

years after majority to bring suit, granted by section 3451 of the Code of Tennessee to those under disability when the cause of action accrued, their laches are inexcusable. The eldest complainant became of age in 1860, and the youngest in 1863. In the 30 years which have since elapsed, complainants have been supine and dormant, though the adverse possession of others was itself notice that they held the land under a title, the character of which they were bound to ascertain. *Lea v. Copper Co.*, 21 How. 493-498; *Landes v. Brant*, 10 How. 348, 375. They knew that their father once had an interest in lands in and about Chattanooga, yet in all that time made no inquiry or investigation, but rested content with their uncle's assurance that it had been conveyed to him. During all this time the defendants and their predecessors in ownership have been encouraged by lapse of time and the silence of complainants to invest their means in the purchase and improvement of the land and the payment of taxes thereon, in ignorance of any defect of title not remedied by time and their possession. Now that the capital and enterprise of others has made valuable their abandoned inheritance, complainants ask the aid of a court of equity to wrest it from its possessors. Upon their own confession, they have remained inactive and acquiescent for five years after they had discovered the fraud, and then sought their remedy, not against the wrongdoers or their estates, but against those whom their negligence and delay has misled and lulled into security. Neither poverty, absence from the state, nor ignorance can palliate such laches or justify relief. *Bowman v. Wathen*, 1 How. 189, 195; *Wood v. Carpenter*, 101 U. S. 135, 139; *Norris v. Haggin*, 136 U. S. 386, 10 Sup. Ct. 942.

In the consideration of the questions presented by appellants we have necessarily reviewed the facts, and while our decree might be rested on the ground that complainants have mistaken their remedy, in justice to defendants, who are entitled to have this stale claim forever quieted, we also hold that there is no equity in the case made by the bill, and affirm, with costs, the decree of the circuit court dismissing it.

Decree affirmed.

TAFT, Circuit Judge, and SEVERENS, District Judge, agree with the foregoing opinion in so far as it is based on the ground of laches.

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GOOD TEMPLARS' LIFE ASS'N v. UNITED LIFE INS. ASS'N.

(Circuit Court, S. D. New York. December 27, 1893.)

EQUITY JURISDICTION—REMEDY AT LAW.

Where life insurance is transferred from one company to another by a contract which provides for the payment of a balance out of the income from the quarterly dues, this charges the payment upon such income, and the enforcement of the charge is a matter of equity jurisdiction.

In Equity. Suit by the Good Templars' Life Association against the United Life Insurance Association to enforce payment of money. On demurrer to the bill. Overruled.

J. K. Hayward, for plaintiff.  
 Wilber & Oldham, for defendant.

WHEELER, District Judge. The contract upon which this bill is brought provides for the transfer of about \$700,000 of actual insurance upon the lives of members from the orator to the defendant, for which the defendant was to pay, pro rata, \$2,000 in six months, \$1,000 in nine months, and the balance of \$1,500, more or less, "from the income for dues received from said business quarterly thereafter as the same shall accrue, until fully paid, and proper settlement shall be rendered." The bill is demurred to because the remedy is said to be at law. If the amount to fall due was to be computed merely by comparing the actual amount of insurance with the basis of \$700,000, and the time of falling due, merely, was to be fixed by the quarterly collections, the recovery could be only personal, for so much money due at those times, and the remedy would be at law. It would be as complete and adequate there as it could be anywhere. *Nutting v. Atwood*, (Super. N. Y.) 23 N. Y. Supp. 816. But here the balance of \$1,500, more or less, is by the terms of the contract to be paid from the income for dues, and this payment is thereby charged upon this income. A court of equity can enforce this charge, while at law it cannot be made available. The remedy at law is not, therefore, plain, adequate, and complete, as is required to oust jurisdiction in equity. Rev. St. U. S. § 723.

Demurrer overruled; the defendant to answer over by February rule day.

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COFFIN et al. v. CITY OF INDIANAPOLIS et al.

(Circuit Court, D. Indiana. January 6, 1894.)

No. 8,888.

1. EQUITY JURISDICTION—BANK DEPOSITS.

Plaintiffs, being successful bidders for an issue of city bonds, deposited a sum of money in a bank, and took a certificate of deposit, payable to the city officials. The money was to be returned on the completion of the purchase, and to be forfeited in case plaintiffs failed to complete it. Plaintiffs, however, discovered that the bonds were invalid, and sued the city and the bank to obtain a return of the certificate, and a decree entitling them to the money. *Held*, that the suit was cognizable in equity.

2. MUNICIPAL CORPORATIONS—POWERS—BONDS.

Power to issue bonds to replace in the treasury money already used in paying prior bonds is not conferred by a grant of authority to issue "refunding bonds" or original bonds to procure money for use in the "legitimate exercise of the corporate powers," and for the payment of legitimate corporate debts.

3. SAME.

Where a number of bonds, purporting to be "refunding bonds," are issued as one series, but part of them are not in fact refunding bonds, and are illegal, their illegality attaches to the whole issue; and one who bids for them as refunding bonds cannot be compelled to take even the amount that might have been legally issued.