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reasons, such as the financial embarrassment of the husband, refuse to enforce the decree as to the past-due and unpaid installments.[67] Secondly, the statute has been held to apply, retroactively, to a decree rendered prior to the passage of the statute and in which the court did not retain jurisdiction for any purpose.[68] There apparently was no opposition by counsel to this proposition, however. The decision as to when the modification is effective is governed by the first aspect of the retroactive question previously considered, that is, as of the date of the modification order, and not as the date of application therefor.[69] Finally, a liberal construction of this statute is expressly provided for therein,[70] and in these proceedings the chancellor has considerable discretion. His decision will not ordinarily be disturbed.[71]

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## THE STATUS OF THE COMMON-LAW SEAL IN FLORIDA

### I. DEFINITION OF A SEAL

*"Till thou can'st rail the seal off this bond*
*Thou but offend'st thy lungs to speak so loud."*[1]

This quotation aptly depicts the sanctity that enshrouded a seal at common law. To Sir Edward Coke is credited the classic definition: "A seal is wax with an impression, because wax without an impression is not a seal."[2] These words are said by Chancellor Kent to be supported

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132 Fla. 535, 182 So. 205 (1938); *see* Boyer v. Andrews, 143 Fla. 462, 470, 196 So. 825, 828 (1940).

[67]Van Loon v. Van Loon, 132 Fla. 535, 542, 182 So. 205, 208 (1938).

[68]Van Loon . Van Loon, 132 Fla. 535, 542, 182 So. 205, 208 (1938); *see* State *ex rel.* Willard v. Harrison, 133 Fla. 169, 175, 183 So. 464, 466 (1937).

[69]*See* Blanton v. Blanton, 154 Fla. 750, 754, 18 So.2d 902, 904 (1944).

[70]FLA. STAT. 1941, §65.15.

[71]Blanton v. Blanton, 154 Fla. 750, 18 So.2d 902 (1944); Vilas v. Vilas, 153 Fla. 102, 13 So.2d 807 (1943); *see* Gaffny v. Gaffny, 129 Fla. 172, 178, 176 So. 68, 70 (1937).

[1]Shakespeare, *Merchant of Venice,* Act IV, Scene I, (Shylock).

[2]"Sigillum est cera impressa, quia cera sine impressione non est sigillum." 3 Co. INST. 169. For cases referring to Coke's definition see: Lowe v. Morris, 13 Ga. 147, 152 (1853); McLaughlin v. Randall, 66 Me. 226, 227 (1877); Tasker v.

by all of the ancient authorities.[3] Though many courts pay homage to this definition, it has been the source of innumerable interpretations. In the main these interpretations divide into three categories:

(1) The ancient authorities construed the definition by insisting technically that a seal does, in legal contemplation, mean an impression upon wax;[4] and though no jurisdiction today recognizes in practice this ancient construction, courts today do recognize it as one of the strict common-law interpretations.[5]

(2) The most generally recognized common-law interpretation of a seal is that the impression is the important thing[6] and that the word "wax" is used merely as a general term to denote any substance capable of receiving an impression, such as wax, wafer, or some other tenacious substance.[7] Even this interpretation is subject to break-down into two conflicting views. A few courts, leaning toward a strict concept, hold that paper alone is not such an adequately tenacious substance as to be capable of receiving the impression required for a seal unless so made by statute.[8] Diametrically opposed to this view are decisions hold-

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Bartlett, 5 Cush. 359, 364 (Mass. 1850); Swink v. Thompson, 31 Mo. 336, 339 (1861); Corrigan v. Trenton Del. Falls Co., 5 N. J. Eq. 52, 55 (1845); Corlies v. Van Note, 16 N. J. L. 324, 328 (1838); Warren v. Lynch, 5 Johns 239, 245 (N. Y. 1810).

[3]4 KENT'S COMM. 452.

