*James DeWolf *v.* George F. Usher.

Division of opinion.

Where the point on which the judges of the circuit court divided in opinion was not certified, but the point of difference was to be ascertained from the whole record, the court refused to take jurisdiction of the case.

This cause came before the Court on a certificate of a division between the judges of the Circuit Court of the district of Rhode Island.

When the case was opened by the counsel for the plaintiff, it was found, on inspecting the record, that the particular point on which the judges of the circuit court had differed, was not certified. The whole record had been sent up, and it contained a certificate that the judges of the court had differed in opinion, without a specific statement of what the difference was.

The Court refused to take jurisdiction of the cause, and remanded the same to the circuit court of Rhode Island, with directions to proceed therein according to law.

Coxe, for plaintiff; *Whipple*, for defendant.

---

*William McCluny, Plaintiff in error, *v.* Wyllis Silliman, Defendant in error. [*270

Statute of limitations.

The plaintiff sued the defendant, as register of the United States land-office in Ohio, for damages, for having refused to note in his books, applications made by him for the purchase of land within his district; the declaration charged the register with this refusal; the lands had never been applied for nor sold, and were, at the time of the application, liable to be so applied for and sold. The statute of limitations is a good plea to the suit.

It is a well-settled principle, that a statute of limitations is the law of the *forum*, and operates upon all who submit themselves to its jurisdiction.[1] p. 276.

Under the 34th section of the judiciary act of 1789, the acts of limitations of the several states, where no special provision has been made by congress, form a rule of decision in the courts of the United States, and the same effect is given to them, as is given in the state courts. p. 277.

Construction of the statute of limitations of the state of Ohio. p. 278.

Where the statute of limitations is not restricted to particular causes of action, but provides, that the action, by its technical denomination, shall be barred, if not brought within a limited time, every cause for which such action may be prosecuted, is within the statute. p. 278.

In giving a construction to the statute of limitations of Ohio, the action being barred by its denomination, the court cannot look into the cause of action; they may do this in those cases where actions are barred for causes specified in the statute; for the statute only operates against such actions, when prosecuted on the grounds stated. p. 278.

Of late years, the courts, in England and in this country, have considered statutes of limitations more favorably than formerly; they rest upon sound policy, and tend to the peace and welfare of society; the courts do not now, unless compelled by the force of former decisions, give a strained construction, to evade the effect of those statutes; by requiring those who complain of injuries to seek redress by action at law, within a reasonable time, a salutary vigilance is imposed, and an end is put to litigation. p. 278.

---

[1] Hawkins *v.* Barney, 5 Pet. 457; United States Bank *v.* Donnally, 8 Id. 361; McElmoyle *v.* Cohen, 13 Id. 312; Townsend *v.* Jemison, 9 How. 407; Randolph *v.* King, 2 Bond 104; Decouche *v.* Saveties, 3 Johns. Ch. 190; Lincoln *v.* Battelle, 6 Wend. 495.