

It has been held that the time limit thus fixed is absolute, and that a servant's action is barred even where his excuse for not taking proceedings is that, between the time of giving notice of the injury and the expiration of the period within which the statute prescribes that the action must be brought, he was in a lunatic asylum, in consequence of the impairment of his faculties by the accident (a). If this decision is good law it discloses a very shameful defect in the statute.

20. Service of summons, waiver of irregularity.—An employé waives an irregularity in the service of the summons—(in the case cited it was served several days too late)—by appearing and cross-examining the plaintiff (a).

21. Sufficiency of the complaint.—In this section it is proposed to consider merely the formal requisities of the complaint. Its sufficiency, in so far as that depends upon the correctness of the rule of substantive law which it embodies, has necessarily been determined as an incident of the discussion of the various doctrinal points investigated in the articles already published in this Journal.

Some of the decisions to be cited possibly apply a stricter standard of technical correctness than would be deemed necessary in the various jurisdictions in which the more liberal of the modern systems of pleading have been adopted. But even to practitioners who have to draw complaints with reference to those systems those decisions will afford some instruction and guidance.

The relation of employer must exist, and must be set forth in the complaint, to enable the injured person to sue under these statutes (a).

A complaint is demurrable, if in one of the courts it sets forth two separate causes of action, one under each of two distinct provisions (b).

A complaint is demurrable unless the allegations shew that the misconduct which is the basis of the claim was that of one of the

(a) *Johnston v. Shaw* (1883) 21 Sc. L.R. 246.

(a) *Dunn v. Butler* (Q.B.D. 1885) 1 Times L.R. 476.

(a) *Nirolson v. McAndrew*, 15 Sc. Sess. Cas. (4th Ser.) 854; *Sweeney v. Duncan*, 19 Sc. Sess. Cas. (4th Ser.) 870.

(b) *Clemen's v. Alabama &c. R. Co.* (Ala. 1900) 28 So. 643.