foreign insurance company, this privilege would seem to operate to invalidate the tax. 56 Sup. Ct. 252, 260. Such indirect relief to foreign insurance companies has already been afforded them under the due process clause. *St. Louis Compress Co. v. Arkansas*, 260 U.S. 346 (1922). Similarly, upon objection by an individual, any foreign corporation which could show that its business was the exercise of a privilege within this clause apparently would be relieved from a discriminatory tax levied on the individual for his part in the transaction. The court limited the breadth of this holding, however, by another part of its decision; a tax was sustained which imposed upon income received from stock in corporations which paid an income tax to the state a lighter burden than upon income from stock in corporations which did not pay such a tax. 56 Sup. Ct. 252, 255. The fact that the corporation which was not taxed locally might pay an income tax in other states was held immaterial. (*Kidd v. Alabama*, 188 U.S. 730 (1903)). The resulting discrimination in favor of investors in corporations doing business within the state appears to be a more serious restraint on extra-state investments than the discrimination which was condemned. *Cf. Farmers Loan & Trust Co. v. Minnesota*, 280 U.S. 204 (1930). On this issue, however, the court apparently deemed itself bound by prior decisions.

Corporations—Uniform Stock Transfer Act—Negotiation of Stock Certificates by Means of Separate Blank Power—[Massachusetts].—The plaintiff authorized his broker to pledge stock not yet owned by the plaintiff, and for that purpose assigned and delivered to the broker several powers of attorney which were blank except for the plaintiff's signature. The plaintiff also gave the broker a document called a "permission to pledge" any security owned by himself or the broker. Using the above stock powers, the broker wrongfully pledged with the defendant bank other shares which the plaintiff had previously deposited, unindorsed, with the broker for safekeeping. The defendant bank filled in the powers to designate the shares wrongfully delivered to it. The plaintiff sued to restrain any sale of the pledged stock by the bank and to compel redelivery of the certificates. *Held*, for the defendant. But apart from the "permission to pledge" which was held to include authority to fill in the blank stock powers, there could not be a valid negotiation of the unindorsed certificates by means of a separate stock power which was blank as to the name of the stock under § 1(b) of the Uniform Stock Transfer Act (2 Mass. Gen. L. (1932), c. 155, § 37(b)). *Edgerly v. First Nat'l Bank of Boston*, 197 N.E. 518 (Mass. 1935).

The Uniform Stock Transfer Act provides in § 1 that title to stock certificates may be passed (b) "By delivery of the certificate and a separate document containing a written assignment of the certificate or a power of attorney to sell, assign or transfer the same or the share represented thereby, signed by the person appearing by the certificate to be the owner of the shares represented thereby. Such assignment or power of attorney may be either in blank or to the specified person." The last sentence appears to refer only to naming of the transferee and affords no legitimate inference as to whether stock powers not describing the shares were contemplated. Nevertheless, the court held that under this section a stock power must purport to assign designated certificates or shares. Although § 1 of the Uniform Act purports to state the "only" methods by which legal title may be transferred (6 U. L. A. § 1 (1922)), the framers of the act may have meant to except common law estoppel under § 18 (6 U.L.A. § 18 (1922)) which states that in cases not provided for by the act, the common law and law merchant shall remain in effect. Even if no express exception was intended, the Uniform Act was not intended to restrict transfers of stock but rather to make certificates more "negotiable" than they were at common law. Commissioners' Note, 6 U.L.A. § 5 (1922). Therefore, blank stock powers should be no less effective under the Uniform Act than they formerly were.

At common law, where the owner placed unindorsed stock certificates accompanied by a stock power completely filled in, in the hands of another to dispose of them for a prescribed purpose, and the agent, disregarding instructions, pledged them for his own use, the owner was estopped to deny the pledgee's lien if the latter acted in good faith. *Baker v. Davie*, 211 Mass. 429, 97 N.E. 1094 (1912); *Smith v. Savin*, 141 N.Y. 315, 36 N.E. 338 (1894). Thus two elements were necessary to make such a transfer valid: an "intrusting of possession" by the owner and "apparent authority" to transfer, arising from the words of the stock powers. Some courts found that a commercial custom existed of using stock powers totally blank except for the owner's signature and expressly declared that such a power constituted a blanket authority from the owner for all subsequent holders of the stock certificates to fill in the stock powers. *Prall v. Tilt*, 28 N.J. Eq. 479 (1877); *Wood's Appeal*, 92 Pa. 379 (1880). However, in those cases, the power, though blank, was intended by all parties to represent the certificates for which it was used. Another court reached the same result even where, as in the instant case, the blank power, given to the agent to transfer one stock certificate, was used by the agent to transfer another. The court found full apparent authority in the agent but admitted that since the agent used the power with the wrong shares there was less negligence or "holding out" by the real owner of the shares transferred. *Talcott v. Standard Oil Co.*, 134 N.Y.S. 617, 149 App. Div. 694 (1912). One judge dissented, saying there was no apparent authority in the agent for the reason, *inter alia*, that the power did not purport to relate to the shares transferred. Still other courts without discussion have applied the doctrine of estoppel even though the separate stock power did not name the shares to be transferred. *Crawford v. Dollar Savings Fund and Trust Co.*, 236 Pa. 206, 84 Atl. 694 (1912); *Fulton Nat'l Bank v. Moody*, 179 S.E. 831 (Ga. App. 1935). The Uniform Stock Transfer Act abolishes the requirement that the agent be trusted with possession and thus seems to nullify any objection to any use of stock powers by a holder whether authorized or not. 6 U.L.A. § 5 (1922). Hence mere physical possession is sufficient unless the failure of a stock power to designate any certificate will customarily put a transferee on notice of a holder's lack of authority to transfer the unindorsed certificate. Formerly the New York Stock Exchange Rules required not only that stock powers contain a full description of the certificates to be transferred but also that such description be in the same writing as the owner's signature. Christy, Transfer of Stock 105 (1929). But those rules are no longer in effect. Many brokers use the device of unindorsed certificates accompanied by blank powers for convenience in disposing of collateral on short notice. The broker can hold the certificates unindorsed for safe keeping and on oral instructions deal with any or all of an owner's stock simply by filling in a blank power from the owner. It is convenient also to the owner, who leaves his stock only temporarily with another, to be able to destroy the power at the end of the period and thus not run the risk of theft or loss of indorsed certificates.

