ceive back a mortgage for part of the price payable by instalments, but omitted to say that the mortgage should be made payable with interest: in a suit brought to enforce specific performance of the agreement and to compel the vendor to accept a mortgage without interest, parol evidence was admitted to shew that the real understanding of the parties was that interest should be made payable by the mortgage.

Gould v. Hamilton, 192.

2. Where a suit was brought to compel the acceptance of a mortgage, for part of the purchase money, without interest, and the defendant in his answer thereto swore, "I have always said that I was ready and willing and have offered to complete the sale of the said property to the plaintiff, provided interest on the unpaid purchase money was included in the mortgage;" and also, "I submit and insist that unless the plaintiff will consent to pay interest on the unpaid purchase money aforesaid, he is not entitled to any relief in this court." The court treated these statements as submitting to a decree for specific performance, with interest reserved by the mortgage, and made a decree accordingly.

Ib.

3. The parties to an agreement differed as to its proper construction on one point, which the plaintiff at first refused to give up, and the defendant in consequence treated the agreement as at an end: the court thought there was some ground for the claim set up by the plaintiff though he had subsequently abandoned it, and, under the circumstances, decreed a specific performance of the agreement; but without costs. [The Chancellor dissenting.]

Gray v. Springer, 242.

4. This Court cannot enforce against the crown specific performance of an order in council.

Simpson v. Grant, 267.

5. The defendant agreed for the purchase of a factory situate near a small stream, intending to carry on in the building his occupation of soap and candle manufacturer. After the contract had been entered into the defendant discovered that he would not have a right to throw the refuse of his factory into the stream, and without the privilege of so using this stream the property would be useless for the purpose he had intended to apply it to, and of which the vendees were aware at the time of entering into the contract; *Held*, notwithstanding, that the vendee was bound to complete the contract, although the vendors had not pointed out this fact at the time of the sale.

James v. Freeland, 302.

6. A person in possession of lands contracted in the year 1848 with the proprietor for the purchase thereof, and about a year afterwards, without having paid any portion of the purchase money, absconded from the province, leaving some members of his family in possession of the property. In June, 1850, the owner having failed to effect any settlement with his vendee, obtained possession in an action of ejectment which he had instituted, and in January, 1851, sold the property to another purchaser, who went upon the land and remained in possession until the September of 1853, and laid out large sums in improvements, when the original vendee assigned his agreement to the plaintiff, who thereupon filed a bill for the specific performance of the agreement. The court dismissed the bill with costs.

Van Wagner, v. Terryberry, 324.

7. The owner of lands over which the Grand Trunk Railway would pass, offered to convey a portion thereof for a station house upon certain conditions, which offer was rejected. Afterwards an agreement was made