ST. LOUIS
LAW REVIEW

Vol. XVIII FEBRUARY, 1933 No. 2

RESTATEMENT OF THE LAW OF CONTRACTS OF THE AMERICAN LAW INSTITUTE, SECTIONS 95-110,* WITH MISSOURI ANNOTATIONS†

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FORMATION OF FORMAL CONTRACTS— CONTRACTS UNDER SEAL

Scope Note: The formation of recognizances and the formation of negotiable instruments (though both recognizances

 Previous sections of the Restatement, similarly annotated, will be found in the ST. LOUIS LAW REVIEW for December, 1930, February, 1931, June, 1931, December, 1931, and December, 1932.

and negotiable instruments are classified as formal contracts in Section 7) are not included within the scope of this Chapter. The formation of recognizances is statutory, and the entire law of negotiable instruments is best stated separately from the law of other contracts.

Section 95. REQUIREMENTS FOR SEALED CONTRACT.

The requirements of the law for the formation of a contract under seal are:

(a) A sealed written promise and delivery, either unconditionally or in escrow, of the document containing it; and if the delivery is in escrow, the happening of the condition on which delivery is made;

(b) A promisor and a promisee each of whom has legal capacity to act as such in the proposed sealed contract; and each of whom is so named or described in the document as to be capable of identification when it is delivered;

(c) Acceptance by the promisee or grantee in the case stated in Section 105;

(d) That the transaction, though satisfying the previous requirements, must not be void by statute or by special rules of the common law.

Special Note: The law regarding contracts under seal has been much changed by statute in many States of the United States. In nearly half of the States the distinction between sealed and unsealed writings is abolished. In a number of other States statutes vary the effect which the common law gave to seals.

Comment:

a. The explanation of these requirements is given in Sections 96-110. The word "written" in this section and hereafter, and the word "writing" include printing and other means of impressing characters on paper or other substance. The nonexistence of one or more of the requisites stated in this section does not preclude the formation of an informal contract if the requisites for such a contract exist.

b. A contract under seal is almost invariably signed, but such a contract is possible without signature.

Annotation:

This Section is introductory to Chapter 4. In reading over Chapter 4, a Missouri lawyer should observe the following points.

(1) According to the Restatement a contract means a binding promise. See Section 1. A deed to land, in so far as it is merely a conveyance, is not a contract because it contains no promise. A warranty deed is a contract only in so far as the warranties are concerned. A deed which contains a condition of future performance by the grantee, if accepted by the grantee, is a contract in so far as it may imply a promise to perform by the grantee. This narrow limitation of the word "contract" is not always recognized in Missouri law. Since 1845 "a specialty *or other written contract*" has been a statutory phrase. R. S. Mo. 1929, Sec. 954.

(2) According to the Restatement a promise under seal is operative without any consideration. See Section 110. Missouri very radically has modified this rule of the common law in a succession of statutes, the most important being the Act of 1893, now known as R. S. Mo. 1929, Sec. 2957. For a brief discussion of the statutory modifications see Annotation under Section 110.

(3) According to the Restatement, a sealed unilateral contract is binding as soon as delivered without regard to acceptance, although there is a condition subsequent that the promisee may disclaim the contract. See Section 104. This is not in accord with Missouri law. See Annotation under Section 104.

(4) The distinctive legal relationship described in the Restatement as a sealed contract does not now exist in Missouri.

(5) Missouri recognizes a special class of signed written contracts which are intended not to be effective until delivery. The delivery may be either unconditional or in escrow. These contracts in Missouri are in certain respects similar to the sealed contract of the Restatement. Therefore, this Chapter 4 of the Restatement is helpful to Missouri lawyers.

Section 96. DEFINITION OF A SEAL.

A seal is a piece of wax, a wafer or other substance, affixed to the paper or other material on which a promise, release or conveyance is written, or a scroll or sign, however made, on such paper or other material, or an impression made thereon; provided that by a recital or by the appearance of the document an intention of the promisor, releasor or grantor is manifested that the substance, scroll, sign or impression shall be a seal.