[4]*See* McLaughlin v. Randall, 66 Me. 226, 227 (1877); Woodman v. York & Cumberland R. R., 50 Me. 549 (1861); Warren v. Lynch, 5 Johns 239, 245 (N. Y. 1810).

[5]See Note 4 *supra.*

[6]Corrigan v. Trenton Del. Falls Co., 5 N. J. Eq. 52 (1845); Relph & Co. v. Gist, 4 McCord 267 (S. C. 1827); *see* National Prov. Bank of England v. Jackson, 33 Ch. Div. 1, 11 (1883).

[7]Woodburn v. United States Casualty Co., 284 Ill. 227, 120 N. E. 8 (1918); Capitol Amusement Co. v. Gallagher, 268 Mass. 231, 167 N. E. 674 (1929); Gates v. State, 13 Mo. 11 (1850); Coit v. Millikin, 1 Denio 376 (N. Y. 1846); Beardsley v. Knight, 4 Vt. 471 (1832); *see* Bates v. Boston & N. Y. Cent. R. R., 10 Allen 251, 254 (Mass. 1865); Tasker v. Bartlett, 5 Cush. 359, 364 (Mass. 1850); State v. Thompson, 49 Mo. 188, 189 (1872) (quoting 4 KENT'S COMM. 452); Allen v. Sullivan R. R., 32 N. H. 446, 449 (1855); Gillespie v. Brooks, 2 Redf. Surr. 349, 366 (N. Y. 1876); (quoting Webster's and Bouvier's dictionaries); Osborn v. Kistler, 35 Ohio St. 99, 102 (1878); Cromwell v. Tate, 7 Leigh 301, 304 (Va. 1836).

[8]Coit v. Millikin, 1 Denio 376 (N. Y. 1846); Bank of Rochester v. Gray, 2 Hill 227 (N. Y. 1842); *see* Warren v. Lynch, 5 Johns 239, 245 (N. Y. 1810).

ing that the impression upon paper itself, without the use of any other substance, would be sufficient.[9]

(3) The adherents of the third concept of a seal, while not forthright in insisting that a scrawl or scroll is a common-law seal, do extend the common-law concept to regard all such scrawls or scrolls as equivalent to an actual seal.[10] Some of the jurisdictions in this third group base their decisions on the intention of the party executing the instrument to place the instrument under seal.[11] Other jurisdictions base their argument on the ground that, since there was neither an act of Parliament nor an adjudged case up to Coke's day to bind the courts,[12] his definition of a seal represented merely his opinion, drawn from the practice of his time;[13] and these courts are confident that usage and custom, recognized by judicial decisions, have dispensed with the necessity of the strict common-law requisites urged by him, even in the absence of statutes.[14]

## II. Necessity of Recital

Today in many states statutes have declared that written or printed additions to the paper are sufficient alone to constitute a seal.[15] Florida

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[9]Royal Bank v. Grand Junction R. R. & Depot Co., 100 Mass. 444, 97 Am. Dec. 115 (1868); Hendee v. Pinkerton, 14 Allen 381 (Mass. 1867); *see* Swink v. Thompson, 31 Mo. 336, 339 (1861); Allen v. Sullivan R. R., 32 N. H. 446, 451 (1855); Beardsley v. Knight, 4 Vt. 471, 479 (1832); National Prov. Bank v. Jackson, 33 Ch. Div. 1, 11 (1886).

[10]Williams v. Greer, 12 Ga. 459 (1853); Eames v. Preston, 20 Ill. 389 (1858); Trasher v. Everhart, 3 Gill & J. 234 (Md. 1831); Thompson v. Poe, 104 Miss. 586, 61 So. 656 (1913); Swink v. Thompson, 31 Mo. 336, 339 (1861); Relph v. Gist, 4 McCord 267 (S. C. 1827); Parks v. Duke, 2 McCord 380 (S. C. 1823); Whiteley v. Davis, 1 Swan 332 (Tenn. 1851); Jones v. Logwood, 1 Wash. 42 (Va. 1791).

