the same way. In the first place, this amendment is merely a legislative enactment of already existing administrative and judicial policy.[18] Before the amendment, courts reasoned that the purposes were not "exclusively" those listed in the statute, if a "substantial" part of the activities was political.[19] In the second place, this amendment may possibly destroy the dissent's legal theory, because by implication Congress has recognized that a corporation organized for charity may engage in some political activity. In the third place, although tax exemptions are usually a matter of grace, and apparently the express terms of revenue laws should be enforced, tax exemptions relating to charitable institutions are in a different category. Because bequests for purposes which benefit mankind are an aid to good government and, through private funds, relieve the public of a possible burden, the exemption of such bequests is less a matter of grace and more a matter of public policy; therefore, such exemptions are liberally construed.[20] Assuming that this court would reach the same decision under the amended statute as it did in the instant case, these three points would apparently support the court's decision. But, it is submitted that, viewing the evidence[21] of the Board of Temperance's political activities and giving reasonable content to the word "substantial," the court should not exempt the bequest under either the amended statute or the unamended statute.

F. L. N.

TORTS—FRAUD—DUTY TO EXERCISE DILIGENCE IN DISCOVERING—SECURITIES AND EXCHANGE ACT—[Federal].—Plaintiff, in November, 1936, on the strength of defendant broker's tip that Schenley's stock would advance 15 points within a reasonable time owing to buying operations of a syndicate of New York bankers, purchased 100 shares; despite a prompt and gradual fall in price, the plaintiff continued to hold the stock until the broker's misrepresentation was explained to him 15 months later, in February, 1938. He thereupon brought this action under Section 9 of the Securities and Exchange Act of 1934 which imposes a liability upon brokers for misrepresentations concerning the price of stock. *Held:* Since plaintiff had not "entered a false market or paid a false price to enter a genuine market" the action was improperly brought under Section 9 of the Securities and Exchange Act of 1934;[1] *obiter*, though plaintiff might have had an action under Section 12 of the 1933 Securities and Exchange Act,[2] the statute of limitations in the act would have run against him. *Rosenberg v. Hano.*[3]

18. Girard Trust Co. and W. Nelson L. West, Executors of the Estate of Ida Simpson, deceased (1940) 41 B. T. A. 157, 161.

19. See note 16, supra.

20. Helvering v. Bliss (1934) 293 U. S. 144, 55 S. Ct. 17, 79 L. Ed. 246, 95 A. L. R. 207; Cochran v. C. I. R. (C. C. A. 4, 1935) 78 F. (2d) 176.

21. See note 13, supra.

1. (1934) 48 Stat. 881 c. 404, 15 U. S. C. A. §78.
2. (1933) 48 Stat. 84, c. 38, §12, 15 U. S. C. A. §77e.
3. (C. C. A. 3, 1941) 121 F. (2d) 818.

The court's views on the point decided obiter are somewhat questionable. Section 13 of the 1933 act limits the time for bringing suit to "one year after the discovery of the untrue statement or the omission, or after such discovery should have been made by the exercise of reasonable diligence."[4] However, since plaintiff silently watched his stock fall in price for a 15 month period, he had not exercised reasonable diligence, and had therefore failed to meet the requirement necessary to toll the statute of limitations in the act.[5]

That the statutes of limitation begin to run from the breach of duty and not from the time of the discovery of the cause of action, is the general rule in negligence cases.[6] But by statute in all but six states,[7] and by judicial interpretation of the common law in the remaining jurisdictions,[8] fraud is recognized as an exception to the general rule, and in fraud cases the statute of limitations begins to run when the plaintiff has discovered the fraud, or should have discovered it by the use of reasonable diligence.[9] However, until facts put him on inquiry, the defrauded party is entitled to rely on the representations made to him,[10] and does not owe to the perpetrator of the fraud the duty to use reasonable diligence to discover it.[11] But once the defrauded party has been put upon inquiry by facts

4. (1933) 48 Stat. 908, c. 404, §207, 15 U. S. C. A. §77m.

