuitous process of arriving at the desired end.

STRIKING OUT STATEMENT OF CLAIM—FRIVOLOUS AND OPPRESSIVE ACTION—STATUTE OF LIMITATIONS (3 & 4 W. 4, c. 27) s 26 (R. S. O., c. III, s 31).

Lawrence v. Norreys, 39 Chy. D., 213, is a case which arises out of the celebrated mare's nest so well known on this continent as the "Lawrence-Townley Estate," in which untold millions are supposed to be awaiting eager and expectant heirs. This effort to recover the estates has proved abortive, having been as it were nipped in the bud by a cruel and relentless Court of Appeal. The plaintiff sued to recover the estates in question as heir-at-law of Jonathan Lawrence the younger, who was alleged to have died seized, in 1816. The plaintiff alleged that on Jonathan Lawrence's death, John Townley wrongfully took possession; that the solicitors of the deceased Jonathan, whose names were not given, knew of the address of the heir-at-law, who resided in America, and were about to communicate with him, but that John Townley dissuaded them from so doing, and procured them to deliver to him the deeds and evidences of Jonathan's title, which he destroyed, and that by reason of the premises the persons claiming under Jonathan remained ignorant until 1886, and that the fraud could not with reasonable diligence have been sooner discovered.

The plaintiff had previously commenced an action in the Queen's Bench Division to recover the same estate, in which he merely alleged his title as heir-at-law, but made no allegations of fraud to take the case out of the Statute of Limitations. The defendants had applied to strike out the statement of claim, as showing no cause of action. The plaintiffs then applied to amend by alleging