[11]Williams v. Greer, 12 Ga. 459 (1853); Whiteley v. Davis, 1 Swan 332 (Tenn. 1851).

[12]Lowe v. Morris, 13 Ga. 147 (1853); Jones v. Logwood, 1 Wash. 42 (Va. 1791).

[13]Lowe v. Morris, 13 Ga. 147 (1853); Swink v. Thompson, 31 Mo. 336 (1861).

[14]Eames v. Preston, 20 Ill. 389 (1858); Trasher v. Everhart, 3 Gill & J. 234 (Md. 1831); Relph v. Gist, 4 McCord 267 (S. C. 1827).

[15]Ala. Code, tit. 47, §32 (1940); Colo. Stat. Ann., c. 40, §22 (1935); Conn. Gen. Stat. §5615 (1930); Idaho Code Ann., tit. 16, §401 (1932); Ill. Rev. Stat., c. 29, §1 (1947); Mass. Gen. Laws, c. 4, §§9A, 9B (1932); Mich. Comp. Laws §13313 (1929); N. J. Rev. Stat. §1:1-2.1 (1937); Ore. Comp. Laws Ann. §2-803

has a statute of this type.[16] Yet to make a scroll or scrawl seal valid, even when a statute provides for these substitutes, some jurisdictions require recital in the body of the instrument or in the attestation clause that the instrument is sealed.[17] A recital is not necessary, however, if the seal meets the common-law definition.[18] Florida does not require a recital indicating an intention that the instrument be sealed, even when the statutory seal is used. The word "seal" written in the scroll is sufficient, as is the character "L.S."[19] printed or written in a scrawl or scroll.[20]

## III. Use, Purpose, and Effect of a Seal

Originally a seal was used for the purpose of identifying and distinguishing persons. A seal took the place of a signature, since a party executing an instrument often could not write his name.[21] A secondary purpose was to import deliberation to the transaction, to supply evidence

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(1940); S. D. Code §65.0201(18) (1939); Utah Rev. Stat. §104-48-3 (1933); Va. Code §5562 (1942); W. Va. Code §29 (1943); Wis. Stat. §235.17 (1947). Ordinarily, however, when the instrument is not sealed at the time of execution, a subsequent sealing will not cure the defect. Smalley v. Vanorden, 5 N. J. L. 951 (1820); Merritt v. Horne, 5 Ohio St. 307 (1855). But when a statutory substitute for seal is used, it is immaterial that such seal is printed on the instrument before it is executed, as the party by signing his name in front of it adopts such printed device as his seal. Stansell v. Corley, 81 Ga. 453, 8 S. E. 868 (1889); Moats v. Moats, 72 Md. 325, 19 Atl. 965 (1890); Loraw v. Nissley, 156 Pa. 329, 27 Atl. 242 (1893).

[16]Fla. Stat. 1941, §§695.07, 695.08.

[17]Dawsey v. Kirven, 203 Ala. 446, 83 So. 338 (1919); Lee v. Adkins, Minor 187 (Ala. 1824); Baxley Hardware Co. v. Morris, 165 Ga. 359, 140 S. E. 869 (1927); Cooper v. Dixie Cotton Co., 144 Ga. 333, 86 S. E. 242 (1915); Capitol Amusement Co. v. Gallagher, 268 Mass. 231, 167 N. E. 674 (1929); Dickens v. Miller, 12 Mo. App. 408 (1882); Corlies v. Van Note, 16 N. J. L. 324 (1838); Bradley Salt Co. v. Norfolk Importing & Exporting Co., 95 Va. 461, 28 S. E. 567 (1897); Cromwell v. Tate, 7 Leigh 301 (Va. 1836). *But see* Mill Dam Foundry v. Hovey, 21 Pick. 417 (Mass. 1839); Brown v. Jordhal, 32 Minn. 135, 19 N. W. 650 (1884).