The decision in the instant case would enable an owner to protect his rights against a subsequent wrongful pledge by his broker by deliberately omitting the name of the stock in the separate power—a protection he would not have if he simply indorsed the certificate in blank. *Jenkins v. Continental Trust Co.*, 150 Md. 416, 133 Atl. 610 (1926); *Connolly v. People's State Bank*, 260 Mich. 352, 244 N. W. 500 (1932). And in the light of the business custom mentioned above, innocent purchasers would, nevertheless, accept such blank powers as effecting valid negotiations of the accompanying certificates and thus be misled to their detriment, especially where the power is presented to them after being filled in by the broker.

Equity—Misapplication of the Doctrine of Affirmative Mutuality in Statute of Frauds Cases—The Purchaser's Part Performance as Basis for Specific Performance for the Vendor—[New York].—The plaintiff promised orally to sell real estate to the defendant who entered into possession, paid part of the purchase price and made improvements on the property. The vendor sought specific performance of the contract. The defendant contended that the oral contract was unenforceable because of the Statute of Frauds. *Held*, the defense failed; although the doctrine of affirmative mutuality was inapplicable, the purchaser's long possession and the changes he had made in the property entitled the vendor to specific performance. *Walter v. Hoffman*, 267 N.Y. 365, 196 N.E. 291 (1935).

If the purchaser under an oral contract to buy land can show certain acts of part performance, he can enforce the contract despite the Statute of Frauds. Fry, Specific Performance § 588 (6th ed. 1921); Pomeroy, Specific Performance § 105 (3d ed. 1926). Shall the vendor be entitled to specific performance if the purchaser's acts of part performance would have entitled him to the same relief? In a few states, the answer has been a categorical "no." *Palumbo v. James*, 266 Mass. 1, 164 N.E. 466 (1929); *Bennett v. Dyer*, 89 Me. 17, 35 Atl. 1004 (1896); *Huntington & K. Land Development Co. v. Thornburg*, 46 W.Va. 99, 33 S.E. 108 (1899). In other jurisdictions, the vendor has been allowed to rely on the purchaser's acts and has been granted the remedy of specific performance. *Andrew v. Babcock*, 63 Conn. 109, 26 Atl. 715 (1893); *Witt v. Boothe*, 98 Kan. 554, 158 Pac. 851 (1916); *Tatum v. Brooker*, 51 Mo. 148 (1872); *Fay's Estate*, 213 Pa. St. 428, 62 Atl. 991 (1906). These decisions are understandable in the light of the rationale behind the doctrine of part performance. Some courts look upon the Statute of Frauds as having been designed to avert proof of a non-existent contract by perjury and fraud. Consequently, it is argued, if the parties' acts can be reasonably explained only by the existence of a transaction relating to the land in dispute so that there is clear and convincing evidence of the contract, the policy behind the statute is not disturbed by permitting specific performance. *Bradley v. Loveday*, 98 Conn. 315, 119 Atl. 147 (1922); *Keatts v. Rector*, 1 Ark. 391 (1839); *Price v. Hart*, 29 Mo. 171 (1859); *Burns v. McCormick*, 233 N.Y. 230, 135 N.E. 273 (1922). Since the policy is saved by proof of such acts, it should be immaterial whether the plaintiff's or the defendant's acts furnished the required evidence—the acts of either party should be sufficient to entitle both parties to specific performance; in fact, the defendant's acts are even more desirable proof of the transaction than are the plaintiff's. Other courts in order to justify going behind the Statute of Frauds to grant specific performance require that the acts must not only be unequivocably referable to the contract, but, in addition, that the plaintiff must have experienced such an irreparable change of position in reliance on the contract that in order to prevent hardship, relief should be afforded him. *Shaver v. Wickmire*, 335 Ill. 46, 166 N.E. 458 (1929); *Hudgins v. Thomason*, 109 Tex. 433, 211 S.W. 586 (1919); *Kennedy v. Anderson*, 49 Wash. 14, 94 Pac. 661 (1908). Where this view is accepted, part performance by the purchaser may be regarded as having changed the vendor's position, since the purchaser's acts usually involve a change in the land—a change which the vendor should not be compelled to accept by a denial of