the owner thereof, and had promised to execute a conveyance
to him, whenever requested to do so ; and that she departed this
life a few weeks before the bill was filed, without having execu-
ted any deed to him, and leaving himself, and several brothers
and sisters, and the infant children of a deceased sister, her
heirs at law, to whom the legal title to said tract of land de-
scended.

The bill concluded with a prayer for the specific performance
of the contract, and a conveyance to the complainant by the de-
fendants, of the legal title to the land, and for general relief.

The facts stated in the bill were admitted to be true, and the
prayer was assented to, by all except the infant defendants ;
who having, by their guardian, declined admitting the same, a
commission was issued, and testimony was taken thereunder.

The value of the land was variously estimated by the wit-
nesses, at from $2500 to $3000, and the receipt was given for
$571 62.

The counsel for the infants excepted to the testimony, as at-
tempting to vary, explain, or contradict the receipt, which was
written evidence ; and as attempting to sustain a parol contract
relative to the transfer of lands, contrary to the statute of frauds,
upon which they said they relied.

The case having been submitted on notes, the chancellor at
this term delivered the following opinion :]

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THE CHANCELLOR:

This is a bill for the specific performance of a parol contract
in relation to lands, and of course the plaintiff can only suc-
ceed upon the ground of a part execution of the agreement;
and the acts done in part performance, must not only be refer-
rible exclusively to the contract set up in the bill, but the con-
tract must itself be established by evidence—clear, definite and
unequivocal in its terms. Such is the current of all the author-
ities upon this branch of the jurisdiction of courts of equity.
2 *Story Eq., section* 762.   *Wingate* vs. *Dail,* 2 *H. and J.,* 76.

It was said by Chancellor Kent, in *Phillips* vs. *Thompson,*
1 *Johns. Ch. Rep.,* 131, that if a party sets up part perform-
21*