

not only not signed to the contract, but does *not appear any where* upon the face of the paper, and consequently there is nothing to show who was the other contracting party. The contract is in these words: "I have this day sold to Henry Myers a body of wood, supposing to be 1,000 cords, at 45 cents per cord, which he is to pay me for every 100 cords he cuts at a time, cash, and not to take any away until paid for, and the privilege of some timber to build shantees or houses—he is to have what poles he can get out of it, if any, and to cut every thing clean out of my way, large and small, and all such stuff as he cannot split into cord wood, he is to have, to take out of my way. To which contract I bind myself, and set my hand and seal."

To this paper the name of Henry Myers, the defendant, purports to be signed, and there is a memorandum below, saying, "I am to commence the 1st of October, 1849," also, appearing to be signed by him. The paper says, "I have sold"—Who has sold? Who is the party who has contracted with the defendant? The paper does not inform us, and it may as well be any one else, as Duvall. Where then, in the agreement, which he seeks to have specifically executed against the defendant, is the reciprocal obligation on his part? Where the mutuality which the Court of Appeals say, is indispensable to induce a Court of Chancery to extend its extraordinary jurisdiction to enforce the specific performance of contracts? Upon a bill filed by the defendant, Myers, against Duvall, to compel him to execute this contract, might he not say, I am no party to it, my name no where appears in it, and it is not with me you have contracted? And if Myers should say, the contract has been in part performed, the reply would be, that is only evidence of *some contract*, but not of this indentical contract, which you must show by clear evidence to be the very contract of which the acts relied upon, are supposed to be a part performance, or it will not avail you.

My opinion, therefore, is, that consistently with established principles, the plaintiff cannot have a specific execution of this paper, conceding it to be genuine. The bill, therefore, must