

of the stock purchased with the sum of \$416, with interest from the period of the death of her husband in December, 1844, and will sign a decree accordingly.

The solicitor of either party, may then prepare a decree consolidating the two cases, directing a sale of the mortgaged premises, unless the debt due upon the mortgage is paid, with interest and costs, by a day to be limited, and that Charlotte Spencer account with the administrator of her husband, for the proceeds of the stock purchased with the sum of \$416, with interest from the day of his death. The case to be referred to the Auditor for the purpose of stating the account upon the proof now in the cause, and such further proof as may be laid before him by the parties, for which purpose, a reasonable time will be given.

WILLIAM H. NORRIS for Complainant.  
CHARLES F. MAYER for Defendants.

HENRY F. FRIEZE,  
ADM. C. T. A. OF  
RACHAEL FORSYTH  
vs.  
GLENN AND STEWART.

SEPTEMBER TERM, 1848.

[STATUTE OF FRAUDS—PART PERFORMANCE—CHANCERY PRACTICE.]

G. & S. having been appointed trustees to sell certain property, in a cause in which they, as administrators of A. F., were complainants, and one R. F. was defendant, sold the same to the said R. F. By the Auditor's report in that case, which was confirmed by the Chancellor, the sum of \$1208 76 was assigned to said R. F. Upon a bill filed by the administrator of R. F., against the said trustees, to enforce the payment of this sum, it appearing that R. F. having failed to comply with the terms of sale, afterwards sold the property to one H. S., with an agreement, that the purchase money should be applied to the payment of incumbrances and other debts due by R. F., and that these debts, to which the money was applied by the trustees, exceeded the sum awarded to her by the Auditor, it was **HELD—**

That if the statute of frauds would, under any circumstance, apply to such an agreement, the acts of part performance by the trustees, would clearly take