

promissory notes and draft became due, which exceeded six years at the time of the commencement of the suit. The defendant pleads the statute in this view of it.

The plaintiff replies that the defendant, at the time the causes of action and each of them accrued, was beyond the seas, and the plaintiff commenced his suit within six years after his return from parts beyond the seas aforesaid; the defendant does not deny this replication, but says that in addition to the defendant being beyond the seas, the plaintiff was so, also, and adds that the cause of action accrued there, and that the plaintiff is still a resident there, and that the causes of action and each of them did not accrue within six years.

To this the plaintiff is obliged to demur. I cannot see how the plaintiff's residence beyond the seas can be of any assistance to the defendant. It is true that in the statute of 21 Jac. I. c. 16, s. 7, it is provided that if the plaintiff be an infant, covert, non compos, a prisoner, or beyond seas, when the cause of action accrues, the six years shall run only from the removal of the disability. This was not an advantage to the defendant, but, on the contrary, was such to the plaintiff, as he had then a further time to bring his suit. It was never anything which the defendant could set up, but was set up by the plaintiff, giving him a further time to sue the defendant. I cannot see why the defendant sets this up in his rejoinder. Besides, it is no longer the law, as this disability, which was in fact an advantage to a plaintiff, has been taken away by the Mercantile Law Amendment Act of 1856, 19 and 20 Vict., c. 97, s. 10, but there never was a limit to the time in which the plaintiff might not bring his action, if the defendant himself was not within some clause of the Act of 21 Jac. I., c. 16, by which the remedy against him was barred. The statute 4 and 5 Anne, c. 3, declares that, in case the defendant was beyond the seas at the time the cause of action accrued, the action might be brought against him within six years after his return.

With the disabilities clause, the statute of James and the provisions referred to in the statute of Anne, were provisions in favor of a plaintiff and not of a defendant.

The Mercantile Law Amendment Act deprived the plaintiff of the advantage which his absence beyond the seas conferred upon him, and to that extent was an enactment in the defendant's favor. If a defendant, being in England, and, in that sense, not beyond the seas, the cause of action having accrued there, although the plaintiff may have been beyond the seas before and after the accruing of the cause of action, yet the plaintiff would be barred in his action, because the defendant was not beyond the seas, and the plaintiff's privilege in that respect has been taken away. In fact, the taking away the plaintiff's disability was an advantage and gain to the defendant. It remains, then, that the plaintiff may bring his action at any time if the defendant can not protect himself by the Statute of Limitations.

If the defendant was beyond the seas when the cause of action accrued, then the plaintiff may bring his action within six years after his return, let the time be ever so great during which the defendant was absent, the statute only begins to run on his return.