

of expediency. There are, of course, numerous occasions where such formalities are made necessary by statute; and other occasions will occur to the reader where signing and attestation are necessary, such, *e.g.*, where the document exercises a power, formalities for the exercise of which have been prescribed by the donor of the power.

There can be no doubt but that delivery is by far the most important part of the formalities observed in executing a deed. Yet it is the one part upon which least stress is usually made in practice. In the words of Mr. Justice Keating in *Tupper v. Foulkes*, 9 C.B.N.S. 797, at p. 803, the operative part of the ceremony is the delivery. "Where a contract," said Baron Martin in *Xenos v. Wickham*, 14 C.B.N.S. 435, at p. 473, "is to be by deed, there must be delivery to perfect it. This is a positive absolute rule of the common law, which nothing but an Act of Parliament can alter, and which, in my judgment, ought not to be frittered away." The reason why delivery holds in law such an important place in the formalities attending the execution of a deed is no doubt due to the fact that it is the overt act which most unequivocally evidences the intention of the party delivering it to adopt the document as of binding force. The whole significance of the act of executing a deed is that the person executing it deliberately adopts it as binding upon him. By the outward act of delivery all question of intention to the contrary is placed beyond doubt. Intention, of course, is the foundation of the whole matter.

There are some interesting authorities upon the question what amounts to the delivery of a deed. "No particular technical form of words or acts is necessary to render an instrument the deed of the party sealing it," said Mr. Justice Blackburn in *Xenos v. Wickham*, 16 L.T. Rep. 800, L. Rep. 2 H.L. 296, at p. 312. "The mere affixing the seal does not render it a deed; but as soon as there are acts or words sufficient to shew that it is intended by the party to execute it as his deed presently binding on him, it is sufficient. The most apt and expressive mode of indicating such an intention is to hand it over saying, 'I deliver this as my deed' but any other words or acts that sufficiently shew that it was intended to be finally executed will do as well."