5. Rosenberg v. Hano (C. C. A. 3, 1941) 121 F. (2d) 818, 821.

6. Comment (1941) 19 N. C. L. Rev. 599.

7. Ala. Code (1928) §8966; Ariz. Rev. Code (1928) §2060; Ark. Digest of Stat. (Pope 1937) §8952; Cal. Deering's Code Civ. Proc. (1937) §338 (4); Colo. Comp. Laws (1921) §6403; Conn. Gen. Stat. (1930) §6028; Fla. Comp. Laws (1927) §4663 (5); Ga. Code (1933) §3-807; Idaho Code (1932) §5-218 (4); Ill. Ann. Stat. (Smith-Hurd 1934) c. 83, §23; Ind. Ann. Stat. (Burns 1933) §2-609; Iowa Code (1939) §11010; Kan. Gen. Stat. (1935) c. 60, §306 (3); Ky. Carroll's Stats. Ann. (Baldwin's Rev. 1936) §2519; Maine Rev. Stat. (1930) c. 95, §103; Md. Code Ann. (Bagby 1924) Art. 57, §14; Mass. Gen. Laws (1932) c. 260, §12; Mich. Comp. Laws (1929) §13983; Minn. Stat. (Mason's 1927) §9191 (6); Miss. Code Ann. (1930) §2312; R. S. Mo. (1939) §1014; Mont. Rev. Code (1935) §9033 (4); Neb. Comp. Stat. (1929) §20-207; Nev. Comp. Laws (Hillyer 1929) §8524; N. M. Ann. Stat. (1929) c. 83, §123; N. Y. Civ. Pr. Act (Thompson's Laws 1939) §48 (5); N. C. Code (1935) §441 (9); Ohio Throckmorton's Code (Baldwin's Rev. 1940) §11224 (4); Okla. Stat. (1931) §101 (3); Ore. Code Ann. (1930) §1-206; R. I. Gen. Laws (1923) §4882; S. C. Code (1932) §388 (6); S. D. Comp. Laws (1929) §2298 (6); Utah Rev. Stat. (1933) §104-2-24 (3); Vt. Pub. Laws (1933) §1662; Va. Code Ann. (1936) §5811; W. Va. (1932) §5409; Wash. Pierce's Code Ann. (1935) §8166 (4); Wis. Stat. (1937) §330.19 (7); Wyo. Rev. Stat. (1931) §89-411.

8. Williams v. Beltz et al. (1919) 30 Del. 360, 107 Atl. 298; Lewis v. Denison (1894) 2 App. D. C. 387; Reardon v. Dickinson (1924) 156 La. 556, 100 So. 715; Freeman v. Connover (N. J. 1920) 112 Atl. 324; Herndon v. Lewis (Tenn. 1896) 36 S. W. 953; Ripley v. Withee (1863) 27 Tex. 14; Way v. Cutting (1849), 20 N. H. 187.

9. Dawson, Fraudulent Concealment and the Statutes of Limitation (1933) 31 Mich. L. Rev. 875, 878; Alston v. Richardson (1879) 51 Tex. 1.

10. Sacramento Suburban Fruit Lands Co. v. Anderson (C. C. A. 9, 1929) 36 F. (2d) 937.

11. National Bank v. Taylor (1894) 5 S. D. 99, 58 N. W. 297; Baker v. Lever (1876) 67 N. Y. 304; Bank of Woodland v. Hiatt (1881) 58 Cal. 234; Roseman v. Canovan (1872) 43 Cal. 110.

arousing his suspicion, he must then use "reasonable diligence," a duty which embraces the use of his eyes[12] and ears,[13] and in fact, all the means at hand, to discover the fraud.[14] However, the rule imposing the duty of diligence upon the defrauded party after facts have put him on inquiry is somewhat relaxed where the perpetrator of the fraud holds himself out as having special knowledge not possessed by the defrauded party,[15] or where there is a relationship of trust and confidence between the parties;[16] in such situations some courts have held that the person imposing the trust may continue to rely upon the other party until, without inquiry on his part, facts are brought home to him which would put a reasonable man in a position to discover the fraud.[17]

In the instant case[18] it was decided that plaintiff's cause of action, if such existed, must be brought under the terms of the Securities and Exchange Act of 1933,[19] the statute of limitations therein expressly imposing upon the defrauded party the duty of diligence to discover the fraud. The court, by holding that the plaintiff was unable to maintain his cause of action under the Securities and Exchange Act of 1934, in which the limitation period runs "1 year after the discovery of the facts constituting the

12. Johnston v. Spokane & I. E. R. Co. (1919) 104 Wash. 562, 177 Pac. 810: Where a school teacher could have discovered the fraud perpetrated upon her by a stock salesman, had she read the stock certificate, court held the case barred by the statute of limitations although suit was brought shortly after actual discovery of the true character of the investment; Grove v. Lemley (1912) 114 Va. 202, 76 S. E. 305: Where brickmason used less than the number of bricks paid for in plaintiff's building, court denied recovery for overpayment on the grounds that plaintiff's failure to discover the discrepancy was lack of due diligence, since he visited the building often while it was in the course of construction and the matter was one of common knowledge among the workmen engaged in the construction project.

13. Foster v. Mansfield Goldwater and Lake Michigan Railroad Co. (1892) 146 U. S. 88: A stockholder of a railroad who brought suit 10 years after the alleged fraudulent sale of the railroad, claiming to have discovered the fraudulent sale a short time before, was barred by the statute of limitations since he might have inquired of the directors of the corporation of the circumstances of the sale at the time it took place.

