tioned and expressed in the bond marked exhibit A, filed by the complainants with their said bill, and referred to by them; or any sum of money, for or concerning any of the matters or transactions in the complainants' said bill of complaint charged or alleged. And therefore this defendant pleads the Act of the General Assembly of the Province, (now State,) of Maryland, passed at a session of Assembly begun and held at the City of Annapolis, the twenty-sixth day of April, in the year of our Lord one thousand seven hundred and fifteen, entitled 'An Act for Limitation of certain actions, and for avoiding suits at law'—and prays the benefit of the said Act.

"All which matters this defendant doth aver and plead in bar of the complainants' said bill, and of the complainants' pretended demand for which they seek to be relieved by their said bill. And this defendant prays hence to be dismissed with his reasonable costs in this behalf wrongfully sustained."

These pleas were submitted, without replication, on the notes of the solicitors of the parties, to take the opinion of the Court on their sufficiency.

* BLAND, C., 22d December, 1826.—These pleas have been set down for hearing without a replication; consequently, **493** the sole object is to obtain the judgment of the Court on their sufficiency as they stand at this stage of the proceedings. The bill charges, in substance, not only, that the defendant for a valuable consideration became indebted to the intestates of the plaintiffs; but it also goes on to allege, that the defendant afterwards paid a part of the debt; and that although he, "well knows and has repeatedly admitted the said sum of money and interest to be due, and has promised at various times to pay the same," yet he has not done so.

It is perfectly well settled, that a partial payment is such an acknowledgment of the existence of the debt as will take the case out of the Statute of Limitations. But in this case, the partial payment referred to was made on the 16th of October, 1793, and this suit was not instituted until the 29th of November, 1825, a lapse of more than thirty years. This, therefore, is clearly not such an allegation, as if admitted to be true, would take the case out of the Statute of Limitations. But the subsequent promises, charged to have been made by the defendant, certainly would prevent the statute from being applied as a bar if admitted to be true.

It is an established principle, that where any allegation of the bill would avoid the bar created by the statute, such allegation must be specially denied by an answer in support of the plea; for otherwise, it will be taken as true, and the plea can then be no bar; because it will appear upon the face of the proceedings to