

a new trial on the ground that the entries in McK.'s books were improperly admitted in evidence.

*Held*, reversing the judgment of the court below, that the evidence was properly admitted and the rule for a new trial should be discharged.

Appeal allowed.

*Weldon*, Q.C., and *C. A. Palmer* for appellants.

*McLeod*, Q.C., and *A. S. White* for respondent.

[April 30.

ALEXANDER *v.* VYE.

*Evidence—Admissibility of—Action for libel—Proof of handwriting—Comparison—Recollection.*

In an action for libel contained in a letter published in a newspaper and alleged to have been written by the defendant, the publisher of the newspaper was called as a witness to prove that it was so written. He swore that the original MSS. was enclosed in an envelope bearing the post-mark of the town where defendant resided, and that it was accompanied by a letter requesting its publication, which letter was signed by defendant's name; that the MSS. was destroyed after publication and that he had no knowledge of defendant or of his handwriting, but on receiving a letter from him some five weeks later he was able to say, from his recollection of the MSS., that it was in the same handwriting as such letter. This evidence was received, subject to objections, and submitted to the jury, who gave a verdict for the plaintiff.

*Held*, affirming the judgment of the Supreme Court of New Brunswick, Gwynne, J., dissenting, that the evidence was properly received.

*Held*, also, Gwynne and Patterson, J. J., dissenting, that evidence could be given to show that defendant had changed the character of his signature since the action was commenced.

Appeal dismissed.

*Weldon*, Q.C., and *Gregory* for the appellant.

*Hanington*, Q.C., for the respondent.

[April 30.

HALIFAX BANKING CO. *v.* MATTHEW.

*Chattel mortgage—Action to set aside—Fraudulent as against creditors—15 Eliz., c. 5—Right of creditor of mortgagor to redeem.*

Plaintiffs having recovered judgment against one H., issued execution under which the sheriff professed to sell certain goods of H. and gave a deed to plaintiffs conveying the "share and interest" of H. in said goods. H. had conveyed the goods to the defendant by a mortgage made six months before the recovery of the plaintiffs' judgment which mortgage covered all the goods proposed to be sold by the sheriff. The plaintiffs filed a bill to set this mortgage aside as fraudulent under Stat. of Eliz. and fraudulent in fact. The court below held the mortgage good and dismissed the bill.

*Held*, affirming this judgment, that no fraud being shown and the plaintiffs not offering to redeem the mortgage, the action was rightly dismissed.

Appeal dismissed.

*W. B. Ross*, for the appellants.

*Fred. Peters*, for the respondents.

# SUPREME COURT OF JUDICATURE FOR ONTARIO.

## HIGH COURT OF JUSTICE FOR ONTARIO.

### Chancery Division.

FULL COURT.]

[March 18.

MCNEILL *v.* HAINES.

*Sale of standing timber—Real estate or chattels—Sale of right to cut timber for 20 years—Subsequent sale to vendor of the same timber.*

Where one sold and assigned to another all the pine timber he might choose to cut for 20 years, with the right to make roads to get to and remove the same, and a covenant that the grantee might, without let or hindrance from anyone, cut and remove the said timber,

*Held*, that this timber so sold together with the rights imparted to the purchaser were an interest in land.