

SPECIFIC PERFORMANCE—Continued.

13. A Court of Chancery will not decree the specific performance of a mere voluntary agreement. *Shepherd vs. Shepherd*, 244.
14. The Chancellor refused to decree the execution of the contract set up in this case, because there was a want of the essential element of unequivocal certainty in the agreement and in the acts relied upon, as part performance. *Ib.*
15. The ground upon which a court of equity decrees the specific performance of a parol agreement respecting lands, is, that in case of a clear part performance by one party, it would be fraud in the other, to refuse to perform the agreement on his part. It would be perverting the statute from a shield against, into an instrument of, fraud. *Small vs. Owings*, 363.

See PART PERFORMANCE, 1.

STATUTE OF FRAUDS.

1. It may well be doubted whether sales made by trustees under the authority of our courts of equity are within the statute of frauds. *Harrison vs. Harrison*, 331.
2. It has been repeatedly remarked by eminent judges, that the disposition, which at one time existed to relax the statute of frauds, should be opposed, and that the courts should take a stand against any further encroachments upon its provisions. *Beard vs. Lenthicum*, 345.
3. Where a party sets up an agreement in his bill, invalid under the statute of frauds, and the defendant by his answer denies the agreement, it is not perhaps necessary for him to insist upon the statute as a bar, but the complainant at the hearing must establish the agreement by written evidence. *Small vs. Owings*, 363.
4. Where the consideration for a conveyance is paid by one, not a party to the instrument, there is a resulting trust in his favor, a trust implied by law from the presumed intention of the parties, and the obvious justice of the case, which may be proved by parol, being excepted from the statute of frauds. *Hollis vs. Hollis*, 479.
5. The weight of American authority, is, that it is sufficient to bind a surety, if his engagement to pay the debt of another is in writing, although the consideration may not be reduced to writing. But where both the consideration and the engagement are in writing, the surety is bound, even according to the strict English construction of the statute of frauds. *Brooks vs. Dent et al.*, 523.

See PART PERFORMANCE, 2, 3, 6, 9, 10.

PRACTICE IN CHANCERY, 29, 30.

RESULTING TRUST.

SUBSCRIPTION TO STOCK.

See AGENT, 3.

SURETY.

See STATUTE OF FRAUDS, 5.

SURCHARGING AND FALSIFYING ACCOUNTS.

1. Where an agreement was made to settle a claim presented to the complainant in the form of a stated account, which, without examination