Comment:

a. The definition of a seal in this Section is broader than that of the common law in most States, but statutes have generally extended the rule as far as is here stated.

b. Under this Section the question whether a seal is upon a document is to be determined from the document itself. Evi-

dence of extrinsic circumstances is not admissible to prove or disprove this. Such circumstances may, however, be shown to aid the determination of the questions whether a promisor affixed or adopted a seal (see Section 98) and whether the document has been delivered (see Section 102).

Annotation:

Since the Act of 1893, the addition of a seal to any written instrument signed by an individual is superfluous and without legal effect. *State v. Tobie* (1897) 141 Mo. 547, 42 S. W. 1076. Before 1893 the law of Missouri was in accord with this Section. The use of a scroll on a writing expressed to be sealed was authorized by statute. R. S. Mo. 1889, Sec. 2388. That statutory provision was repealed by the Act of 1893. For typical cases under the old law see *Pease v. Lawson* (1862) 33 Mo. 35; *Grimsley v. Adm'rs of Riley* (1838) 5 Mo. 280; *Dickens v. Miller* (1882) 12 Mo. App. 408. Under the language of the Act of 1893, R. S. Mo. 1929, Sec. 2957, the use of a seal by a corporation is still necessary under some circumstances. See Annotation under Section 110.

Section 97. PROMISE IS SEALED IF PROMISOR AFFIXES OR ADOPTS A SEAL.

A written promise is sealed if the promisor affixes or impresses a seal on the document or adopts a seal already thereon.

Annotation:

This Section is without significance in modern Missouri law. Before 1893 Missouri law was in accord. *Groner v. Smith* (1872) 49 Mo. 318.

Section 98. WHAT AMOUNTS TO ADOPTION OF A SEAL.

(1) A promisor who delivers a written promise to which a seal has been previously affixed or impressed with apparent reference to his signature, thereby adopts the seal.

(2) A promisor who delivers a written promise to which a seal has been previously affixed or impressed with apparent reference to the signature of another party to the document, is presumed to have adopted the seal unless extrinsic circumstances show a contrary intention.

Comment:

a. Under the rule of Subsection (1) extrinsic evidence is not admissible; under the rule of Subsection (2) such evidence is admissible.

Annotation:

This Section is without significance in modern Missouri law. Before 1893 Missouri law was in accord. See *Underwood v. Dollins* (1871) 47 Mo. 259, pertinent to *Subsection (1); Lunsford v. La Motte Lead Co.* (1873) 54 Mo. 426, pertinent to *Subsection (2).*

Section 99. ANY NUMBER OF PARTIES MAY ADOPT THE SAME SEAL.

Any number of parties to the same instrument may adopt one seal.

Annotation:

This Section is without significance in modern Missouri law. Before 1893 Missouri law was in accord. *Burnett v. McCluey* (1883) 78 Mo. 676.

Section 100. RECITAL OF SEALING OR DELIVERY IS UNNECESSARY.

A recital of the sealing or of the delivery of a written promise is not essential to its validity as a sealed contract.

Comment:

a. A recital may be of importance to show that a dash or scroll after a signature is a seal (see Section 96); but the recital is not an independent requirement, so that if a wafer or other object attached to a written promise is evidently a seal, a sealed contract is formed though there is no recital.

Annotation:

This Section is without significance in modern Missouri law. Before 1893 Missouri law was in accord. *Dingee v. Kearney* (1876) 2 Mo. App. 515.

Section 101. SEALED PROMISE MAY BE DELIVERED UNCONDITIONALLY OR IN ESCROW.

A promise under seal may be delivered by the promisor unconditionally, in which case there is a present contract under seal; or may be delivered in escrow, in which case there is no present contract under seal. Delivery may be made either unconditionally or in escrow to the promisee or to any other person.

