

formance, except where both parties had a right by the agreement to compel a specific performance, according to the advantage which they might be supposed to have derived from it."

The Court of Appeals, in the case referred to, of *Geiger et al vs. Green*, say, that "it is established that unless there is to be found in the contract, the essential ingredient of *mutuality*, a court of equity will not compel its specific execution." And in that case the bill was dismissed, because of the absence of that indispensable ingredient.

The contract upon which the bill in this case is filed, and the specific performance of which it seeks to enforce, contemplated not only the exploration, *but the working* of the mines of copper and other minerals on the farm of the defendant. It recites the desire of the defendant to have them explored and worked, and the willingness of the said Thomas Petherick to undertake such explorations and working, and then in consideration of one dollar paid to the defendant by Petherick, the former agreed to give to the latter, his heirs and assigns, "full power to make explorations and works on the said farm, as he, the said Petherick, might think proper for such purpose," &c., and after a reservation to the defendant of a seignorage of one full fifteenth part of the minerals, Petherick for himself, his heirs and assigns, stipulated that he would on or before the tenth day of July then next, "commence proper operations for ascertaining, by explorations, the mineral prospects on the said farm."

Although therefore it was the manifest design and object of the said defendant, to have the minerals upon his farm *worked*, as well as explored, and although for a small pecuniary consideration he gave Petherick full power to make such explorations and works, the only *stipulation* on the part of Petherick is, by a certain period "to commence operations for ascertaining, by explorations, the mineral prospects on the said farm." The engagement, therefore, on the part of Petherick was limited to the explorations, and he was not bound, according to any interpretation of the contract, to work the mines. Whilst therefore the contract gives to him the power to work the mines, as he might think proper, the only corresponding obligation on his