

performed within a year? Sec. 4 of the Statute of Frauds puts contracts of that kind in precisely the same position as contracts affecting interests in land. Why, then, should the courts of equity relieve in the one case and refuse to relieve in the other? The answer to these questions appears to be as follows: Where a contract is such that it falls within the requirements of the Statute of Frauds, the doctrine of part performance will apply if the circumstances are such that a court of equity would, prior to the Judicature Act, have decreed specific performance of the contract. This answer appears to beg the question, and so a little further explanation is necessary.

It is not every contract that the Court of Chancery had power to enforce. It could not, for instance, enforce a contract of service: see *Britain v. Rossiter*, 40 L.T. Rep. 240, 11 Q.B.D. 123, at p. 129. There would, therefore, be no enforceable equities in such a case. But it might well be that there were enforceable equities in cases arising out of contracts required to be in writing under the statute, other than contracts concerning land. Thus, a court of equity would enforce an agreement by a parent to settle money on the marriage of his child, where a suitor has been induced thereby to celebrate the marriage. An instance of this occurred in the case of *Hammersley v. De Biel* (1845), 12 Cl. & F. 45, where the suitor subsequently sued his father-in-law's estate. In that case Lord Cottenham clearly intimated an opinion that the doctrine of part performance did apply to such a case: *Ibid.*, at p. 65*n*. The same Lord Chancellor subsequently expressed the same view in the case of *Lassence v. Tierney* (1849), 1 Mac. & G. 551, at pp. 571, 572. Nor is there anything in the judgments delivered in the House of Lords in the case of *Maddison v. Alderson*, *supra*, to the contrary. Further, Mr. Justice Kay in an elaborate judgment in *McManus v. Cooke*, 56 L.T. Rep. 900, 35 Ch. Div. 681, at p. 687, after reviewing the authorities, said that those authorities seemed to him to establish, amongst others, the following propositions: (1) That the doctrine of part performance, though principally applied in cases of contracts for the sale or purchase of land or for the acqui-