[18]Dickens v. Miller, 12 Mo. App. 408 (1882); Dingee v. Kearney, 2 Mo. App. 515 (1876); Taylor v. Glaser, 2 S. & R. 502 (Pa. 1816); *see* Draper v. Capper, 1 Dyer 19a, 73 Eng. Rep. 41 (K. B. 1536).

[19]Stands for "Locus Sigilli," the place where a seal is to be affixed, or a scroll which stands in the place of a seal. Black, Law Dictionary 1129 (3d ed. 1933).

[20]Knights of Pythias v. State Bank, 79 Fla. 471, 84 So. 528 (1920); Langley v. Owens, 52 Fla. 302, 42 So. 457 (1906); Comerford v. Cobb, 2 Fla. 418 (1849).

[21]*See* Lowe v. Morris, 13 Ga. 147, 152 (1853); Cooper v. Rankin, 5 Binn. 613,

that the instrument was the act of the party, and to add to the execution of the instrument a solemnity designed to enlarge its effect.[22] To a large extent a seal is no longer necessary in order to effect these results.[23] Today no private individual is distinguished by a seal or supposed to be so distinguished.[24] The signature—perhaps accompanied by an attestation—serves that important purpose.[25] Even the evidence of deliberation is of little weight, since the scratch of a pen has become equivalent to the impression of a seal on wax or wafer.[26] For practical purposes a seal today has but two effects—to provide for a longer period of limitation before an action on the instrument will be barred,[27] and to authenticate and make the instrument a specialty.[28]

## IV. Statute of Limitations

One advantage rendered by the seal is statutory, and consequently well settled.[29] The Florida statute provides that an action upon a sealed instrument is not barred until the expiration of twenty years, while an action on an instrument not under seal is barred after the lapse of five years. The reason for this distinction is rooted in the common-law requirement[30] that certain types of instruments—notably bonds and instruments transferring interests in land—be executed under seal. Now that Florida no longer requires that instruments conveying an interest in land be under seal,[31] the presence or absence of a seal has become a poor basis on which to rest the applicable period of limitation. A more realistic and workable statute would determine the appropriate

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615 (Pa. 1813); Cromwell v. Tate, 7 Leigh 301, 304 (Va. 1836).

[22]*See* Warren v. Lynch, 5 Johns 239, 245 (N. Y. 1810); Cooper v. Rankin, 5 Binn. 613, 615 (Pa. 1813).

[23]Hartford-Conn. Trust Co. v. Divine, 97 Conn. 193, 116 Atl. 239 (1922), quoting 1 Swift's Digest 174 (1822).

[24]*See* Cooper v. Rankin, 5 Binn. 613, 615 (Pa. 1813).

[25]*See* Lowe v. Morris, 13 Ga. 147, 153 (1853); McDill v. McDill, 1 Dall. 63, 64 (Pa. 1782).

[26]*See* Cooper v. Rankin, 5 Binn. 613, 615 (Pa. 1813).

[27]Fla. Stat. 1941, §95.11(1), (3) (Supp. 1947).

[28]Caruthers v. Peninsular Life Ins. Co., 150 Fla. 467, 7 So.2d 841 (1942); Bacon v. Green, 36 Fla. 325, 18 So. 870 (1895); Jordan v. Sayre, 24 Fla. 1, 3 So. 329 (1888); Comerford v. Cobb, 2 Fla. 418 (1849).

[29]Fla. Stat. 1941, §95.11(1), (3) (Supp. 1947).

[30]*See* McCabe v. Hunter, 7 Mo. 355, 357 (1842).

[31]Fla. Stat. 1941, §689.01.

period of limitation by the nature of the transaction which an instrument embodies.

