

for otherwise the deed will only pass the individual interest of the partner who executes it.*

It would seem, however, that a declaration alleging that the partners "made their certain writing obligatory signed by their firm-name," "and sealed with their seal," etc., is good on demurrer; if it was the deed of but one, it must be shown by plea on the part of the partner who did not execute the bond.†

The instrument may also become binding on the other partners on the principles of estoppel and ratification,‡ and the bringing of an action upon it, by the firm, is an adoption of the instrument, and the defendant cannot object that it is not the deed of the partnership.§

Again, such a deed is binding on the partner who does not execute it, if he is present and sees the other partner execute it and does not object; his acquiescence, with full knowledge of the act done, amounts to consent.¶

IV. *Instrument Equally Operative Without a Seal*.—Where an instrument executed by one partner, in the firm-name, and sealed, would be equally operative without a seal, the rule does not apply, e.g., in the case of a sealed bill of sale of partnership property.¶ Thus, an eminent English jurist, in a bankruptcy case, remarked: "As to the objection that the security, being effected by a deed executed by one partner, could not bind the firm, it might be true that the instrument would not take effect as the deed of the firm; but the transaction itself was one within the authority of the partner, and the circumstance of a deed being executed would not invalidate the contract."** Accordingly, one partner

* *Walton v. Tosten*, 49 Miss. 569. See, however, *Kasson v. Bocker* (47 Wis. 79), where, on an appeal from the disallowance of a claim of partners in their firm-name, the appeal bond was executed in the firm-name, and the court held that the presumption was, in the absence of all proof, that it was so executed as to bind both partners, and the mode of execution was approved. *Contra*, *Butterfield v. Hemsley*, 14 Gray (Mass.) 226.

† *Massey v. Pike*, 20 Ark. 92.

‡ *Mann v. Etna Ins. Co.*, 40 Wis. 549; *Baldwin v. Richardson*, 33 Tex. 16.

§ *Dodge v. M'Kay*, 4 Ala. 346.

¶ *Kasson v. Bocker*, 1 N. W. Rep. (N. S.) 418; *Anthony v. Butler*, 13 Pet. (U. S.) 423; *Baldwin v. Richardson*, 33 Tex. 16; *Bentlin v. Zierlien*, 4 Mo. 417; *Blackburn v. McCallister*, Peck (Tenn.), 371; *Button v. Hampson*, Wright (Ohio), 93; *Cummins v. Cassidy*, 5 B. Mon. (Ky.) 74; *Day v. Lafferty*, 4 Ark. 450; *Doe v. Tupper*, 12 Miss. 261; *Donaldson v. Kendell*, 2 Ga. Dec. 227; *Fitchburn v. Boyer*, 5 Watts (Pa.), 159; *Fleming v. Dunbar*, 2 Hill (S. C.), 532; *Gerard v. Basse*, 1 Dall. (U. S.) 119; *Hart v. Withers*, 2 N. J. L. 285; *Hen-*

derson v. Barbee, 6 Blackf. (Ind.) 26; *Hodson v. Porter*, 2 Colo. 224; *James v. Bostwick*, Wright (Ohio), 142; *Lambden v. Sharp*, 9 Humph. (Tenn.) 224; *Layton v. Hastings*, 2 Harr. (Del.) 147; *Lee v. Onstott*, 1 Ark. 206; *Little v. Hazard*, 5 Harr. (Del.) 191; *Lucas v. Saunders*, 1 McMull. (S. C.) 311; *Mackay v. Bloodgood*, 9 Johns. (N. Y.) 285; *M'Cart. v. Lewis*, *Id.* 267; *McDonald v. Eggleston*, 26 Vt. 154; *Modisett v. Lindley*, 2 Blackf. (Ind.) 119; *Montgomery v. Boone*, 2 B. Mon. (Ky.) 244; *Morris v. Jones*, 4 Harr. (Del.) 428; *Morse v. Bellowes*, 7 N. H. 550; *Napier v. Catron*, 2 Humph. (Tenn.) 534; *Person v. Carter*, 3 Murph. (N. C.) 321; *Pettes v. Bloomer*, 21 How. (N. Y.) Pr. 317; *Pierson v. Hooker*, 3 Johns. (N. Y.) 68; *Posey v. Bullitt*, 1 *Id.* 99; *Price v. Alexander*, 2 Gr. (Iowa), 427; *Snyder v. May*, 19 Pa. St. 235; *Trimble v. Coons*, 2 A. K. Marsh. (Ky.) 375; *Turbeville v. Ryan*, 1 Humph. (Tenn.) 113; *United States v. Astley*, 3 Wash. (U. S.) 508.

¶ *Patten v. Kavanagh*, 11 Daly (N. Y.), 348; *S. P., Keller v. West*, 39 Hun (N. Y.), 348; *Everit v. Strong*, 5 Hill (N. Y.), 163.

** *Ex parte Bosanquet*, DeGex, 432.