

**Case No. 1,619.** BOND V. ALLEN ET AL.

{Brunner, Col. Cas. 3;<sup>1</sup> 2 Mart. (N. C.) 83.}

Circuit Court, D. North Carolina.

1796.

LIMITATION OF ACTIONS—EXECUTORS AND ADMINISTRATORS—CONSTRUCTION OF STATUTE.

The fourth and fifth sections of the act of 1789, c. 308 (1 Rev. Code, c. 65; see 1 Rev. St. c. 65, § 12), limiting the time within which suits are to be brought against executors and administrators, must be taken together, and the defendant to entitle himself to the benefit of

the fourth must show that he has complied with the requisites of the fifth section.

At law. On exception taken to the defendant's plea, grounded on the fourth section of 1789, 23, 677, respecting the limitation of time for bringing suit against administrators and executors. [Sustained.]

Mr. Badger, for complainant.

Mr. Baker, for defendant.

THE COURT (PATERSON, Circuit Justice, and SITGREAVES, District Judge), held that the fourth and fifth sections of that act must be taken together; that the defendant ought to have entitled himself to the "benefit of the fourth section, by showing he had complied with the requisites of the fifth; and as this was not set forth, the plea was overruled. See *Blount v. Porterfield*, 2 Hayw. [N. C.] 161; *McLin v. McNamara*, 2 Dev. & B. Eq. 82; *Salter v. Blount* Id. 218.

<sup>1</sup> [Reported by Albert Brunner, Esq., and here reprinted by permission.]