

of attorney, a release, or a disclaimer. I would go further and say that any instrument delivered as a deed, and which either itself passes an interest, or property, or is in affirmance or confirmation of something whereby an interest or property passes, is a deed."

A document is not a deed merely because it is sealed. Many kinds of documents are made under seal and yet are not deeds. As instances of such, probates of wills, certificates of magistrates, and awards may be mentioned: see *Reg. v. Morton*, *sup.*; *Chunter v. Johnson*, 14 M. & W. 408, at p. 411, *per* Baron Parke. Yet sealing is one of the essential attributes of a deed. It is more essential to a valid deed from one point of view than signature. Signature by the executing party is in theory of law unnecessary: *R. v. Goddard*, *sup.*; *Cromwell v. Grunsden*, 2 Salk. 462.

Here we may notice a controversy which has from time to time been raised whether a deed duly sealed and delivered, but not signed, is valid in cases where the Statute of Frauds requires a transaction to be evidenced by a document signed by the person to be charged. The view expressed by Barons Parke, Alderson, and Rolfe in *Cherry v. Heming*, 4 Ex. 631, at p. 636, is no doubt the correct one—namely, that the statute only struck at parol agreements and transactions, and not at agreements and transactions evidenced by the most solemn form of document known to the law. Consequently where a deed has been executed by sealing and delivery the Statute of Frauds does not apply.

Attestation by witnesses stands in much the same position as regards the validity of a deed, *quâ* deed, as does signature by the executing party. In other words, attestation is in theory unnecessary: see *Garrett v. Lister*, 1661, 1 Lev. 25. But both are desirable as working for efficacy. Just as the efficacy of a legal document is secured by the fullness and clearness of its terms, so also is the efficacy of a deed, as an item of evidence—as a proving medium, to use an unconventional term—secured by the readiness with which its authenticity can be established. In practice, signing by the executing party and attestation by a witness or witnesses is almost universally adopted as a custom