

his previous remarks. The objections were overruled; the parties being directed to pay their own costs respectively.

[The order in this case was affirmed on appeal.]

ELIZABETH ANN WHITE ET AL.
 vs.
 JOSEPH WHITE AND JOHN C. WHITE. } JULY TERM, 1847

[JURISDICTION—REMEDY AT LAW—LIMITATIONS—NOTICE OF TRUST.]

THE allegations of the bill are, that forty-six shares of the stock of the Manhattan Company, of New York, were transferred to the defendant, Joseph White, in trust for the complainants, prior to the year 1839; that in January, 1840, said Joseph, by letter of attorney, empowered Campbell P. White to sell and transfer said shares to the defendant, John C. White, which, in January and February of the same year, was accordingly done. That said defendant knew the stock was trust property, but had made no returns of the proceeds to complainants, though payment was duly demanded of him. The bill then prays that John C. White may account for the sales of said stock and pay over the proceeds thereof, and for further relief. Upon the question of jurisdiction, it was HELD—

That whether John C. White, the defendant, is himself to be regarded as the purchaser of this stock, or as the agent to sell and account for the same to the plaintiffs, the remedy at law is, in either aspect, complete and ample without the aid of a court of equity.

The transactions out of which the claim arose occurring early in 1840, and the bill not having been filed until January, 1846, the statute of limitations was held to be a flat bar to the plaintiffs' right to recover.

If the relation of trustee and *cestui que trust* once existed between these parties, that relation terminated as soon as the stock was sold, and the obligation to pay over the proceeds supervened, and then the right of action accrued and limitations began to run.

The statute of limitations does not apply to a purely technical trust, of which a court of chancery has exclusive jurisdiction.

The answer of John C. White denied notice of the trust, and it appearing, by proof, that he acted merely as the agent of his father, Campbell C. White, in the sale of this stock, and had paid over the proceeds to his principal, in which payment the complainants had acquiesced for more than five years, upon the merits of the case it was HELD—

That under these circumstances it would be very hard and setting a dangerous precedent, to hold him liable to pay it a second time.