to pay" the mortgagee, there being no privity between them, and yet it was because the payment was not made by him that it was held to be ineffectual to stop the running of the statute. We notice that in *Newbould* v. *Smith* Lopes, L.J., denies that the payment was made by a person "liable to pay." We may perhaps not quite appreciate the sense in which the learned judge uses that term, but it would certainly seem that as the original mortgagor remained liable to pay the mortgage debt, notwithstanding his assignment of the equity of redemption, so a payment by him was a payment by a person who was "liable to pay." It is possible, however, that the learned judge had in view the fact that the mortgagor was only liable on a simple contract for the mortgage debt, and that more than six years had elapsed when the payment in question was made by him; and in that sense was not "liable to pay" had he chosen to plead the statute of limitations.

But perhaps after all the true criterion by which to judge of the sufficiency of a payment as a bar to the statute, is not so much whether it was made by a person "liable to pay," as whether it was made by a person competent to give an acknowledgment of title. This rule is stated both in *Chinnery* v. *Evans* and *Harlock* v. *Ashbury*, "payment is not a payment within the statute unless it amounts to an acknowledgment," and judged by that rule the question as to whether the payment was made by a person "liable to pay" becomes immaterial.

Notwithstanding some doubts which have been expressed as to the correctness of the decision in *Newbould* v. *Smith*, we are inclined to think it is well grounded in principle, and there can be no doubt that it is a decision that mortgagees will do well to keep in mind.

RECENT ENGLISH DECISIONS.

The *Law Reports* for October comprise 17 Q. B. D, pp. 493-602, and 33 Chy. D. pp. 1-175.

LANDLORD AND TENANT—DISTRESS—THIRD PARTY.

Proceeding to the consideration of the cases in the Queen's Bench Division, the first which demands attention is *Clarke* v. *The Millwall Dock Co.*, 17 Q. B. D., 494, in which the Court of Appeal affirms the decision of Pollock, B., that things belonging to a third person which are on the demised premises for the purpose of being wrought up or manufactured by the tenant in the way of his trade are not privileged from distress by the landlord for rent, unless they have been sent or delivered by such third person to the tenant for that purpose. In this case the tenant had contracted with a third party to build a ship for the sum of £8,000. The ship was commenced and nearly completed by the tenant on the demised premises, and all the instalments due on the contract had been paid as they accrued due. The materials for building the ship were supplied by the tenant. The ship was seized in distress for arrears of rent due in respect of the shipyard where the vessel was being built. The court (Lord Herschel, L.C., Lord Esher, M.R., and Fry, L.A.), were unanimously of opinion that it was essential, in order to exempt goods from liability to distress for rent, that they should have been "sent or delivered" to the tenant for the purpose of being dealt with in "the way of his trade or employ," and that as the materials for building the ship in question had been neither sent nor delivered by the person claiming the ship it was therefore not exempt from distress.

"MAINTENANCE," ACTION FOR—CHARITY.

Harris v. *Brisco*, 17 Q. B. D. 504, is an action in which the plaintiff claimed to recover damages on the ground of the defendant having been guilty of the offence known to the law as "maintenance." The defence was that the defendant had maintained the party in the action referred to out of motives of pure charity. This action had been dismissed, and Wills, J., was of opinion that it had been wantonly and unreasonably brought, and he therefore held that the defence of the defendant having acted from motives of charity formed