

THE EXECUTION OF DEEDS.

The Court of Appeal in the recent case of *Re Seymour, Fielding v. Seymour*, 108 L.T. Rep. 549, (1913) 1 Ch. 475, decided an important point on the law of deeds, holding that the acknowledgment by a lady of a deed purporting to have been executed under a power of attorney given by her amounted to a re-delivery of the instrument as her deed. It is proposed in this article to investigate the meaning of the formalities in vogue for executing deeds and to inquire into the law touching this subject so that the significance of the recent case may be the better appreciated.

When a person after signing a deed goes through the apparently empty formality of placing his finger on the seal (generally a small circular piece of red paper stuck on to the document) and repeats the words dictated to him, "I deliver this as my act and deed," he little appreciates the significance of the words he uses. Very often, indeed, in practice, this small formality is dispensed with, the signing both by the person executing and the witness to his signature being deemed the important part of the execution ceremony. Yet the cabalistic words mentioned above have their meaning—a fact which will be fully appreciated upon a perusal of the judgments of the Lords Justices in the recent case.

Questions concerning the valid execution of deeds necessarily involve further questions of the essential characteristics of a valid deed. A deed is a legal institution of ancient origin, and definitions of deeds abound in ancient legal text-books. Thus, various definitions are to be found in such books as Sheppard's Touchstone, Termes De La Ley, and the old Digests. But these definitions are anything but satisfactory. This is due, no doubt, largely to the fact that circumstances have altered. Thus, at one time few of the parties to a deed could write their names, and signing and even attestation was consequently little in vogue; sealing by the executing party being better fitted to the habits and capabilities of the public in general: see *per* Chief Justice Holt in *R. v. Goddard*, 3 Salk. 171; *Cherry v. Heming*, 4 Ex. 631, at p. 636. Again, the transmutation of property was anciently more frequently evidenced by the giving of physical possession than it is now. Paper has largely taken the place of parchment—