Comment:

a. This Section by its terms is applicable to the power of a promisor to subject himself to a duty. It does not enable a

promisor by inserting in a document not only his own promise, but what purports to be a promise by the promisee, to subject the latter to a duty by delivering the document to a third person. If, however, a promisor attempts this, his own promise is likewise ineffective until the promisee by accepting the document assents to assume the stated duty (see Sections 105, 107).

Annotation:

In so far as this Section relates to written contracts intended to be effective on delivery it is in accord with Missouri law, except as indicated in Annotation to Section 104. Most of the Missouri cases involving the principle of this Section relate to conveyances. Delivery of a deed is an essential element of a valid transfer of title to real estate. *Sneathen v. Sneathen* (1891) 104 Mo. 201, 16 S. W. 497; *Hammerslough v. Cheatham* (1884) 84 Mo. 13. The delivery of a deed so far as the grantor is concerned is a matter of intention. *Coulson v. Coulson* (1904) 180 Mo. 709, 79 S. W. 473. For a case involving deeds placed in escrow, see *Bales v. Roberts* (1905) 189 Mo. 49, 87 S. W. 914. The soliciting agent of an insurance company may hold a contract in escrow for the insurance company and a prospective insured. *Price v. Home Ins. Co.* (1893) 54 Mo. App. 119. See *Whelan v. Tobener* (1897) 71 Mo. App. 361, where the issue of fact was: delivery unconditional or delivery in escrow? The custodian of an escrow is the common agent of both parties and hence the preliminary delivery may be withdrawn by the consent of both parties. *Peterman v. Peterman* (1921) 286 Mo. 375, 228 S. W. 1062. See Annotation under Section 103.

Section 102. WHAT AMOUNTS TO UNCONDITIONAL DELIVERY.

A promise under seal is delivered unconditionally when the promisor puts it out of his possession with the apparent intent to create immediately a contract under seal, unless the promisee then knows that the promisor has not such actual intent.

Annotation:

As in the preceding Section, the principle of this Section is illustrated in Missouri by cases relating to conveyances. Several cases have approved the following description of an effective delivery: "The act must have been with the intent on the part of the grantor to divest himself of title and it must have been accepted by the grantee with the intent to take the title as indicated in the deed. These two acts are essential to a complete delivery of the deed." See *Ray v. Walker* (1922) 293 Mo. 447, 240 S. W. 187. Alleged delivery of deed to third person to be turned over

to grantee at death of grantor, is ineffective if grantor retains dominion. *Van Huff v. Wagner* (1926) 315 Mo. 917, 287 S. W. 1038. But is effective if such dominion is surrendered. *Meredith v. Meredith* (1921) 287 Mo. 250, 229 S. W. 179. Deed may be delivered although never in physical possession of grantee. *Burke v. Adams* (1883) 80 Mo. 504. In the following cases surrender of possession to a third person was held to be an unconditional delivery: *Crites v. Crites* (Mo. 1920) 225 S. W. 990, deed to be delivered upon death of grantor but conveying present interest; *Burkey v. Burkey* (Mo. 1915) 175 S. W. 623, surrender of possession for purposes of recording; *Huiser v. Beck* (1894) 55 Mo. App. 668, surrender of control over chattel mortgage. In the following cases the facts did not justify the conclusion of unconditional delivery: *Peterman v. Crowley* (Mo. 1920) 226 S. W. 944, mother's deed to son placed in bank and afterwards removed by mother; *Givens v. Ott* (1909) 222 Mo. 395, 121 S. W. 23, no notarial certificate or surrender of deed by notary until after death of grantor; *Vanstone v. Goodwin* (1890) 42 Mo. App. 39, a bank, though agent of grantee, possessed certificate of stock subject to recall of grantor. In *Miles v. Robertson* (1914) 258 Mo. 717, 167 S. W. 1000, an unusual set of facts was held to involve delivery of a deed, the Court saying that delivery "may be shown by acts without words, or words without acts, or by both combined; and it may take place and the deed still remain in the possession of the grantor".

