fiths' estate, and his costs and charges properly incurred in the administration of the trusts of the will, and one-half the remaining costs of suit. The defendant appealed, but the Court of Appeal sustained the decision of Chitty, J. Fry, L.J., said:—"Strictly speaking, the costs of the action are divisible into three categories: First, those incurred in taking the accounts of the original testator; Secondly, those which are incurred in seeking relief against the defaulting executor; Thirdly, those which come under neither of those heads. The first set of costs ought to be borne by the estate which is being administered; the second ought to be borne by the estate of the defaulting executor; and the third ought to be divided. In substance the judge has adopted this plan."

STATUTE OF LIMITATIONS (21 JAC. 1, C. 16, S. 3)—ACKNOWLEDGMENT.

In *Green* v. *Humphreys*, 26 Ch. D. 474, the Court of Appeal reversed the decision of Pollock, B., 23 Ch. D. 207. The plaintiffs were executors of one J. H., who had lent money to the defendant. By agreement between J. H. and the wife of the defendant certain rents of the T. estate, of which J. H. was trustee, and to which the wife was entitled as *cestui qui trust* for life without power of anticipation, were from time to time applied in reduction of the debt due by the defendant. The consent of the defendant's wife to this application of the rents ceased in 1859 and the rents subsequently accruing were thereafter claimed by the wife and paid to her by the plaintiffs after the death of J. H. in 1880. In 1879 the defendant wrote to J. H.:—"I thank you for your very kind intention to give up the rent of Tyn-y-Burwydd next Christmas, but I am happy to say at that time both principal and interest will have been paid in full." No letter of J. H. as to giving up the rent at Christmas was in evidence. The Court held this letter to be insufficient to take the case out of the statute. Bowen, L.J., said:—"It is clearly settled that to take a case out of the statute there must be an acknowledgment or a promise to pay, and that when there is a clear acknowledgment that the debt is due from the person giving that acknowledgment, a promise to pay will be inferred. . . . . It seems to me that although there is here an acknowledgment of a debt in a sense, there is not a clear acknowledgment of a debt in such a way as to raise the implication of a promise to pay, but on the contrary only in such a way as to exclude the idea of a promise to pay, and to imply that the writer did not undertake to pay," and Fry, L.J., thus paraphrased the letter in question:—"I thank you for your very kind intention to let my wife receive the rents of the estate after next Christmas, but your kindness is apparent not real, for by next Christmas the debt to satisfy which you have been stopping her rents will have been fully satisfied in some manner or another."

MORTGAGE—PRIORITY—NEGLIGENCE IN FIRST MORTGAGEE IN CUSTODY OF DEEDS—FOLLOWING MONEY OBTAINED BY FRAUD.

The case of *Northern Counties of England Fire Insurance Co.* v. *Whipp*, 26 Ch. D. 482, is of comparatively little importance in this Province owing to the operation of our Registry Act, which in general prevents questions of the kind involved in that suit, from arising here. The plaintiffs were mortgagees, their mortgagor was one Crabtree, the manager of the plaintiff company. On the execution of the mortgage the title deeds were placed, with the mortgage, in the company's safe to which, as manager, Crabtree had access. Subsequently Crabtree took away the title deeds and mortgaged the property to Mrs. Whipp, the defendant, who advanced her money in ignorance of the previous mortgage to the plaintiff company. The Court of Appeal held (reversing the decision of the