## V. Specialties: The Problem of Consideration

Centuries before the development of the law of informal contracts and its appendant doctrine of consideration, a seal was required to give authenticity and operative effect to certain written instruments.[32] If the seal was present, the instrument was valid; if not, the instrument was of no effect. No question of consideration was raised, because it had not yet occurred to the early jurists that a promise, to be binding, should be supported by consideration running from the promisee.[33] Even after the action of assumpsit became established in English law as a remedy for the breach of informal contracts, the action of covenant remained the proper form in which to declare on a sealed instrument.[34] And for a time the question of consideration continued to be unavailable to a defendant in an action upon a sealed instrument.[35]

*Equitable Relief and Defenses.* To relieve the harshness of this practice, the court of chancery from an early date refused, with a few exceptions,[36] to order specific performance of a mere voluntary agreement that was under seal but unsupported by actual consideration;[37] but the common-law courts were slow to allow attacks upon the dignity of the seal.

In some states statutes permit equitable defenses in the courts of

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[32]1 Williston, Contracts §109 (Rev. ed. 1936), citing Bellewe 111 (1385).

[33]Adams v. Peabody Coal Co., 230 Ill. 469, 82 N. E. 645 (1907); Fletcher v. Fletcher, 191 Mass. 211, 77 N. E. 758 (1906); Krell v. Cogman, 154 Mass. 454, 28 N. E. 578 (1891); McMillan v. Ames, 33 Minn. 257, 22 N. W. 612 (1885); Wester v. Bailey, 118 N. C. 193, 24 S. E. 9 (1896).

[34]Halsbury's Laws of England 52, 53 (2d ed. 1931); also see Hazen v. Cobb, 96 Fla. 151, 117 So. 853 (1928); Hooker v. Gallagher, 6 Fla. 351 (1855).

[35]Willard v. Tayloe, 8 Wall. 557, 19 L. Ed. 501 (1870); Harrell v. Watson, 63 N. C. 454 (1869).

[36]Enumerated by Pound, *Consideration in Equity,* 13 Ill L. Rev. 667, 668 (1919).

[37]Rude v. Levy, 43 Col. 482, 96 Pac. 560 (1908); Black v. Cord, 2 H. & G. 100 (Md. 1827); Lamprey v. Lamprey, 29 Minn. 151, 12 N. W. 514 (1882); Vasser v. Vasser, 23 Miss. 378 (1852); Bosley v. Bosley, 85 Mo. App. 424 (1900); Short v. Price, 17 Tex. 397 (1856). "Actual consideration" should in this connection be distinguished from "good consideration." The latter, which is based on love and affection resulting from relationship by blood or affinity, is alone sufficient in equity.

law.[38] Following to a logical conclusion, these courts have held, therefore, that when a defendant is sued upon a sealed instrument he may plead consideration as a defense in a court of law, as he formerly could have done in a court of equity.[39] Florida, by statute, allows equitable pleas[40] which present some matter of defense that would be a good ground for relief in a court of equity but that is not available at law.[41] Following this trend of thought, there seems no logical reason why Florida should not allow an equitable plea on the question of consideration in a law court as a defense against a sealed instrument.

*Use of the Term "Imports Consideration."* A significant statute in the law of informal instruments was a Statute of Victoria which by legislative fiat gave to certain unsealed instruments, such as informal bonds and promissory notes, the same effect as specialties for purposes of pleading and evidence.[42] This statute gave to the instruments embraced the benefit of a presumption of adequate consideration, but that presumption was regarded as rebuttable and subject to attack by special plea showing want of consideration. The courts soon began to use the phrase "imports consideration" in connection with instruments under seal—the importation in the case of a specialty being provided by seal rather than by statute.[43] The use of this expression would have seemed anomalous to the early courts, which had not regarded consideration as necessary to support a sealed instrument, and the continued use of the statement that "a seal imports consideration" has created a real question as to the precise effect of a seal in modern law.

There are very few Florida cases which deal with the effect of a seal upon consideration.[44] No Florida case has been found stating that

[38]OHIO GEN. CODE ANN. §11315 (Page, 1938); GA. CIV. CODE §5049 (1895).

