

And see *Dixon v. Dixon*, 1 Md. Ch. 274; *Hepburn's Case*, 3 Bl. 110; *Estate of Young*, 3 Md. Ch. 476; *Cape Sable Co.'s Case*, 3 Bl. 672; *Smith v. Williamson*, 1 H. & J. 150.

Pleading of limitations is within discretion of administrator—art. 93, sec. 100.

For form of plea of limitations, see art. 75, sec. 28, sub-sec. 50. See also art. 75, sec. 47.

Limitations in equity.

In all cases of concurrent jurisdiction between law and equity, the statute is equally obligatory in each court. *Teackle v. Gibson*, 8 Md. 87; *Hertle v. Schwartz*, 3 Md. 383; *Dugan v. Gittings*, 3 Gill, 161; *Sindell v. Campbell*, 7 Gill, 76; *Tiernan v. Rescaniere*, 10 G. & J. 223.

In equity, defense of limitations may be availed of on demurrer; *contra*, at law. Limitations may be pleaded after a decree *pro confesso*. *Belt v. Bowie*, 65 Md. 353; *Campbell v. Burnett*, 120 Md. 226.

Equity may refuse to grant relief where the statute applies, although it is not pleaded. *Syester v. Brewer*, 27 Md. 319.

In a creditor's suit, any creditor may set up statute of limitations (subject to all its provisos and conditions), as against claims of other creditors. *Strike v. McDonald*, 2 H. & G. 227.

In a creditor's suit, the statute may be pleaded against the claims of creditors subsequently coming in. *Strike's Case*, 1 Bl. 92.

The statute may be set up in equity against a claim at any time after claim is filed, either before or after auditor's report. *Young v. Mackall*, 3 Md. Ch. 410; *Welch v. Stewart*, 2 Bl. 42.

Limitations must be set up in equity as soon as party relying upon such defense becomes aware of claim to which it is applicable. When limitations begins to run. *Berry v. Pierson*, 1 Gill, 248.

The defense of limitations set up in an answer to a creditor's bill has no effect on claims subsequently coming in. How such defense must be presented as to such claims. *Williams v. Banks*, 11 Md. 236.

In a suit by creditors to set aside a deed as fraudulent, where court of appeals has held a plea of limitations good, the debtor's administrator cannot remove the bar by confessing judgment in favor of creditors; nor can a confession of judgment affect a claim which has been merely suspended by chancellor, but which subsequently appears to be barred by limitations. Where exceptions to claims filed under a notice to creditors presents in substance the defense of limitations, it will be held sufficient. *McDowell v. Goldsmith*, 25 Md. 231.

If limitations is not set up in answer, it cannot be relied upon by way of exception to audit; nor can answer be amended. *Brendell v. Strobel*, 25 Md. 395.

Although mortgages are not within words of the statute, equity has established 20 years as period beyond which right of redemption does not extend. *Hertle v. McDonald*, 2 Md. Ch. 133; *Boyd v. Harris*, 2 Md. Ch. 213. As to a vendor's lien, see *Moreton v. Harrison*, 1 Bl. 499. As to an equitable lien see *Lingan v. Henderson*, 1 Bl. 281; *Allender v. Vestry of Trinity Church*, 3 Gill, 169; *Magruder v. Peter*, 11 G. & J. 245. But see *Collinson v. Owens*, 6 G. & J. 11.

Where effect of statute, if applied, would be to permit certain overhead charges complained of in bill in equity to stand against certain profits, without right of equity to investigate correctness of such charges, and although plaintiffs had no knowledge of charges until a short time before bill was filed, statute will not be applied, especially since collateral held for payment of debt, or so much thereof as may be necessary, can be sold to pay any unpaid balance of said debt although such debt was barred by statute. *Campbell v. Burnett*, 120 Md. 225.

Where defendant, in his answer to bill of discovery, does not rely upon limitations, but only sets up statute after court has directed the manner in which the account is to be stated and certain items to be charged against defendant, he has waived statute and cannot rely on it. *Wilmer v. Placide*, 119 Md. 53.

Where one partner is asking for an account in equity against his co-partners, if the moneys which the co-partners are charged with having received may have been received within three years, statute is not a bar. *Wood v. Gault*, 2 Md. Ch. 441.

This section is applicable to a bill for an account in equity as well as to an action at law. Limitations in equity discussed. *Wilhelm v. Caylor*, 32 Md. 155. See also *Emerson v. Gaither*, 103 Md. 579; *Harper v. Clayton*, 84 Md. 351; *Weaver v. Leiman*, 52 Md. 713; *McKaig v. Hebb*, 42 Md. 235; *Bowie v. Stonestreet*, 6 Md. 431; *Hertle v. Schwartz*, 3 Md. 383 (approving *Dugan v. Gittings*, 3 Gill, 161, and stating that