

deed of the 8th of May, 1807, proves, that *James M. Lingan* did then convey the tract of four hundred and twenty acres of land in the bill mentioned to *John Henderson*; the receipt or memorandum of the 10th of June, 1807, which has been authenticated, proves, that the purchase money was not then paid; and the witness *Henry Waring*, in consistency with, and in corroboration of these instruments of writing, proves, that *John Henderson*, in his lifetime, repeatedly admitted he had purchased the land referred to in those instruments of writing, for which he was to pay thirteen dollars and one-third of a dollar per acre; but that he had paid no part of the purchase money, and was unable to pay it; and this witness further proves, that the land was held by *John Henderson* until his death, when it descended to his children, who are defendants to this suit. There is no proof of the purchase money ever having been paid. It is admitted, that *James M. Lingan* is dead, and that these plaintiffs are his legal representatives. This is the substance of the case, according to the proofs, and in all material points, it accords exactly with one of the alternatives of the case set forth in the bill.

Whence it is sufficiently clear, that the plaintiffs have sustained their case in opposition to the general defence of *David English*. And, as there is not the least evidence of any payment or satisfaction ever having been made in the manner relied on in defence by the defendant *Lydia English*, the plaintiffs may obtain relief against her also as well as her husband.

The defendant *Richard Henderson* has put his defence entirely upon his plea of the statute of limitations; and the plaintiffs having established their case in all respects in opposition to the other defences; and the other defendants having made default; the whole controversy is thus reduced to the single question, whether this be a valid defence against the whole or not. It is, therefore, proper, that it should be carefully considered.

All statutes of limitation proceed upon the policy comprised in the maxim, *interest reipublicæ ut sit finis litium*; that some lapse of time must be prescribed in order to give quiet to human affairs; and as affording ground to presume, without the power of contradiction, that the alleged cause of controversy, either never existed at all, or that if it did once actually exist, it had been in some way finally adjusted and satisfied.(d) This principle of

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(d) 1 Stark. Ev. 33; 4 Stark. Ev. 1234; *Smith v. Clay*, 3 Bro. C. C. 639, note