Hen. VIII. c. 9. The sale of land to be held in mortmain would be void as contrary to the policy of the Mortmain Acts (see Charities, Corporation). The rights and liabilities of vendors and purchasers have been considerably affected by recent legislation, the principal Acts dealing with the subject being the Vendor and Purchaser Act, 1874, and the Conveyancing Act, 1881. A period of forty years has been substituted for the period of sixty years previously necessary as the root of title,—that is to say, in most cases an abstract showing title for forty years is sufficient. In an abstract of title to leaseholds, the title is to commence with the lease or underlease, in an abstract of title to enfranchised lands, under a contract to sell the freehold, with the deed of enfranchisement. Recitals twenty years old are evidence, except so far as they can be proved to be inaccurate, and recitals of documents dated prior to the commencement of the abstract are to be taken as correct, and their production is not to be required. The expenses of evidence required in support of the abstract and not in the vendor’s possession are thrown upon the purchaser. The Conveyancing Act, 1881, further protects the purchaser by implying in a conveyance by a beneficial owner on sale for valuable consideration covenants for right to convey, quiet enjoyment, freedom from encum­brances, and further assurance. In a conveyance of lease­holds a covenant for the validity of the lease is implied. These covenants protect the purchaser much in the same way as the implied warranty in the sale of personalty. The Act also gives the mortgagee, where the mortgage is by deed, the power of sale generally inserted in mortgage deeds (see MORTGAGE).

The remedies of the vendor are an action for the price or for specific performance according to circumstances. There is also a remedy by mandamus against public com­panies refusing to complete. Specific performance is a remedy introduced by the Court of Chancery to enforce contracts for the sale or purchase of real estate, it being considered that in such cases the common law action for damages was an insufficient remedy. Strictly, it is only an exercise by the court of its jurisdiction over trustees, the vendor being after the contract, as has been said, a trustee for the purchaser. By the Judicature Act, 1873, actions of specific performance are specially assigned to the Chancery Division. A county court has jurisdiction where the purchase money does not exceed £500. In spite of the Statute of Frauds, specific performance may in some cases be decreed where a parol contract has been followed by part performance and where the position of the parties has been materially altered on the faith of the contract. Actions for the price or for specific performance are subject to the purchaser’s right to compensation for deficiency of quality or quantity or of the vendor’s interest in the property. The question whether in a particular case the purchaser is entitled to rescind the contract or only to compensation is often a very difficult one. The remedies of the purchaser are an action for specific perform­ance, for rescission of the contract or for damages (in case of fraud), for a return of the deposit, or for expenses. On the principle of *caveat emptor,* the sale is not avoided by mere commendatory statements, statements of opinion, or non-disclosure of patent defects. Non-disclosure of latent defects or material misrepresentation of facts, on the faith of which the purchaser entered into the contract, will as a rule be a ground for rescission or for damages, and this irrespective of fraud, as a contract for the sale of land is a contract *uberrimae fidei.* Where the sale goes off or the vendor without fraud fails to make a good title, the pur­chaser can only recover the deposit, if any, and any ex­penses to which he may have been put; he cannot recover damages for the loss of his bargain. Certain frauds by a

vendor or his solicitor or agent in order to induce the pur­chaser to accept a title render the offender guilty of a misdemeanour, as well as liable to an action for damages (22 and 23 Vict. c. 35, s. 24). By the Vendor and Pur­chaser Act, 1874, either a vendor or a purchaser of real or leasehold estate in England may obtain on a summary application the decision of a judge of the Chancery Division on any question connected with the contract, not being a question affecting its existence or validity. (See Sugden, *Vendors and Purchasers;* Dart, *Vendors and Purchasers ;* Fry, *Specific Performances*

*Personal Estate.—*At common law, as in the case of real estate, writing was not essential to the validity of a contract of sale. The common law is thus stated by Blackstone : “ A contract of sale implies a bargain, or mutual understanding and agreement between the parties as to terms; and the law as to the transmutation of property under such contracts may be stated generally as follows. If the vendor says the price of the goods is £4 and the vendee says he will give £4, the bargain is struck; and, if the goods be thereon delivered or tendered, or any part of the price be paid down and accepted (if it be but a penny), the property in the goods is thereupon trans­muted and vests immediately in the bargainee; so that in the event of their being subsequently damaged or de­stroyed he and not the vendor must stand to the loss. This supposes (it will be observed) the case of a sale for ready money; but, if it be a sale of goods to be delivered forthwith, but to be paid for afterwards, the property passes to the vendee immediately upon the striking of the bargain without either delivery on the one hand or pay­ment on the other ” (Stephen, *Commentaries,* vol. ii. bk. ii. pt. ii. ch. v.). Earnest may have been originally the same as the Roman *arrha*; it was never, however, part payment, as *arrha* might have been,—in fact, the Statute of Frauds specially distinguishes it from part payment. The giving of earnest has now fallen into disuse. The price need not be fixed; if not fixed, a reasonable price will be presumed. Though writing was in no case necessary at common law, it has become so under the provisions of various Acts of Parliament, prominent among which is the Statute of Frauds, ss. 4 and 17 (see Contact fraud). Section 17 of the Statute of Frauds was extended to execu­tory contracts of sale by Lord Tenterden’s Act, 9 Geo. IV. c. 14. The sale of horses in market overt must be entered in a book kept by the toll-keeper (2 and 3 Ph. and M. c. 7, 31 Eliz. c. 12). The sale of ships must by the Merchant Shipping Act, 1854, be made by bill of sale in a certain form. Contracts for the sale of shares in a joint-stock banking company are void unless the contract sets forth in writing the numbers of the shares on the register of the company or (where the shares are not distinguished by numbers) the names of the registered proprietors (29 and 30 Vict. c. 29). Bills of sale of goods must be in writing in a certain form and registered under the Bills of Sale Acts, 1878 and 1882. @@1 As a general rule the property in goods passes by the contract of sale. This general rule is subject to the following important exceptions : (1) where the vendor is to do anything to the goods for the purpose of putting them into that state in which the purchaser is bound to accept them, the property does not pass until performance of the necessary acts; (2) the same is the case where the goods are to be weighed, tested, or measured; (3) where the purchaser is bound to do anything as a condition on which the passing of the property depends, the property does not pass until the condition is fulfilled, even though the goods may be actually in the possession of the buyer; (4) where an executory contract for the

1 Bills of sale have been included here solely on account of their name ; they are in reality mortgages.