

v. Webster, 9 Ex. 242, decided fifty years ago, when the practice was much stricter, is a stronger case than this, for there the money was taken out of court. Appeal dismissed with costs.

FERGUSON, J.

FEBRUARY 12TH, 1902.

TRIAL.

GLENN v. RUDD.

*Master and Servant—Wrongful Dismissal—Construction of Agreement—Statute of Frauds—R. S. O. ch. 157, sec. 5.*

Brace v. Calder, [1895] 2 Q. B. 253, applied.

Action, tried at London, brought to recover damages for alleged wrongful dismissal of plaintiff. The Raymond Company of Guelph manufactured National cream separators for defendants, who had the sole agency for Ontario, and traded as the Creamery Supply Company. The defendants appointed the plaintiff sole general agent for five western counties, and agreed that the contract between plaintiff and them should remain in force so long as the Raymond Company should continue to manufacture separators for defendants. Subsequently defendants dissolved partnership, and each taking half of the Province as his territory, continued in business, the Raymond Company supplying each with separators.

T. T. Macbeth, K.C., for plaintiff.

G. C. Gibbons, K.C., and J. J. Drew, Guelph, for defendants.

FERGUSON, J.—It is to me manifest that this contract must have come to an end, and, as to time, be performed at any time the Raymond Company should cease to manufacture the separators for the defendants. There was nothing to prevent their ceasing so to do at any time. The contract, therefore, might or might not be performed within the year. On this subject I refer to secs. 274, 275, and 276 of Browne on the Statute of Frauds, and Addison on Contracts, 9th ed., p. 34, where the author refers, *inter alia*, to McGregor v. McGregor, 21 Q. B. D. 424. I refer also to pp. 428 and 429, at which Lord Esher deals with Davey v. Shannon, 4 Ex. D. 81, and adopts Murphy v. Sullivan. I am decidedly of opinion that the Statute of Frauds has no application to the agreement in question, nor has R. S. O. ch. 157, sec. 5. The Raymond Company had not at or prior to the time of dissolution of defendants' partnership, ceased to manufacture separators for them. There was at that