See Simonton, Conveyancing—Delivery of Deeds, 27 Mo. Law Bull. 69.

Section 103. WHAT AMOUNTS TO DELIVERY IN ESCROW AND ITS EFFECT.

(1) A promise under seal is delivered in escrow by the promisor when he puts it out of his possession without reserving a power of revocation, and with the expressed intent that the promise shall become a contract under seal upon the happening in the future of some condition not expressed in the document, and shall not become a contract under seal until that time. This condition must be something other than the promisor's future mental desire or intention.

(2) On the happening of such a condition as is stated in Subsection (1) the promise becomes a contract under seal. Until the time has elapsed for the happening of the condition that was fixed by the promisor when he delivered the document, or, if he then fixed no time, until a reasonable time has elapsed for the happening of the condition, the promisor has no power to annul the delivery.

Thereafter he has a right to reclaim the document, if the condition has not happened.

Comment:

a. Delivery in escrow is to be distinguished from delivery to hold as agent for the promisor.

Annotation:

The principle underlying this Section when applied to deeds and other written instruments intended to be effective conditionally after delivery in escrow is in accord with Missouri law. In *Seibel v. Higham* (1909) 216 Mo. 121, 115 S. W. 987, the Court said: "The depositary of an escrow is sometimes spoken of as the agent of the grantor and sometimes as the agent of both parties, and whilst that may be correct, in a limited sense, yet strictly speaking he is not an agent at all, he is a trustee of an express trust, with duties to perform for each which neither can forbid without the consent of the other. If he were the agent of the grantor his agency would cease on the grantor's death and he would have no authority to receive the purchase money from the grantee and deliver the deed. But the death of the grantor does not annul the depositary's authority to do what he was appointed to do, and it does not impair the right of the grantee to perform the condition and take down the deed." See also *Bank of Hollister v. O'Brien* (1927) 220 Mo. App. 1276, 290 S. W. 1009, promissory note delivered in escrow; *Commerce Trust Co. v. White* (1913) 172 Mo. App. 537, 158 S. W. 457, intent determines whether delivery is unconditional or in escrow. The last sentence of *Subsection (1)* is illustrated by the facts in *Van Huff v. Wagner* (1926) 315 Mo. 917, 287 S. W. 1038. The second and third sentences of *Subsection (2)* are illustrated by the facts in *Longworth v. Farmers & Traders Bank* (1927) 222 Mo. App. 1, 300 S. W. 546. For other escrow cases, see Annotation under Section 101. See also McCleary, Some Problems in Conditional Deliveries of Deeds, 43 Mo. Law Bull. 5.

Section 104. ACCEPTANCE BY THE PROMISEE GENERALLY UNNECESSARY; DISCLAIMER PERMITTED.

(1) Acceptance by the promisee in the case of a promise under seal is not essential to the formation of a unilateral contract, nor is knowledge of the existence of the promise; but a promisee who has not accepted such a promise may, within a reasonable time after learning of its existence and terms, render it inoperative from the beginning by disclaimer.

(2) Acceptance or disclaimer is irrevocable.

Annotation:

There is a theoretical variance between the principle of this Section and the Missouri law relating to the delivery of written instruments. In Missouri acceptance by the promisee is necessary. However, the practical results of this variance are insignificant because of the Missouri doctrine that acceptance is presumed whenever the contract is beneficial to the promisee. In *Chambers v. Chambers* (1910) 227 Mo. 262, 127 S. W. 86, the court said: "To consummate a delivery acceptance by the grantee is also an essential element; but it is a rule of law that acceptance will be presumed where the grant is beneficial, and, in case the grantee is the infant child of the grantor and the grant is beneficial, courts of justice are fond of resting on a presumptive acceptance." To the same effect: *Coulson v. Coulson* (1904) 180 Mo. 709, 79 S. W. 473, deed for benefit of infant. In the following cases the facts failed to show the necessary acceptance: *Miller v. McCaleb* (1907) 208 Mo. 562, 106 S. W. 655; *Rogers v. Carey* (1871) 47 Mo. 232. The recording of a written instrument is strong evidence of an intent by promisor to make delivery. *Burkey v. Burkey* (Mo. 1915) 175 S. W. 623. But such recording is not conclusive evidence that promisee has accepted. *Miller v. McCaleb* (1907) 208 Mo. 562, 106 S. W. 655.