[39]Lacey v. Hutchinson, 5 Ga. App. 865, 64 S. E. 105 (1909); Judy v. Louderman, 48 Ohio St. 562, 29 N. E. 181 (1891). A sealed promise to make a gift for no consideration whatever is binding. Krell v. Codman, 154 Mass. 454, 28 N. E. 578 (1891). Thus, if the parties did not intend any consideration, its absence does not constitute an equitable defense at law. When, however, though the instrument is under seal, a valuable consideration was intended and there has been a failure thereof, the equitable defense arises.

[40]FLA. STAT. 1941, §§52.07, 52.08.

[41]Bacon v. Green, 36 Fla. 325, 18 So. 870 (1895); Spratt v. Price, 18 Fla. 289 (1881).

[42]45 & 46 Vict., c. 61 (1882).

[43]1 WILLISTON, CONTRACTS §109 (Rev. ed. 1936).

[44]Wise v. Wise, 134 Fla. 553, 556, 184 So. 91 (1938); Bennett v. Senn, 106 Fla.

a seal makes consideration unnecessary. The cases state, rather, that the seal "imports consideration."[45] In all of these cases, with the exception of a gift case,[46] the court, after holding that a seal imports consideration, refers to the fact that valuable consideration sufficient to sustain the obligation without the seal was actually present in the transaction.[47]

In two Florida cases the court expressly states that a seal gives an instrument the benefit of a rebuttable presumption of consideration.[48] One case concerns a mortgage under seal.[49] In holding that such sealed mortgage raises a rebuttable presumption of consideration, the court cited mortgage law[50] and did not mention the common-law rule that consideration was unnecessary on a sealed instrument. The second case held that in an action of debt on a sealed instrument the assumed existence of consideration might be attacked if the defendant supported his plea by an affidavit.[51] In its reasoning the court relied on a Florida court rule of practice[52] identical to an old English rule.[53] In construing this rule of practice the Florida court relied on two English cases.[54] On examination of these cases it will be found that the actions were not on sealed

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446, 144 So. 840 (1932); Union Bank v. Call, 5 Fla. 409 (1854); Horn v. Gartman, 1 Fla. 63 (1846).

[45]Wise v. Wise, 134 Fla. 553, 556, 184 So. 91 (1938); Union Bank v. Call, 5 Fla. 409 (1854); Horn v. Gartman, 1 Fla. 63 (1846).

[46]Horn v. Gartman, 1 Fla. 63 (1846). The court says that, since a sealed deed is a substitute for delivery, this transaction was good by way of a gift, and thus there seems to be no objection to want of consideration.

[47]Wise v. Wise, 134 Fla. 553, 184 So. 91 (1938). The court held that a deed being under seal imports consideration at law. The court further stated, however, that consideration in fact was recited in the deed. In Union Bank v. Call, 5 Fla. 409 (1854), a release under seal was held good without full consideration. The court then asked, however, what prevented the consideration for the release from operating as a consideration for the whole. There was no evidence that the defendant could pay more, and it might have been to the interest of the bank to accept what it did, even if this were one third or only one half of the indebtedness, in preference to resorting to legal proceedings.

[48]Bennett v. Senn, 106 Fla. 446, 144 So. 840 (1932); Ahren v. Willis, 6 Fla. 359 (1855).

[49]Bennett v. Senn, 106 Fla. 446, 144 So. 840 (1932).

[50]WILTSIE, MORTGAGE FORECLOSURE 150 (4th ed. 1927).

[51]Ahren v. Willis, 6 Fla. 359 (1855).

[52]Common Law Court Rules, Rule No. 28.

[53]Rule 1, c. 2, Hilary Term 4 Will. 4.

[54]Stoughton v. Kilmorey, 2 C. M. & R. 72, 150 Eng. Rep. 31 (Ex. 1835); Easton

instruments on that type of non-specialty—bill of exchange and promissory note—which by a Statute of Victoria was given the benefit of a rebuttable presumption of consideration.[55]

Thus the effect of a seal, as concerns consideration in Florida, is still questionable, since the Supreme Court of Florida has not crystalized in an opinion its precise meaning of the use of the term "imports consideration," and in two cases has noticeably failed to comment on the strict common-law effect of a seal upon consideration.

