

ground that it stopped the running of the statute. As the law then stood, three might be acknowledgments in writing, and acknowledgments by parol, and acknowledgments by the act of payment on account. The effect of the English Act is undoubtedly to render parol acknowledgments insufficient, and to make it necessary that all acknowledgments, other than by payment, shall be in writing, signed by the party to be charged, but it expressly continues the former effect attributed by the Courts to payments on account.

It may be argued in favour of the generally received opinion as to the effect of the Ontario Act, that as it declares that "no acknowledgment or promise by words only shall be deemed sufficient," it impliedly saves the effect of payments, because, it may be said, payments are not acknowledgments by "words only," but acknowledgments by an act, viz., the act of paying money, and, therefore, not within the words of the statute. Some of the other sections of the Act also seem to favour the assumption that payments may have the effect of barring the statute; for example, section 4 provides that payments on account of a bill of exchange or promissory note shall not be deemed sufficiently proved by an indorsement of payment made by, or on behalf of, the person to whom the payment is made. This may be said to imply that if payment can be otherwise proved, as, for instance, by the testimony of a witness who saw the payment made, that that would be sufficient to bar the statute. The second and third section also appear to assume that payments may operate as a bar of the statute. In section 2 it is provided that payments by one of two or more joint contractors, or executors, or administrators shall not affect the others; and section 3 enacts that if it appears at the trial that the plaintiff is entitled to succeed as to one joint contractor, executor, or administrator, by virtue of a payment made by him, judgment may be given in his favour as to that defendant, though he may fail as to the others. But on the other hand it may not unreasonably be argued that these provisions are not inconsistent with requiring that payments on account to be of any avail must be evidenced by writing signed by the payer.

It may, however, be correct that a payment on account has, under our statute, the same effect as in England; at the same time the omission of the proviso in our statute, of the clause which appears in the English Act, saving the effect of payment, is significant, and we are inclined to think the fact of its omission has hardly received the consideration which it deserves, either from the Bar or the Bench.

ESTATES TAIL.

THE third section of the Devolution of Estates Act (R.S.O., c. 108) which defines the classes of real estate which are to devolve on the personal representative, it may be observed, does not include estates tail, either general or special, in its operation. It is confined to "estates of inheritance in fee simple, or limited to the heir as special occupant," whether corporeal or incorporeal, and it is only such estates of freehold that, under section 4, devolve on the personal representative of a deceased owner. Estates tail, general and special, therefore,