

From Robertson, J.] McLAUGHLIN v. MAYHEW. [June 29.

Vendor and purchaser—Oral contract for sale and purchase of land—Specific performance—Statute of frauds—Part Performance—Possession—Note or memorandum—Delivery of deed in escrow.

Specific performance of an oral contract for the sale and purchase of land was adjudged at the suit of the vendee, who had gone into possession of the land on the faith of the contract and openly and continuously for some time remained in visible possession by his tenants, to the knowledge of the vendors and without objection on their part. It was considered that, under the circumstances, possession should be assumed to have been taken with the assent of the vendors, and the possession was of such a character as to exclude the operation of the Statute of Frauds.

Quære, whether a conveyance of land defectively executed and delivered in escrow and retained in the vendor's own possession, to be handed to the vendee on payment of the purchase money, can be regarded as a note or memorandum in writing of a previous parol contract between the parties for a sale of the land on the terms mentioned in the deed.

Judgment of ROBERTSON, J., affirmed.

Lynch-Staunton, K.C., for appellant. *W. H. Blake*, K.C. for respondent.

HIGH COURT OF JUSTICE.

Boyd, C., Ferguson, J., MacMahon, J.] [June 11.

IN RE DENISON.

REX v. CASE.

Mandamus—Police magistrate—Sentence—Ontario Liquor Act, 1902—Voting on—Personation—Information—Deputy returning officer—Prosecutor—Applicant for mandamus—Status.

At the voting upon the Ontario Liquor Act, 1902, the defendant presented himself at a polling place and asked for a ballot in the name of another person, whereupon, before the defendant had left the polling place one Stewart laid an information before the deputy-returning officer charging the defendant with personation, and on this information the deputy issued his warrant, under which the defendant was arrested and brought before a police magistrate. The deputy then laid an information against the defendant for personation, and defendant was tried by the magistrate, convicted and sentenced.

Held, affirming the decision of BRITTON, J., in the Weekly Court, that having regard to the provisions of R.S.O. 1897, c. 10, (made applicable by s.s. (5) of s. 91 of the Ontario Liquor Act, 1902), the information which gave the magistrate jurisdiction was that laid by Stewart; and the deputy-