

It is scarcely necessary to insist at any length upon the very unsatisfactory condition in which the law of Ontario is left by a judgment which, if our view of the true effect of the English cases is correct, constitutes a wholly new departure in a matter which is of immediate practical importance to a very numerous section of the community. We cannot refrain from expressing a hope, therefore, that the whole question may before long be reopened under such circumstances that the Supreme Court will have an opportunity of stating its views upon the subject.

C. B. LABATT.

ENGLISH CASES.

EDITORIAL REVIEW OF CURRENT ENGLISH DECISIONS.

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TRUSTEE—BREACH OF TRUST—MORTGAGE OF TRUST ESTATE WITH TRUSTEE'S OWN PROPERTY—APPORTIONMENT.

Rochefoucauld v. Boustead (1898) 1 Ch. 550 is a somewhat curious case arising on the taking of the accounts directed by the judgment of the Court of Appeal, 1897, 1 Ch. 196 (noted ante. vol. 33, p. 384). It may be remembered that by that decision the defendant was declared to be trustee for the plaintiff of certain estates in Ceylon, which the defendant had purchased in his own name, and claimed to be entitled to for his own benefit, and an account was directed. In the course of taking the accounts it appeared that the estates in question had been mortgaged along with certain property of the defendant in Cumberland to secure £35,000 borrowed from Coutts & Co., but that Coutts & Co. had never resorted to the Ceylon estates for payment. £15,000 of the sum of £35,000 had been previously advanced, and the balance, £20,000, was advanced when the Ceylon estates were mortgaged. The official referee, to whom the taking of the account was referred, held that the defendant was chargeable with £20,000.