

MORGAN v. EVANS.

{2 Cranch, C. C. 70.}¹

Circuit Court, District of Columbia. April Term, 1813.

PLEADING AT LAW—STATUTE OF
LIMITATIONS—ISSUABLE PLEA—WHEN TO BE
PLEADED.

The defendant has a right to plead the statute of limitations, at the first term after office judgment; it being an issuable plea.

Mr. Taylor, for defendant at the last term, which was the first term after office judgment, moved to plead the statute of ⁷⁴⁹ limitations, and cited the 28th section of the Virginia statute of 12th December, 1792, which enacts that an office judgment may be set aside if the defendant, "at the succeeding court, shall plead to issue immediately." *Downman v. Downman's Ex'rs*, 1 Wash. [Va.] 28; 1 Chit. Pl. 505, 506; *Rucker v. Hannay*, 3 Term R. 124; *Maddocks v. Holmes*, 1 Bos. & P. 228; *Willet v. Atterton*, 1 W. Bl. 35, and *Stadholme v. Hodgson*, 2 Term R. 390.

THE COURT (nem. con.) having taken time to consider, admitted the plea, being of opinion that, as it was an issuable plea, and offered at the first term after office judgment, the court had no discretion.

¹ [Reported by Hon. William Cranch, Chief Judge.]