lated to distribute justice to all mankind. The Statute of Limitations is not intended to debar any persons of their rights, that is, those who are legally disabled, for the statute only commences to run against a party when he has failed to use his legal advantages to the security of his interest. Hence, as soon as he is able to pursue his right, if he fail to do so during the term of limitations he bars himself of his right, and therefore the court will not sacrifice the right of others to the security of a neglectful plaintiff's interest.

The court, therefore, adjudges that the plaintiff recover all costs incurred in this case since the appeal has been taken.

W. S. ANDERSON, Appellant, *vs.* WILLIAM McLAIN, Appellee.

[January Term, A. D. 1868.]

Appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County.

Specific performance.

1. In appeals the bill of exceptions must set forth the points upon which it is believed the court decided erroneously and contrary to law.
2. Where the bill of exceptions and other parts of the record in an appeal fail to show that exceptions were taken in the lower court to some ruling of the lower judge, the appellate court will not take cognizance of such exception upon an appeal.

This is an appeal case brought from the Court of Montserrado County to this court upon a bill of exceptions. The first exception is thus stated: Because the said court in said case decided in said judgment that the said W. S. Anderson should specifically perform the said contract according to the prayer set forth in said plaintiff's complaint.

This exception brings up no question before this court that demands its interposition. However, appellant was at liberty to have filed his bill of exceptions to the plain-

tiff's position in the law or in the equity of the case, then assumed by the plaintiff to support his action. This court discovers nothing from the record in which a question of law is involved; that is to say, nothing to which the attention of the court below had been called by any legal means whatever. The bill of exceptions filed in the case simply declares that the court below in the said case decided in said judgment that the said W. S. Anderson should specifically perform the contract according to the prayer set forth in the plaintiff's complaint. The bill of exceptions does not say whether the said contract or prayer is illegal, or whether the court below had violated any established rule of law by rendering such a judgment. Now whatever may have been the issue of law raised in the appellant's answer, since appellant does not show to this court by a bill of exceptions, or since it does not appear from other parts of the record, that the attention of the court below was called to the fact that such issues were decided contrary to law and equity, this court is not warranted to pass any decision on them. For it is very clear that if there should be a neglect to demand a decision on any law question raised in the pleadings by any party, such a neglect is in the eye of the law a waiver of such right. The same rule applies if a decision be given on any question so raised and no exception be taken to it by the party aggrieved thereby. For by such a neglect a party loses every legal advantage growing out of such questions on an appeal.

The last exception taken to the judgment of the court is because the said W. S. Anderson says that he does not believe that the said William McLain has proved the facts set forth in the complaint in such a manner as to entitle him to said judgment of specific performance.

Let us consider the nature of the last exception taken by the appellant. Does it not present for the considera-

tion of this court a matter purely of fact and not of law? Surely it does. The bill of exceptions represents to this court no defect in the character of the evidence that makes it a question of law, and therefore renders it insufficient to substantially prove the allegation of the plaintiff. Now it must be remembered that when a general exception does not specify whether the exception is to a matter of law or fact, such exception cannot be sustained on an appeal to this court. The reason is because the particular cause for the exception ought to be stated to the court below, and the opinion of the court, involving the principle for which the question was decided, ought to be made known to the court of appeal in order that this court should be informed of the premises upon which the case is decided in the court below, and upon which the court of appeal will be able to establish a precedent for the court in all cases analogous.

And for this reason the court adjudges that the judgment of the court below be confirmed, and that the appellee recover all costs incurred in this case since the appeal was taken.

W. S. ANDERSON, Appellant, *vs.* S. F. McGILL, Administrator of the Estate of John Brown Smith & Co., Appellee.

[January Term, A. D. 1868.]

Appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County.

The opinion of the court is that the question raised by the appellant as to whether the appellee has a right to sue him in this action, as administrator of John Brown Smith & Co., is a mixed question of law and fact, and since the appellee alleges in his complaint that he is the administrator, the burden of proof rests on him.