Section 105. ACCEPTANCE BY THE PROMISEE, WHEN NECESSARY TO CREATE CONTRACTUAL OBLIGATION.

Acceptance by the promisee or grantee in the case of a sealed promissory writing or conveyance which purports to contain a return promise by him is essential to create any contractual obligation.

Comment:

a. In order to subject the promisee or grantee to a duty he must express assent thereto; and unless he makes the promise stated in the writing, promises in his favor are equally inoperative, since it is not contemplated that one promise shall be made without the other.

b. The case of a grantee is included in this Section and in Sections 106 and 107 though the subject of this Restatement does not include conveyances, because a deed of conveyance by A to B may contain as one of its provisions a promise by B. It is the effect of such a provision that is stated in these Sections.

Annotation:

Section 104 related to unilateral contracts. Section 105 relates to bilateral contracts and the principle of the Section is undoubt-

edly in accord with Missouri law. In *Brownlow v. Wollard* (1895) 61 Mo. App. 124, the Court said: "The contract itself is an agreement by defendant to do certain things, in consideration of land having been deeded to him." To the same effect: *Bredell v. Kerr* (1912) 242 Mo. 317, 147 S. W. 105, deed of land to college on promissory conditions. In *Stump v. Marshall* (Mo. 1924) 266 S. W. 476, the principle was recognized but held inapplicable to the facts. Acceptance by grantee, subsequent to execution of deed, with implied return promise to cancel debt of grantor, cannot relate back so as to defeat an intervening judgment lien. *Cravens v. Rossiter* (1893) 116 Mo. 338, 22 S. W. 736. The principle of the Section is illustrated by many Missouri cases where property subject to a deed of trust securing a debt is conveyed subject to a return promise by grantee to assume and pay off the debt so secured. See *Crone v. Stinde* (1900) 156 Mo. 262, 55 S. W. 863.

Section 106. WHAT AMOUNTS TO ACCEPTANCE OF INSTRUMENT.

Acceptance in the case of a sealed promissory writing or conveyance consists of a manifestation of assent to the delivery thereof, made to the promisor or grantor or to a person to whom the document has been delivered in escrow. Such manifestation must comply with any requirement imposed by the promisor or grantor. It may be made either before or after delivery. If made before delivery it is revocable until the moment of delivery.

Annotation:

This Section seems to be in accord with the law of Missouri. In *McNear v. Williamson* (1902) 166 Mo. 358, 66 S. W. 160, the evidence as to delivery and acceptance of deed was held to produce a negative conclusion. In *Burkey v. Burkey* (Mo. 1915) 175 S. W. 623, the deed was accepted by the grantee while in the physical possession of a person other than the grantor and after grantor's death. When facts are clear, the questions of delivery and acceptance are to be decided by the court and not by the jury; "to hold otherwise is to put our land titles on a very uncertain foundation". *Allen v. DeGroodt* (1891) 105 Mo. 442, 16 S. W. 494.

Section 107. ACCEPTANCE BY PROMISEE MAY CREATE INFORMAL CONTRACT.

One who accepts but does not sign or seal a sealed document which contains not only a conveyance or a promise to him or for his benefit, but also words expressing a promise by him, thereby

makes the promise expressed in the document, but the promise so made by him is not under seal, and whether it is binding depends upon the rules governing informal contracts.

