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CAN THE BAR OF THE STATUTE OF LIMITATIONS BE ASSERTED ON DEMURRER?—In a recent West Virginia decision,¹ an action of trespass on the case for the wrongful suing out of an injunction, the defendant demurred to the declaration on the ground that it appeared on the face of the declaration that the action was barred by the statute of limitations. The trial court overruled the demurrer. The Supreme Court of Appeals, approving the action of the lower court in overruling the demurrer, makes the following statement:

“We also approve the action of the lower court in overruling the demurrer to the declaration. It is true that, where the facts sufficiently appear upon the face of the pleading, the statute of limitations may be raised by demurrer (*Crawford’s Adm’r v. Turner’s Adm’r*, 67 W. Va. 564, 68 S. E. 179), but it does not appear here except from the process that suit was delayed beyond the statutory period, and over of the process was not craved in order to its being considered on the demurrer (*Lambert v. Ensign Manufacturing Co.*, 42 W. Va. 813, 26 S. E. 431).”

¹ *Vencill v. Flynn Lumber Co.*, 119 S. E. 164 (W. Va. 1923).