

tion of certain arts and processes in combination for manufacturing purposes is not unpatentable for want of novelty, merely because some of the elements so combined have been previously used with other manufacturing devices. Judgment appealed from (11 Ex. C.R. 103) affirmed, and appeal dismissed with costs.

J. B. Clarke, K.C., for appellants. *Walter Cassels*, K.C., and *A. W. Anglin*, for respondents.

N.S.]

MCNEILL v. CORBETT.

[Dec. 13, 1907.]

Statute of Frauds—Mining areas—Transfer of interest—Part performance—R.S.N.S. (1900), c. 141, s. 4.

M. transferred to C. a portion of an interest in mining areas which he claimed was held in trust for him by the defendant. In an action by C. claiming a share of the proceeds of the sale thereof, no deed or note in writing of the assignment was produced as required by the fourth section of the Nova Scotia Statute of Frauds, and there was no evidence that, prior to the assignment, there had been such a conversion of the interest in question as would take away its character as real estate.

Held, that the subject of the alleged assignment was an interest in lands within the meaning of the Statute of Frauds and not merely an interest in the proceeds of the sale as distinguished from an interest in the areas themselves, and, consequently, that the plaintiff could not recover on account of failure to comply with that statute. It was shewn that, on settling with interested parties, the defendant had given M. a bond for \$500, as his share of what he had received on the sale of the areas.

Held, that as this act was not unequivocally and in its own nature referable to some dealing with the mining areas alleged to have been the subject of the agreement, it could not have the effect of taking the case out of the operation of the Statute of Frauds. *Maddison v. Alderson*, 8 App. Cas. 467, referred to.

Judgment appealed from (41 N.S.R. 110) reversed and appeal allowed with costs.

T. H. Bell, for appellant. *Mellish*, K.C., for respondent.