

soon as the cause of action accrued, whether it be the case of a trust or not, if it be a fit subject for a suit at law as well as in equity, the statute of limitations begins to run. A trust, to be exempt from the operation of the statute, must be a continuing subsisting trust. When it ceases so to be, or expires by its own limitation, or is put an end to by the act of the parties, and is cognizable at law as well as in equity, it is exposed to the operation of limitations to the same extent as if the exclusive jurisdiction was at law.

Now, tested by this principle, what becomes of the objection to the operation of the statute in this case? Is it possible successfully to maintain that the dealings between Thomas Mackall and his sisters gave rise to one of those trusts which fall within "the proper, peculiar, and exclusive jurisdiction of Courts of Equity?" That out of those transactions there springs a technical continuing trust, the mere creature of a Court of Equity, and not within the cognizance of the Courts of Law? For unless this be the case, the selection of a Court of Equity for the assertion of the claims, will not save them from the effect of the statute. The claims in question are founded, some of them, upon the sealed notes of Thomas Mackall, payable to his sisters, and one of them on an open account for negro hire. Can it be possible to contend that actions at law might not have been brought upon these, and upon the open account against Thomas Mackall? That upon maturity of the notes, and the expiration of the time for paying the hire, the causes of action at law were not complete, and suits at law might not have been maintained? Why, assuming that there was a trust originally (which assumption, however, I by no means admit to be correct), did it not expire by its own limitation when the notes fell due? And can any one doubt that the Courts of Law could have entertained jurisdiction to enforce the payment of the money? So far from doubting the jurisdiction of the common law Courts, is it not quite clear that they were the proper and peculiar Courts to be resorted to, and that Courts of Equity would have refused to interfere, unless some special grounds, not inherent in the contracts themselves, could have been shown?