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Editorial Notes

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Editorial Notes

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Notes

THE STATUTE OF LIMITATIONS AND DEMAND NOTES

The question propounded for consideration in this article embraces primarily the application of the statute of limitations to the various types of negotiable instruments payable on demand. Although a superficial examination of the language employed in such statutes creates an impression that the problem can be categorically solved in every instance, a more detailed investigation reveals that in few fields of the law is there greater vacillation and obscurity.

Concerning the time at which the statute of limitations begins to run, it is an elementary principle universally adhered to that the statute is not set in operation until the cause of action has been perfected.[1] Although this rule is regarded as fundamental in all jurisdictions, the chief difficulty is encountered in determining when a cause of action has accrued. It is this latter troublesome problem that has caused American and English courts to become quagmired in confusion when applying the statute to negotiable demand obligations. Realizing that the statute cannot be set in operation until all conditions precedent to the accrual of a cause of action have been fulfilled, the courts have strained logic and reason to the breaking-point in their endeavors to justify a conclusion that although such notes are expressly proclaimed to be payable "on demand," yet an actual demand is not necessary in order to perfect a cause of action. This construction has resulted in such shallow law that the courts have been forced to pyramid exceptions in order to harmonize jurisprudence, to some degree, with existing business and commercial conditions.

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[1] Williston, *Contracts*, sec. 2040; 1 Wood, *Limitations*, sec. 118; Minnehaha County v. Boyce (1912) 30 S. D. 226, 138 N. W. 287.