Annotation:

Since the Act of 1893 all contracts under seal (formal) are to be regarded as simple (informal) contracts. Therefore, this Section 107 is in accord with Missouri law, because it is evident that the promisee's promise is supported by a consideration. Before the Act of 1893 the distinction between a sealed and unsealed contract was recognized. *Shuetze v. Bailey* (1867) 40 Mo. 69, an instrument purporting to be sealed although invalid as a deed, held to be evidence of a simple contract; *Bentzen v. Zierlein* (1836) 4 Mo. 417, one partner unable to bind another by sealed instrument unless authorized by sealed instrument.

Section 108. PROMISOR AND PROMISEE MUST BE NAMED OR DESCRIBED IN THE WRITING.

A promise under seal is not operative as a contract under seal unless both the promisor and the promisee are named or so described therein as to be capable of identification when the writing is delivered.

Comment:

a. It is a requirement of a sealed contract that all facts essential to a determination of all the terms of the contract appear in the document. Attempts to make a contract under seal, which are ineffectual as such for failure to observe this principle, may, however, create an informal contract, if the requirements of such a contract exist.

Annotation:

Prior to the Act of 1893 the principle of this Section was probably in accord with Missouri law. See *Arthur v. Weston* (1856) 22 Mo. 378, deed to Phelps & Co., although intended to convey to three persons, conveyed legal title to one only. However, in *Field v. Stagg* (1873) 52 Mo. 534, a deed delivered to agent with blank space for unidentified grantee's name was held valid after insertion of grantee's name pursuant to parol authority. Since the Act of 1893 the principle of this Section has disappeared and Missouri law for all contracts would seem to be in accord with the second sentence of the *Comment*. Although without reference to the statute, *Cheney v. Eggert* (1917) 197 Mo. App. 649, 199 S. W. 270, held that a deed with blank space for grantee's

name is binding even after delivery to grantee in an action at law to enforce grantee's assumption of mortgage debt.

Section 109. PROMISEE MAY ENFORCE SEALED CONTRACT THOUGH HE DOES NOT SIGN OR SEAL IT.

The promisee of a promise under seal is not precluded from enforcing it as a sealed contract because he has not signed or sealed the document, unless, his doing so was a condition of the delivery, whether the document does or does not contain also a promise by him.

Comment:

a. Other circumstances (as indicated by Sections 105 and 107) than the fact that the promisee has not signed or sealed the document may prevent the promisee from acquiring a right, but the failure to sign or seal does not itself have this effect, unless a condition to that effect is imposed when the document is delivered.

Annotation:

It is elementary in Missouri that the promisee in a written contract signed by the promisor, after delivery to and acceptance by the promisee, has rights against the promisor even if the promisee has not signed the contract, unless such signing by the promisee is made a condition precedent to the validity of the contract. See *Aiple-Hemmelmann R. E. Co. v. Spelbrink* (1908) 211 Mo. 671, 111 S. W. 480, written contract intended to be signed by both parties, but as a matter of fact signed only by promisor, held good at suit of promisee.

Section 110. SEALED CONTRACT DOES NOT NEED CONSIDERATION.

It is not essential in order to make a promise under seal operative as a sealed contract that consideration be given for the promise.

Annotation:

This Section is sharply at variance with the *Act of 1893* (R. S. Mo. 1929, Sec. 2957): "The use of private seals in written contracts, conveyances of real estate, and all other instruments of writing heretofore required by law to be sealed (except the seals of corporations), is hereby abolished, but the addition of a private seal to any such instrument shall not in any manner affect its force, validity or character, or in any way change the construction thereof."

This Section 110 is also at variance with the *Act of 1845*, slight-

ly amended in 1855, (R. S. Mo. 1929, Sec. 954): "Whenever a specialty or other written contract for the payment of money, or the delivery of property, or for the performance of a duty, shall be the foundation of an action or defense in whole or in part, or shall be given in evidence in any court without being pleaded, the proper party may prove the want or failure of the consideration, in whole or in part, of such specialty or other written contract."

