

fraud. But the Queen's Bench Division refused leave to amend, and struck out the statement of claim as showing no cause of action. The plaintiff then commenced the present action, and the allegations of fraud in the present action were similar to those he had sought to introduce by amendment in the action in the Queen's Bench Division. Stirling, J., held that the inducing the solicitors to deliver up the deeds to John Townley was a concealed fraud, which would prevent the operation of the Statute of Limitations, and not being satisfied that the allegations of fraud were fictitious, he thought the action ought to be allowed to proceed. But the Court of Appeal (Cotton, Bowen & Fry, L.JJ.) took a different view of the matter, and held that the proper conclusion to be drawn from the materials before the Court was, that the allegations of fraud were made without reasonable ground, and that the statement of claim ought to be struck out and the action dismissed as an abuse of the process of the Court.

MORTGAGE—PRIORITY—NOTICE—NEGLIGENCE—POSSESSION OF TITLE DEEDS—EQUAL EQUITIES.

*Union Bank of London v. Kent*, 39 Chy. D. 238, is an illustration of the equity maxim, that where the equities are equal, priority of time prevails. A company held under a building agreement from the Corporation of London, under which separate leases of the houses were to be granted as they were built. In April, 1883, the company borrowed money from the plaintiffs, and covenanted to mortgage the houses by demise when the leases were granted, and that in the meantime the premises comprised in the building agreement should be security to the plaintiffs. The building agreement was handed to the plaintiffs, but no notice of their charge was given to the Corporation of London. In 1886, leases of two of the houses were granted by the Corporation to the company, and immediately afterwards the company deposited the leases with Janson & Co. by way of equitable mortgage. The plaintiffs claimed priority over Janson & Co., who contended that by reason of their possession of the leases and the failure of the plaintiffs to give notice to the Corporation of their claim, the plaintiffs were postponed. But it was held by Chitty, J., that the equities of both parties were equal, and that the plaintiffs being prior in point of date, were entitled to priority over Janson & Co. This decision was affirmed by the Court of Appeal (Cotton, Bowen & Fry, L.JJ.), Cotton, L.J., pointing out that notice is not necessary to perfect an equitable charge on land, and that notice not being necessary to perfect the security, the omission to give notice was not negligence on the part of the plaintiffs, even though the omission to give notice enabled the company to take possession of the houses.

DISCRETIONARY TRUST FOR MAINTENANCE—ASSIGNABLE INTEREST—DISCRETION OF TRUSTEES.

*In re Coleman Henry v. Strong*, 39 Chy. D. 443, presents some features in common with *Fiskin v. Brooke*, 4 App., R. 8. A testator directed his trustees after the death of his wife to apply the income of his estate "in and towards the maintenance, education and advancement of my children in such