

This contract, the Court of Appeals say, is unequal in its stipulations, binding one party and not the other, and consequently unreasonable and unfit to be carried into specific execution.

It seems to the Chancellor, that so far as regards the chief inducement to the contract on the part of the defendant in this case, to wit: the working and making the deposits of mineral profitable to him, it is precisely like the contract in *Geiger & Green*, because here, as in that case, the power to work the minerals is a privilege to Petherick, which he may or may not exercise, in his discretion, and consequently this contract, like that, is binding on one party and not the other, and unfit for that reason to be executed.

The bill, however, was not filed by Petherick, but by his assignee, a party with whom the defendant made no contract at all. One who has entered into no stipulations with him of any description, and who, although he has purchased the interest of Petherick in the agreement, has entered into no engagement to perform such stipulations as the contract may be supposed to have imposed upon Petherick.

The Chancellor thinks it would be difficult to maintain, successfully, that upon a bill filed by the defendant against this plaintiff, the latter could be compelled to perform those acts which it was clearly the intention of the defendant to secure, when he made this contract; and if so, the want of the element of mutuality, as between these parties, is supposed to be fatal to the right of the present plaintiff to a decree for a specific performance.

It being the opinion of the court, for the reason stated, that the plaintiff is not entitled to relief, and that the bill must be dismissed, it is not thought necessary or proper to examine the other questions raised in the argument, and by the pleadings, and therefore no opinion is expressed upon them. It may, however, not be improper to say, that there does not—in the confusion and discrepancies which have been pointed out and commented upon in the statement, of the dates of these transactions—appear in the judgment of the Chancellor to be any