

Aylwin for Respondent :—

The plea set up by the respondent in answer to the plaintiff's action was, *the English statutes of limitations, non assumpsit infra sex annos*, and the general issue. The Court below being of opinion that the statute formed part of the law of the country, maintained the sufficiency of the plea, and made the usual order for proof. As the point raised by the appellant has already been decided by this court against his interest ; a mere statement of facts is all that the respondent feels justified in submitting to the court at this time.

Judgment of the court below reversed with costs, and ordered that the plea of exception *non assumpsit infra sex annos*, pleaded by the respondent, be dismissed. (1)

Present: MM. C. J. Reid,
Smith,
De Léry,
Stewart,
Heney,
Cochran.

(1) Contrary decisions, it would appear from the statement made by the respondent, had previously been given. However a similar judgment, rejecting the plea of *non assumpsit infra sex annos*, was rendered by the court of appeals, on the 30th July 1825.—*Badgley vs. Gamelin*

The following citations were made in favor of the plea :—

La 21e Jac. 1, a abrogé les art. 126 et 127 de la Coutume de Paris.

Pothier, T. des Oblig., nos. 684, 685, 678.

Rep. vo. Prescription, p. 347.

Déni. vo. Prescription.

Dict. de droit, vo. Prescription, 414.

2e G. Cout. art. 127, Glo. 1, no. 2, p. 534, 535.

Rép. de Juris. vo. Prescription, p. 512.

Lacombe, vo. Prescription, p. 496, no. 6, s. 5.

1 Gilbert's Law of evidence, p. 408.

Chitty's Com. Law, 3 vol. p. 681, 684.

"Les statuts Anglais de limitations sont la loi du Pays. Modern reports, p. 70, 71 et 268."

Authorities cited against this plea.

"Les tribunaux sont d'accord que les articles, 126 et 127, ne sont plus en force." (*Nous publierons une décision qui a jugé le contraire.*—)

Domat., ch. 12, p. 24, s. 7 Liv. 2, tit. 6, s. 10, 12, 15.

Rép. de Juris. vo. lois, p. 17.

Jacobs, L. Dicty. vo. proof.

Rep. vo. Prescription, p. 347.