

4th.—Contracts or sales of lands, tenements or hereditaments or any interest in or concerning them.

5th.—Agreements not to be performed within the space of a year from the making thereof.

The first clause of the fourth section says that a special promise by an executor, or administrator, to answer damages out of his own estate must be in writing.

The second clause of the same section says that any special promise to answer for the debt, default or miscarriage of another person must be also in writing, this leads us to the subject of guarantees.

The sort of promise which must be in writing is a promise to answer for the debt, default or miscarriage of another person for which that other person himself continues liable. Thus if "A" go to a shop and say "let 'B' have what goods he pleases to order, and if he do not pay you I will," that is a promise to pay for the debt of another for which the other continues liable and must, if sought to be enforced against the guarantor, be in writing, let me give another example: a person went into a store and asked the merchant to supply goods to one "E. F." The merchant replied that he was not acquainted with him, whereupon the person asking for the goods replied, that if he did not know E. F., "I know him and he would see you paid." The goods were accordingly supplied and E. F., charged in the books. The latter being unable to pay, application was made to the former for payment, but payment could not be enforced against him because of its not being in writing. Again where two go to a shop, one buys, and the other to gain him credit promises the seller, "if he does not pay you I will." This is a collateral undertaking and consequently void without writing. But if he says "let him have the goods, I will see you paid," and the latter

be charged accordingly, this is an undertaking for himself and he shall be intended to be the very buyer. If goods are furnished an infant at the request of an adult, inasmuch as the infant is not responsible, the person who causes the goods to be supplied is responsible for the payment of them without writing.

After the fourth section of the Statute of Frauds had rendered verbal guarantees unavailable, actions at law were frequent for false representations, under circumstances in which before the act, the transaction would have been looked on as one of guarantee. For instance, if "A" went to a tradesman and represented to him falsely the good credit of "B," in consequence of which "B" was supplied with goods, "A" had an action on the case for the deceit, against the person making such false representation, and in order to stop frequent litigation on this point an act was passed in the ninth year of the reign of George the IV, called Lord Tenterden's act, which enacts that, "no action shall be brought whereby to charge any person upon or by reason of any representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other persons may obtain credit, money or goods upon, unless such representation or assurance be made in writing signed by the party to be charged therewith."

The third species of contracts enumerated by the fourth section of the Statute of Frauds, have reference to agreements made in consideration of marriage, but do not apply to promises to marry which may be made by word as formerly, and may be actionable. But all other agreements made in consideration of marriage must be in writing.

The fourth clause is explicit and says that any contract or sale of lands, tenements, or hereditaments, or any interest in or concerning them, must