This Section 110 should be considered in connection with the *Act of 1835*, slightly amended in 1865, (R. S. Mo. 1929, Sec. 2958): "All instruments of writing made and signed by any person or his agent, whereby he shall promise to pay to any other, or his order, or unto bearer, any sum of money or property therein mentioned, shall import a consideration, and be due and payable as therein specified."

The Act of 1835, purely a procedural statute and having no effect on substantive law, recognized the common law rule that in an action on a sealed contract it was unnecessary to plead any consideration. The effect of the statute was to continue this rule with reference to sealed instruments and also to extend the rule to other signed written contracts. In *County of Montgomery v. Auchley* (1887) 92 Mo. 126, 4 S. W. 425, the court said: "Generally, in cases of simple contracts, the consideration should be formally and expressly pleaded. But this rule has no application to contracts under seal and negotiable instruments, for they import a consideration. 1 Chitty's Plead. 262; Bliss on Code Plead., sec. 268. By force of our statute non-negotiable instruments also import a consideration. *Taylor v. Newman*, 77 Mo. 257. This statute also applies to a large class of contracts in writing which do not come under the designation of negotiable or non-negotiable notes or bills, and in all cases to which the statute applies it is not necessary to plead the consideration. *Caples v. Branham*, 20 Mo. 244. The defendants' undertaking is alleged to be under seal. If not sealed, the contract is one within the statute, and it was not necessary to set out the consideration in the petition, or that plaintiff should make proof of it in the first instance. If the defendant relies upon a want of consideration he should plead it." *Wulze v. Schaefer* (1889) 37 Mo. App. 551 construes the Statute of 1835, and applies it to a contingent promise to pay money. See also *Greer v. Nutt* (1893) 54 Mo. App. 4.

Act of 1845. Although appearing in the Code of Civil Procedure, the most important practical effect of this statute has been in the domain of substantive law. The equitable rule as to the *rebuttable presumption* that a consideration supports every sealed contract has been extended to all written contracts at law as well as in equity, whether sealed or unsealed. "At common law, a failure of the consideration of a bond, whether partial or total,

was no defence to an action on the instrument. A partial or total failure of the consideration of a note might be used as a defence to an action upon it. Our statute has now abolished all distinctions between bonds and notes in this respect, and a failure of consideration, in whole or in part, may be given in evidence to defeat or diminish the recovery in an action on those instruments." *Smith v. Busby* (1852) 15 Mo. 387. See also *Winter v. Kansas City Cable Ry. Co.* (1897) 73 Mo. App. 173.

Act of 1893. The terminology of this Missouri statute suggests accord with the terminology of the Restatement because it seems to distinguish between *contracts* and *conveyances.*

As to private seals of individuals the meaning is unmistakable. A deed is a deed even if unsealed. *State v. Tobie* (1897) 141 Mo. 547, 42 S. W. 1076. As to corporate seals, the law seems to be that if a corporation has adopted a seal, then a seal must be attached to a corporate conveyance of real estate by reason of our statute on conveyances, but a corporation is not required to adopt a seal and the corporate conveyance is valid if the corporate grantor has no seal. *Pullis v. Pullis Bros. Iron Co.* (1900) 157 Mo. 565, 57 S. W. 1095. Apparently all other "specialties", when executed by a corporation, are valid even if unsealed. This is certainly true of a judicial bond. *State ex rel Spellman v. Parke-Davis & Co.* (1915) 191 Mo. App. 219, 177 S. W. 1070, the court saying that a bond is "no different from any other simple contract." See Annotation under Section 7. See also *Albers v. Acme Paving & Crusher Co.* (1917) 196 Mo. App. 265, 194 S. W. 61, unsealed deed to land from a corporation having a seal good in collateral proceeding; *Strop v. Hughes* (1907) 123 Mo. App. 547, 101 S. W. 146, unsealed chattel mortgage by corporation. See Smith, Seals—Effect of Statute, 10 Mo. Law Bull. 59; Rosenwald, The History of the Missouri Law of Sealed Instruments, 16 St. Louis L. Rev. 124.