

testator's heir at law and sole next of kin, was informed of the contents of the will soon after the testator's death, but the executor, who was a barrister, gave him no information as to his rights under the will, having regard to the fact that the gift to the charity so far as it affected real estate and impure personalty was invalid, and he died in 1895 without having made any claim. The trustees of the charity were the plaintiffs in the action, and claimed a declaration of their rights under the will. The representatives of the testator's heir and next of kin claimed to be entitled, on the ground that the gift to the charity was void as to the realty and impure personalty, of which the executor Kydd was therefore trustee for the heir and next of kin. Sterling, J. agreed that the gift to the charity was void, but he held that the executor was not an express trustee for the heir or next of kin, and that by the Statute of Limitations their claim to the property as to which the gift to the charity was invalid, was now barred. The representatives of Kydd do not appear to have made any claim, and the effect of the case therefore would seem that the plaintiffs were held to have acquired a valid title to the property in question under the Statute of Limitations, notwithstanding the invalidity of the gift made by the will.

**STATUTE OF LIMITATIONS**—(21 JAC. 1, C. 16)—MORTGAGE OF PERSONAL PROPERTY—MORTGAGE DEBT BARRED—FORECLOSURE AFTER DEBT BARRED.

*London and Midland Bank v. Mitchell* (1899) 2 Ch. 161, is a case in which the effect of the Statute of Limitations (21 Jac. 1, c. 16) is considered. In this case the action was brought to foreclose the equity of redemption in an equitable mortgage, by deposit, of certain shares in a limited company, made to secure a simple contract debt. The defence was that the remedy for the debt was barred by the Statute of Limitations (21 Jac. 1, c. 16), and that as no action could now be maintained for the debt, the right to the equitable relief claimed by the plaintiffs was also barred by analogy to the statute. A passage in Robbins on Mortgages p. 1059, was relied on in support of this defence; but Stirling, J. was of opinion that though the remedy for the debt was barred, the debt itself was not barred, and that an action of foreclosure is not an action for the recovery of the debt, but an action to recover the mortgaged property, and that no Statute of Limitations applied to bar the plaintiff's right to foreclosure or sale of the