

HOPKIRK *v.* BELL.*Statute of limitations.*

The act of limitations of Virginia is no bar to a British creditor's demand on a promissory note, dated 21st August 1772, although one of the plaintiffs was in the country, after the treaty of peace, viz., in 1784, and remained here, until his death in 1785.

This case was again certified from the Circuit Court for the district of Virginia.

It appeared upon the trial, in addition to the facts stated in the former report of the case, (a) that Andrew Johnston, one of the partners of the house, trading under the firm of Alexander Spiers, John Bowman & Co., of whom the plaintiff was the surviving partner, came to this country, after the treaty of peace in 1783, viz., in the spring of 1784, and died here in 1785, but that no other partner of the firm has been in this country, at any time since the treaty of peace.

C. Lee, for the plaintiff, cited *Ware v. Hylton*, 3 Dall. 240, 242, 281.

*February 28th, 1807. THE COURT ordered it to be certified as [*165 their opinion, that, under the all circumstances stated, the act of limitations of Virginia was not a bar to the plaintiff's demand on the note of 21st August 1772.

HICKS *et al.* *v.* ROGERS.*Tenants in common.*

In Vermont, tenants in common may maintain a joint action of ejectment.¹

THIS was a case certified from the Circuit Court for the district of Vermont, the judges of that court (b) being opposed in opinion upon the question, whether the plaintiffs, devisees of a tract of land, to be equally divided between them, could, under the will, support a joint action of ejectment. The declaration did not set forth the title of the plaintiffs, otherwise than by the following averment:

"Of which tract or parcel of land, the plaintiffs, on the 6th day of April, in the year of our Lord Christ, one thousand eight hundred and four, were well seised and possessed in their own right, and so continued thereof possessed, until the 8th day of April, in the year last aforesaid, when the defendant, without law or right, and contrary to the will of the plaintiffs, thereto entered, and ejected, expelled, drove out and amoved the plaintiffs therefrom, and ever since hath, and still doth keep out the plaintiffs from the premises, taking the whole profits to himself, which is to the damage of the plaintiffs, six hundred dollars, to recover which, and the quiet and peaceable possession of the said premises, and just costs, they bring this suit."

(a) 3 Cr. 454.

(b) The Hon. W. PATERSON, late associate justice of the supreme court of the United States, and the Hon. ELIJAH PAINE, district judge.

¹So also, in New York, *Van Denberg v. Man*, in *White v. Pickering*, 12 S. & R. 435, on the authority of the cases there cited. See also, *Bradt*, 2 Caines 169. But this is denied to be law in Pennsylvania, by Chief Justice TILGH-
Steinmetz v. Nixon, 3 Yeates 285.