

died in 1897. On April 1, 1899, the plaintiff then at service at Schreiber, Ontario, wrote a letter to Kinsey expressing her loneliness and poverty and her great desire to know him better and to have him write to her. After receiving the letter Kinsey talked the matter over with some friends, stating his intention to adopt the girl and make her his heir, and some months afterwards he got a friend to go and see her and report to him what sort of a girl she was. After getting the friend's report Kinsey wrote to the plaintiff encouraging her to come to him and offering to make her his "daughter hard and fast," and to adopt her as his child and lawful heir provided her relations would offer no obstacles to it, sending her money and inviting further correspondence, and adding the following postscript: "Now I have agreed to become your real solid father as hard and fast as you could wish."

Then followed many letters between them resulting in her acceptance of his offer and coming to live with him as his daughter on 25th December, 1899. They lived together as father and daughter until he died suddenly on the 6th June, 1903, leaving no will but one made in 1881. There was no evidence that Kinsey had any other relative left. Plaintiff swore that on various occasions her father told her that all his property would be hers when he died and that he would make a will to that effect. Other witnesses heard him express the same views and intentions, and were shown some of Kinsey's letters to the plaintiff before he mailed them, and it was proved that he had stated that he had no other relations to whom he might leave his property.

*Held*, that there was a definite offer by Kinsey, in writing, that, if plaintiff would come to him and live with him as his daughter, he would keep her and leave all his property by will to her. That the offer was accepted, if not in formal terms, at least by acts and conduct; that plaintiff had fully performed her part of the contract; that the fact that Kinsey had not made the promised will should be attributed to mere negligence and procrastination, and that plaintiff was entitled to the assistance of the Court by way of specific performance of the agreement, notwithstanding the want of mutuality, which is not material after the one party has performed completely all he had undertaken to do: *Fry on Specific Performance*, pars. 465, 468; *Fitzgerald v. Fitzgerald*, 20 Gr. 410; *McDonald v. McKinnon*, 26 Gr. 12, and *Roberts v. Hall*, 1 A.R. 388, followed.

Completed performance by one party entitles him to enforce a contract against the opposite party, notwithstanding the Statute of Frauds: *McDonald v. McKinnon*, 26 Gr. 12; *Halloran v. Moon*, 28 Gr. 319; *Ridley v. Ridley*, 34 Beav. 478, and *Sappers v. Maw*, 3 Giff. 572; *Maddison v. Alderson*, 8 A.C. 467; *Walker v. Boughner*, 18 O.R. 448; *Cross v. Cleary*, 29 O.R. 542, and *McGugan v. Smith*, 21 S.C.R. 263, distinguished. The last three cases on the ground that, in each of them, the deceased with whom the agreement was alleged to have been made, had clearly shewn