tended departure, presented him with a farewell address conveying their feelings of respect and wishes for his future welfare. The Board of Public Instruction for the County also passed a resolution to the same effect.

We desire to join with his numerous other friends in wishing him a pleasant and beneficial voyage and a safe return.

## SELECTIONS.

### THE POWER OF ONE PARTNER TO BIND THE FIRM BY SEALED INSTRUMENT.

That one partner cannot bind his co-partners by any instrument under seal, is a general rule firmly established, and we believe not questioned by any decision, either in England or America. The leading case is *Harrison* v. *Jackson*, 7 Term Rep. 207, decided by the Court of King's Bench, in 1797. In delivering the opinion of the court, Lord Kenyon, C. J., said: "The power of binding each other by deed, is now, for the first time insisted on. * * * Then it was said, if this partnership were constituted by writing under seal, that gave authority to each to bind the others by deed; but I deny that consequence just as positively as the former; for a general partnership agreement, though under seal, does not authorize the partners to execute deeds for each other, unless a particular power be given for that purpose. This would be a most alarming doctrine to hold out to the mercantile world; if one partner could bind the others by such a deed as the present, it would extend to the case of mortgages, and would enable a partner to give to a favourite creditor a real lien on the estates of the other partners."

The same point had already been decided in Pennsylvania, thirteen years earlier, in *Gerard* v. *Basse et al.*, 1 Dallas, 119. In that case one partner had executed a bond and warrant to confess judgment, to which there was one seal, and the signature "John A. Soyer, for Basse & Soyer." Judgment was entered on the bond against both partners, and the court held it good only as to the one signing, and gave the plaintiff leave to strike out the name of the other. In delivering the opinion of the court, Shippen, ,President, said: "there can be no doubt that in the course of trade, the act of one partner is the act of both. There is virtual authority for that purpose, mutually given by entering into partnership, and in everything that relates to their usual dealings each must be considered as the attorney of the other. But this principle cannot be extended further to embrace objects out of the course of trade. *It does not authorize one to execute a deed for the other;* this does not result from their connection as partners; and there is not a single instance in the books which can countenance such an implication."

The principle thus laid down in these two cases has been very rigidly adhered to in England, but in the United States there has always been more or less disposition to limit its generality, and though, as a general rule, it has not been shaken, yet several important exceptions may now be considered as firmly established in most of the states. Thus in *Hart* v. *Wither*, 1 Penn. Rep. 285, though the Supreme Court of Pennsylvania decided that the other partners were not bound by the deed, nothwithstanding it had been given in a transaction in the course of business of the firm, and the benefit had been received by them, yet Huston, J., dissented, and stated his reasons so briefly and pointedly, that they are well worth reproducing in his own language. "The grounds on which one partner is not permitted to bind the other by deed, in England do not exist, or at least, all of them do not exist here. They are: 1st. That the consideration of a deed cannot be inquired into—here it can. 2nd. That a bond will bind the lands of any partner who has lands, after his death—here a common note, nay account, is recovered after the death of the debtor out of land. It is admitted, even there, that one partner may bind another by bond, sealed in his presence, although with but one seal. This must be solely because his assent is clearly proved by his being present and agreeing, not dissenting; now I cannot see why assent clearly proved in one way is not as effectual as assent clearly proved in another. Here, the offer was to prove that each of the partners, who were iron masters, and had lands in partnership, as well as chattels, were in the constant habit of making contracts under seal, which were ratified by the others, and the benefits enjoyed by them—that this contract, on the face of it for wood, was for wood for their iron works, and was actually used at them and the benefit enjoyed by them all. I would then have permitted this to go the jury, and if they found a clear assent either before or after, I would hold them bound. One partner is often bound in equity, differently from what he is at law, because he has received the benefit: *Lang* v. *Keppele*, 1 Bin. 123. I would confine the power to partnership transactions, and to property which came into partnership, and was enjoyed by them under a contract which they knew was made by one of the firm."

Subsequent cases, not only in Pennsylvania but in most of the other states, have established the law in substantial conformity with the principles of Judge Huston's opinion. The leading cases on this point, are *Gram* v. *Seton*, 1 Hall, 262, and *Cady* v. *Shepherd*, 11 Pickering, 400. In the former case the Superior Court of New York City determined that one partner cannot make a sealed instrument, even though it be necessary in the usual course of business of the firm, unless authorized by the other partners, but authority need not be given expressly or under seal, but may be implied from the nature of the business or the conduct