during a state of war, in which the plaintiff was an alien enemy, is too clear to admit of doubt. But it is not so clear, that upon a bond so old as this, the same length of time, after the removal of the disability, is necessary to raise the presumption, as would be required, if the bond had borne date at the time of such removal.

It appears, from the decisions of the courts of Virginia, from the pleas in bar in the federal courts, and particularly from the observations of the chancellor of Virginia, in the case cited, that it was the general understanding of the inhabitants of that state, that British debts could not be recovered: and until the year 1793, there was no decision of the superior courts that such debts were recoverable.

The only question is whether, in case of an old debt, the same time is required to raise the presumption, as in the case of a debt accruing since the impediments have been removed. In such a case, it is not easy to establish a new rule, and *the court think it best to adhere to the old decisions, that twenty years must have elapsed, exclusive of the period of the plaintiff's disability; and are of opinion, that the circuit court erred in directing the jury that payment ought to be presumed.

*185]

The judgment of the court is entered upon the minutes, in the following terms:—The Court having heard the arguments of counsel, and maturely considered the same, is of opinion (and do adjudge, order, and decree accordingly), that the circuit court erred in instructing the jury, "that from the length of time, they were to presume the bond, in the record mentioned, to be satisfied, unless they should find, from the evidence, that interest was paid on the bond, within twenty years from the 5th of September 1775 (the time of the last payment), or that a suit or demand was made on said bond, within twenty years from the last-mentioned time, exclusive, in both cases, of five years, five months and twenty days, taken out of the act of limitations;" there being circumstances in this case which oppose the presumption which would have arisen from the length of time which has elapsed since the date of the bond. And this court doth further adjudge, order and decree, that this cause be remanded to the said circuit court, to be there tried, with directions that there is no presumption of payment of the said bond, as directed by the said circuit court.

Blakeney *v.* Evans.

Assumpsit for work and labor done.

If a man agrees to do certain work, and he does it jointly with another, he is still entitled to recover upon the agreement.[1]

Evans *v.* Blakeney, 1 Cr. C. C. 126, affirmed.

A special action of *assumpsit* was brought, in the Circuit Court of the district of Columbia, sitting at Alexandria, by Evans against Blakeney, upon the following written agreement:

"I will rent of Mr. Evans thirty-one feet of ground on King street by

[1] Under a count for work and labor, the plaintiff may show services rendered by his wife. Hackman *v.* Flory, 16 Penn. St. 196.

one hundred feet deep, to a ten feet alley, for which lot I will pay him 13*l.* 10*s.* per annum, in yearly payments, the rent commencing from the 1st day of November 1799. *I will also agree to find work and materials in my line for Mr. Evans's houses, provided he will find the same in his [*186 line for my house I intend to build on the above described lot, each work and materials to be measured and valued agreeably to the customary mode in Alexandria, and whatever balance there may be on either side, at any time they choose to have the work and materials valued, is to be paid in cash, on demand.

(Signed) ABEL BLAKELEY.
"September 3d, 1799." JOHN EVANS."

The action was brought to recover a balance due upon this valuation. The defendant pleaded the general issue. The plaintiff produced in evidence the following writing:

"Alexandria, March 23d, 1802. We, the subscribers, being called on by Messrs. Evans and Burford, on the one part, and Abel Blakeney on the other, to measure and value sundry jobs of work done by the parties, each for the other, and have done the same to the best of our knowledge, and upon comparing the accounts, find a balance in favor of Evans and Burford, of fifty-two pounds, ten shillings and one penny.

(Signed) DANIEL BISHOP.
ISAAC MCLEAN."

He proved by the said Isaac McLean, that the work and materials were measured and valued agreeably to the customary mode in Alexandria, and that according to such measure and value, that balance was due from the defendant to the plaintiff. That he and the said Bishop were called upon by Evans and Blakeney, and not by the said Burford; but that he was present, and the witness understood from all the parties, that he was interested in the work. To the admission of this evidence, the defendant took a bill of exceptions, and brought a writ of error.

March 1st, 1804. The transcript of the record was submitted to THE COURT without argument, who affirmed the judgment, with ten per cent. damages, and costs; observing, that the meaning of the agreement was, that each party should procure the work to be done, and not that they should do it personally.