pealed to the Court of Appeal, which reversed the order of Bacon, V.C., as being made without jurisdiction. Cotton, L.J., says on this point:

"Such an order could not be made on such a summons as this, which was merely a summons in the matter of an infant. It is quite right for the Court on such a summons to appoint guardians, or to advise trustees what sums can properly be allowed for the maintenance of the infant, but the Court has no jurisdiction as against trustees, or as against any one else, on such a summons, except when there is a contempt of Court. This order was one that could only be made in a suit, constituted either by an originating summons, or by a writ, so as to make it an ordinary action."

The point as to whether the Court could, in any case, have interfered with the trustees' discretion exercised *bona fide*, however, was not determined. This case is also useful for the principles laid down by Cotton, L.J., for the guidance of trustees in making allowances for the maintenance of an infant, whose father is unable to maintain her suitably. He says:

"In exercising their discretion, they must consider what is most for the benefit of the infant. In considering that, they should take into account that the father is not of sufficient ability properly to maintain his child, and that it is for her benefit, not merely to allow him enough to pay her actual expenses, but to enable him to give her a better education and a better home. They must not be deterred from doing what is for her benefit, because it is also a benefit to the father, though, on the other hand, they must not act with a view to his benefit, apart from hers."

MORTMAIN—MONEY SECURED ON LANDS.

In re Watts, Cornford v. *Elliott*, 29 Chy. D. 947, the Court of Appeal was called on to determine how far, if at all, a bequest to charity made under the following circumstances could take effect: The testator was entitled to a mortgage debt of £800, which was secured by a mortgage upon the interest of the mortgagors in certain trust funds. At the date of the mortgage, and of the testator's death, part of these funds was invested on mortgage of real estate, and part was pure personalty. The testator bequeathed to charities such part of his residuary estate as could by law be so bequeathed. The mortgage was part of the residuary estate. Pearson, J., held that no part of the mortgage debt could go to the charities, and this decision was affirmed by the Court of Appeal, and it was held that there could be no apportionment, so as to give the charity the benefit of a portion ot the debt equivalent to that portion of the trust fund which consisted of pure personalty, because every part of the mortgage debt must be taken to be secured on the whole of the mortgaged property, and therefore charged on land.

MORTGAGE—SALE—MISAPPLICATION.

West London Commercial Bank v. *Reliance Permanent Building Society*, 29 Chy. D. 954, is a decision of the Court of Appeal, which is said by the Court to determine a nice point upon which no authority was to be found. The mortgagor, with the concurrence of the first mortgagees, who had notice of a second equitable mortgage sold the mortgaged property. Upon completion of the sale, the balance of the purchase money, after payment of the claim of the first mortgagees, was handed to the mortgagor. The question in the action was whether the first mortgagees were liable to the second mortgagees for this misapplication of the purchase money. Bacon, V.C., 27 Chy. D. 187, held that they were, and the Court of Appeal affirmed his decision. Cotton, L.J., says:

"It is conceded that if he exercises his power of sale as mortgagee, whether under the terms of the mortgage deed, or by statute, he is answerable for the money he receives if he pays it to the wrong person, that is to say, if he passes over the second mortgagee and pays it to the mortgagor, who has no right to receive it. Ought we then to make any distinction between such a case and the present? Here the first mortgagees, though they did not concur with the mortgagor in putting up the property for sale, did concur with him in the conveyance. Having done so with the knowledge that part of the purchase money was going to be applied in violation of a right of which they had notice, they are, in my opinion, just as liable as if they had received the whole of the money."

ADMINISTRATION—STATUTE OF LIMITATION—R. S. O. c. 61, s. 8.

In *In re Johnson, Sly* v. *Blake*, 29 Chy. D. 964, Chitty, J., determined that the 23 & 24 Vict. c. 38, s. 13, which is similar in terms to R. S. O. c. 61, s. 8, is retrospective, so that the limitation of twenty years "next after a present right to receive the same shall have