*Failure of Consideration.* Years ago courts began to recognize a distinction between want of consideration and failure of consideration. At the present time there is no doubt that the distinction would everywhere be recognized.[56] Most sealed promises, like unsealed promises, are not intended to be given gratuitously but in exchange for consideration, and a sealed instrument that purports to bargain for consideration may be attacked by a special plea when there is a failure of the consideration on which the obligation was based.[57] The practical effect of this rule is to place instruments under seal on a parity with those informal instruments for which a statutory presumption of consideration is provided, so far as concerns the defense of failure of consideration.

The Florida Supreme Court has not voiced a clear-cut distinction between want of consideration and failure of consideration. It is logical to assume, however, that when an agreement is based on the exchange of consideration and there is failure of that consideration, such failure is a defense even though the contract be under seal. To hold otherwise defeats the obvious intention of the contracting parties, namely, that the obligation is based upon the stipulated consideration and not upon the sealing.

## VI. Conclusion

The seal is subject to varying rules in other jurisdictions. In some states the distinction between a sealed and unsealed instrument has been

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v. Prachett, 1 C. M. & R. 798, 149 Eng. Rep. 1302 (Ex. 1835).

[55]45 & 46 Vict., c. 61 (1882).

[56]Albertson v. Halloway, 16 Ga. 377 (1854); Piper v. Queeney, 282 Pa. 135, 127 Atl. 474 (1925); Koster v. Welch, 57 S. C. 95, 35 S. E. 435 (1900).

[57]1 Williston, Contracts §109 (Rev. ed. 1936), citing Wilson v. Stevens, 105 N. J. Eq. 377, 148 Atl. 392 (1929).

altogether abolished.[58] In others the seal creates a rebuttable presumption of consideration.[59] Through the years there has been a gradual breakdown in the common-law status of the seal and a feeling that the old concept of the seal has no place in our modern society.[60] The language of the Supreme Court of Florida certainly suggests that a lax attitude toward the common-law seal has developed, and that there is a growing tendency to follow the trend of those jurisdictions that refuse to bestow upon a sealed instrument the full sanctity which it enjoyed in early common law. This trend, in turn, points to the need for legislation to relieve the courts from the burden of paying lip-service to the common-law rules in all instances while seeking to find a method of contracting that will meet the demands of our present society in normal business transactions..

On the other hand, while it is true that certain attributes of the seal at common law fit awkwardly into our society today, to abolish it in its entirety is undesirable. Whether the status of a seal in Florida be clarified by statutory legislation or by judicial decision, a method should be retained by which a voluntary promise without consideration may be rendered binding if the parties so wish.

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[58]IND. STAT. §2-1601 (*Burns*, 1933); MINN. STAT. §358.01 (1945); MISS. CODE ANN. §260 (1942); NEB. REV. STAT. §76-212 (1943); N. M. STAT. §75-105 (1941); OHIO GEN. CODE ANN. §32 (Page, 1946); OKLA.. STAT., tit. 15, §139 (1941); W. VA. CODE §3557 (1943); WYO. COMP. STAT. §66-215 (1945).

[59]ALA. CODE, tit. 7, §232 (1940); MICH. COMP. LAWS §14200 (1929); N. J. REV. STAT. §2:98-5 (1937); ORE. COMP. LAWS ANN. §2-804 (1940); WIS. STAT. §328.27 (1947).

[60]See 1 WILLISTON, CONTRACTS §219 (Rev. ed. 1936), in which the belief is stated that it is unfortunate that no method such as the common-law seal furnished is left by which a confessedly voluntary promise may be binding. To fill the gap made in the law of those states abolishing the common-law effect of a seal in making the obligation enforceable without consideration, Williston sets out the Uniform Written Obligations Act. But see 21 Ill L. Rev. 185 (1926) for a criticism of the Uniform Written Obligations Act.