

there had been fraudulent concealment. Mathews, J. there says it was agreed by counsel that in Common Law actions a plea of the Statute was an absolute defence, and a reply of fraudulent concealment would not get rid of the Statute; and it was further agreed that the Court of Equity took a different view. It had been argued that in *Gibbs v. Guild* there are expressions shewing that the principles of Equity cases can now by process of development be applied to Common Law Cases. But he holds that no new remedies have been created and no new rights conferred by the Judicature Act, and decides that the reply of fraudulent concealment therefore does not get rid of the Statute.

In more modern times Ballache, J., in *Osgoode v. Sunderland*, 111 L.T. Rep. 529, held that he was bound by *Armstrong v. Milburn*. In this case the defendant did certain work for the plaintiff in 1904. In 1912 the plaintiff discovered that the work was defective, and not as specified in the contract. Whereupon he brought an action for damages, and alleged fraudulent concealment, apparently with a view to anticipating a defence of the Statute of Limitations. The defendant denied liability, and in addition pleaded the Statute of Limitations. On the evidence the learned Judge held that the work had been badly done, and that steps had been taken to conceal it. On the question of law the defendant submitted that in an action such as this, which he contended was really an action for breach of contract, and which before the Judicature Act could be brought only in a Common Law Court, a plea of the Statute of Limitations could not be met by a reply of fraudulent concealment. Ballache, J., holding that the action was really for breach of contract, and that he was bound by *Armstrong v. Milburn*, says that *Armstrong v. Milburn* comes to this, "That inasmuch as it was a purely Common Law action, and inasmuch as before the Judicature Act it had been expressly decided that a plea of fraudulent concealment was, in such a case, no answer to the Statute of Limitations, the law was still, notwithstanding the Judicature Act, that a plea of this kind was no answer in a purely common law action to the Statute of Limitations.

The recent unreported case, *St. George v. Simone*, brought