

Opinion of the Court.

title of all depends on defeating the claim of Isaac J. Lewis as a partner. To that extent their interests are identical with those of Shainwald. If there was no partnership, they all go free and each keeps the property he has got. If there was, the interests of these parties may become antagonistic. Besides, on the question of partnership, Harris Lewis, a citizen of California, is a necessary party. If he insists on the partnership, as he certainly may, then, in arranging the parties on that question, there will be citizens of Nevada and California, on one side, and citizens of the same States on the other. Clearly, under these circumstances, the suit was not removable under the first clause of the second section of the act of March 3d, 1875, c. 137, 18 Stat. 470.

Neither was there any separable controversy in the suit such as would entitle any of the parties to a removal under the second clause. As has already been said, the suit was brought to close up the affairs of an alleged partnership. The main dispute is about the existence of the partnership. All the other questions in the case are dependent on that. If the partnership is established, the rights of the defendants are to be settled in one way; if not, in another. There is no controversy in the case now which can be separated from that about the partnership, and fully determined by itself.

The order remanding this suit is affirmed.

BARTON *v.* GEILER.

IN ERROR TO THE SUPREME COURT OF THE STATE OF TENNESSEE.

Decided March 26th, 1883.

This case involves no law. On the facts the decree of the State court is affirmed.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

This was a suit in equity brought in a State court of Tennessee by Barton, as assignee in bankruptcy of Kessler & Har-

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mon, to set aside a conveyance made by Kessler, one of the bankrupts, to Geiler, and the only question presented by the writ of error is, whether upon the testimony embodied in the record and considered by the Supreme Court of Tennessee in the determination of the cause, it should have been found that the conveyance was in fraud of the bankrupt law. The question is entirely one of fact. There can be no dispute about the law. It is sufficient to say that, after a careful examination of the testimony, we are satisfied with the conclusion finally reached below. It would serve no useful purpose to set forth in an opinion the details of the evidence, or to enter into any discussion as to its effect.

The decree of the Supreme Court of Tennessee is affirmed.

GOLDENBERG and Another *v.* MURPHY, Collector.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF NEW YORK.

Decided March 26th, 1883.

Customs Duties—Limitations.

When a suit is brought in a State court, the laws of that State will control in interpreting the provision of a federal statute of limitations as to what is the commencement of suit.

Action to recover back duties alleged to have been illegally exacted. The whole question was whether the suit was begun in time, it being conceded that the plaintiffs had a good cause of action if not barred by the statute. The facts appear in the opinion of the court.

Mr. S. G. Clarke for the plaintiffs.

Mr. Assistant Attorney-General Maury for the defendant.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court. This was a suit to recover back duties on imports paid under protest, commenced in the Superior Court of the City of New