14. A complaining party is held to have discovered the fraud if there are public records available to him which disclosed such fraud. See: Davis v. Rogers (1924) 128 Wash. 231, 222 Pac. 499; Duphorne v. Moore (1910) 82 Kan. 159, 107 Pac. 791; Wilson v. Le Moyne (C. C. A. 4, 1913) 123 C. C. A. 30, 204 Fed. 726. But see: Mohr v. Sands (1913) 41 Okla. 330, 133 Pac. 238, where plaintiff, a resident of New York, was defrauded by her attorney, court held that she did not discover the fraud since the public records disclosing the fraud were located in Nebraska, and she had no way of learning the facts shown except through her attorney.

15. Smith v. Richards (U. S. 1839) 13 Pet. 26, Restatement *Torts* (1934) §542.

16. Standford v. Finks (1907) 45 Tex. Civ. App. 30, 99 S. W. 449; 2 Cooley, *Torts* (4th ed. 1932) 580, §355; Monmouth College v. Dockery (1912) 241 Mo. 522, 145 S. W. 785.

17. Shuttleworth v. McGee (1907) 47 Tex. Civ. App. 604.

18. Rosenberg v. Hano (C. C. A. 3, 1941) 121 F. (2d) 818, 821.

19. (1933) 48 Stat. 84, c. 38, §13, 15 U. S. C. A. §77m.

violations,"[20] thereby avoided the consideration of "a complicated question in statutory construction"[21] of the limitation periods prescribed by the two acts. Why the diligence feature of the statute of limitations of the 1933 act was deleted from the statute of limitations of the 1934 act is not apparent from the records of the Congressional debate nor from the Reports of the House Committee on the bill.[22] Nevertheless, despite the differences in verbiage, the limitations of the two acts are substantially the same when they are construed in the light of the weight of authority, which holds that discovery need not be actual; but that the defrauded party "discovers" the fraud at the time when there are facts available to him which would have disclosed the fraud had he been in the exercise of reasonable diligence.[23] It is therefore reasonable to suppose that those charged with the framing of the Securities and Exchange Act of 1934 were familiar with this rule and that the diligence feature was purposely omitted from the 1934 act, as adding nothing to the act's effectiveness.

V. T. M.

TORTS—FRAUD—STATUTE OF LIMITATIONS ON NOTARY'S FALSE ACKNOWLEDGEMENT—[Missouri].—Defendant, a notary public, falsely certified the acknowledgment of a deed of trust purported to be signed by Frank and Mae Owen. In reality Frank Owen had not signed the deed, nor had he acknowledged the same. When plaintiff, holder of the deed of trust, brought suit for possession of the land after default in payment, Frank Owen successfully defended the action on the above ground. Plaintiff, having suffered damage, then sued defendant and the surety on his bond in the present action for defendant's act in falsely certifying the acknowledgment. The defense was the statute of limitations, on the ground that suit was brought more than three years after the false acknowledgment. *Held,* for defendant; the statute begins to run at the time the act is committed. Blair, P. J., *dissenting,* the statute begins to run at the time the fraud is discovered. *State ex rel., to Use of State Life Ins. Co. v. Faucett et al.*[1]

A notary and his surety in Missouri are liable for damages caused by the false certification of an acknowledgment.[2] The special statute of limi-

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20. (1934) 48 Stat. 881, c. 404, §1, 15 U. S. C. A. Sec. 78i (3, e).
21. Rosenberg v. Hano (C. C. A. 3, 1941) 121 F. (2d) 818, 821.
22. H. R. Rep. No. 1383 (1934) 73 Cong., 2d Sess., 28.
23. Dawson, Fraud and the Limitations Statutes (1933) 31 Mich. L. Rev. 591, 619. See also: Duphorne v. Moore (1910) 82 Kan. 159, 107 Pac. 791; Wright v. Peet (1877) 36 Mich. 213; Coad v. Dorsey (1914) 96 Neb. 612, 148 N. W. 155; Johnston v. Spokane and I. E. R. R. Co. (1919) 104 Wash. 562, 177 Pac. 810; Ray v. Divers (1928) 81 Mont. 552, 264 Pac. 673.

1. (Mo. App. 1941) 156 S. W. (2d) 50.
2. Gill, *The Missouri Law of Title to Real Property* (3d ed. 1931) 182-183, §316; State to the Use of Alexander v. Plass (1894) 58 Mo. App. 148; State ex rel. Covenant Mut. Life Ins. Co. v. Balmer (1898) 77 Mo. App. 463; State ex rel. Heitkamp v. Ryland (1901) 163 Mo. 280, 63 S. W. 819; State ex rel. Matter v. Ogden and American Surety Co. (1914) 187 Mo.