more minutely, for I think the case fails because of the defence set up under the Statute of Limitations.

To my mind there is no sufficient promise or acknowledgment in writing to take the case out of the statute. What is relied on for that purpose is the letter written by defendant to plaintiff of date 7th April, 1900. That was written in response to two earlier letters from the plaintiff to the defendant (29th March and 6th April, 1900). But the whole correspondence is to be looked at before and after, and I think the result is that the letter relied on does not refer in any way—or, if in any way, in the most ambiguous way—to the fee claimed by the plaintiff. I think the subsequent letters written by the plaintiff, particularly that of 22nd May, 1900, and that of 2nd June, 1900, shew that he did not regard the letter of 7th April as containing any allusion, much less any distinct reference, to the claim now sued upon. There were several other matters of account and claim open between the parties, and these were the things referred to in this particular letter. It appears to be altogether silent in reference to the mill property and the fee claimed in connection therewith. The word " account " which the plaintiff points to in the letter of April, as being the reference to his " fee,'" has not that meaning, as I read the letter, but refers to his account or bill for services of about $88, for the payment of which he was making insistent and repeated claims.

Apart from this main difficulty as to the acknowledgment, I doubt whether the words used, " We would like as well as you to have this account paid," amount to a plain admission of liability. (Query: Paid out of and by sale of the land?)

Altogether there seems to be no right now to bring action; but, in view of what may yet be recoverable by the plaintiff for his services, I would dismiss the action without costs.

MAGEE, J.:—I agree.

MABEE, J., for reasons stated in writing, also agreed that the appeal should be allowed and the action dismissed, and that there should be no costs.