

the benefit of the law. Now here all the learned agree that the sick man is not within the reason of the law; for the reason of making it was, to give encouragement to such as should venture their lives to save the vessel; but this is a merit, which he could never pretend to, who neither staid in the ship upon that account, nor contributed any thing to its preservation."

Over and over again, the conviction forces itself upon one that we have wandered somewhat from the wholesome principles on which this decision was based, and that if that case had arisen today, the sick man would have been awarded the ship and contents.

If the operation of the Statute of Frauds had from the first been limited to cases where the facts on which the claim was based were denied under oath, would it not have served one hundred per cent. of the purposes for which it was intended, without having itself become, as it undoubtedly has, the father and protector of many hundreds of frauds?

We are familiar with the reasoning of the Courts in these matters. They say, "If the Legislature had intended the operation of the Statute to be limited in that way it could very easily have said so." But the same reasoning could have been adopted with equal ease and with equal injustice in the instance cited by the learned author above named. If the legislative body in that case had intended to confine the benefits of the decree to persons who "voluntarily" stayed with the ship, it could very easily have said so by the addition of one word.

The fallacy of this reasoning, it is submitted, consists in the fact that it involves the supposition that the Legislature is omniscient, instead of assuming, as is universally appreciated, that the Legislature cannot possibly foresee all possible situations which may arise and so must rely on the Court to give reasonable operation to the Statute, having regard primarily to the purpose for which it was passed.

It is rather fruitless, of course, to expatiate on these evils without pointing to a remedy, and the tendency has been too