To take a case out of the statute of frauds on the ground of part performance, the plaintiff must make out by clear and satisfactory proof the existence of the contract as charged in the bill, and the act of part performance must be of the identical contract set up by him.

The disinclination of Courts to make further inroads upon the statute, by excepting cases from its operation, is apparent in all the recent cases, and a firm determination exists to make no further relaxation of it.

Where a party is defending himself against the specific execution of a written contract, grounds of defence will be open to him which would not avail him if he as plaintiff were asking the aid of the Court.

Chancery, when called upon to coerce the specific performance of contracts, acts with less restraint than when exercising its ordinary jurisdiction, and will not interfere unless satisfied that the application is fair, just, and reasonable in all respects.

Where the representatives of the wife are asking a Court of Equity to direct the representatives of the husband, to deliver over to them the *choses in action* of the wife not reduced into possession by the husband in his lifetime, and the defence taken is part performance of a parol ante-nuptial agreement, the defendants should be held to the same clear, definite, and unequivocal proof of the contract set up in the answer, as if they were plaintiffs asking for its specific performance.

In this state a Court of Equity will receive parol proof to reform a written contract, so as to make it correspond with the real intention of the parties and then decree its specific execution.

But where the contract is by parol no matter if the intention of the parties was ever so clearly expressed, it would still be void for want of writing, and no reformation of it by a Court of Equity can make it otherwise.

The fact that an objection to the jurisdiction of the Court is not made until the hearing of the cause and after the argument was commenced, though not of itself a sufficient reason for refusing altogether to listen to it, yet in a case where there is doubt upon the question of jurisdiction, is a reason why the Court should lean against the objection.

In this case the Chancellor decreed the delivery up of the *choses in action* of the wife, not reduced into possession by the husband in his lifetime, to the representative of the wife, he being of opinion that it was not clear that there was plain, adequate, and complete remedy at law, and the objection to the jurisdiction not having been made until the hearing.

An action of trover would have given the plaintiff damages only from the demand and refusal, and this would be but a personal demand against the defendants, the executors of the husband, a security which may be much inferior to a decree directing the specific delivery of the bonds.

An action of replevin would require the representative of the wife to give bond with surety for a large sum, and the defendants, by a *retorno habendo* bond, would be able to regain the possession, and the plaintiff's claim to the specific thing thus converted to a personal demand on such bond.