fendant had agreed to give himself his interest in the timber limit in consideration of an interest in the log driving contract. It was shewn that the defendant had received an equal share with plaintiff ($2,330.27) of the profits of the driving contract. The defendant alleged this was a return for his services driving the logs and denied any agreement to pay the plaintiff any share of the profits from the timber limit.

Held, 1. A contract for an interest in a timber limit is a contract for an interest in land within the Statute of Frauds.

2. The division of the profits of the drive contract was not a sufficient part performance to take the case out of the statute as this at the most could only be regarded as payment of the purchase money.

3. There was no evidence that the timber limit was held as partnership property and even if it was so that it did not follow that a transfer by one parnter of his interest would not be within the statute. And had the evidence of the alleged agreement been clear and satisfactory leave to amend and recover the consideration paid on the footing of the contract might have been given. But as the verdict of the jury was so manifestly against the evidence the action was dismissed and leave given to the plaintiff if so advised to bring a new action to establish the verbal agreement and recover the purchase money.

Judgment of TEETZEL, J., reversed.

Douglas, K.C., for the appeal. *Aylesworth*, K.C., and *Clarry*, contra.

From Meredith, C.J.C.P.] [Nov. 14, 1904.

COULTER *v.* EQUITY FIRE INS. CO.

Fire insurance—Interim receipt—Estoppel—Statutory conditions—R.S.O. 1897, c. 203, s. 168.

The plaintiff, on Nov. 9, 1901, applied to defendants, through their agents, for an insurance against fire for one year. The defendants accepted the risk at an annual premium of $33.60, and as a matter of routine an interim receipt was issued, in terms restricted to thirty days, which was handed to the plaintiff on Nov. 30, 1901, and with out observing its effect he, supposing he was insured for one year, paid the $33.60 to the agent, and which the agent, as was his usual custom, did not pay over to the defendants till Jan. 30, 1902, who with full knowledge accepted it. No policy was ever issued. On the insured property being destroyed by fire, the company repudiated liability, on the ground that the insurance was only for thirty days and had expired.