

as in *Clay v. Yates*, 1 Hurl. & N. 73, where the contract was to print a book at so much a sheet, including paper, the cause of action is for work and labour, &c. It will be observed that the words of this section are stronger than in the 4th section, and contracts not made according to its provision are held to be entirely void, *per Bosanquet J.* in *Laythoarp v. Bryant*, 2 Bing. N. C. 747.

**Sales at auction—Sales of animals—Shares of stock.**—Sales of goods at auction are within this section, *Kenworthy v. Schofield*, 2 B. & C. 945, and see *ante n.* to s. 4.<sup>128</sup> And though the Statute only mentions goods, wares and merchandise,<sup>129</sup> it includes a contract for the sale of horses, and, of course, other cattle, as appears from *Elmore v. Stone*, 1 Taunt. 458, and a contract for the sale of growing crops, if to be delivered as chattels, see *ante n.* to s. 4, and *Watts v. Friend*, 10 B. & C. 446.<sup>130</sup> It is also held here to include sales of bank stock, *Colvin v. Williams*, 3 H. & J. 38;<sup>131</sup> but the English authorities are to the contrary, see *Humble v. Mitchell*, 11 A. & E. 205; *Heseltine v. Stiggers*, 1 Exch. 856, where it was clearly held, that a contract for the sale of stock, exchequer-bills, and securities of that description, in which the property passes by delivery, differs from the sale of a specific chattel, inasmuch as a contract for the sale of stock, &c. would be \*satisfied by the delivery of any 553 stock, &c. of the description bargained for, and consequently the contract for sale cannot mean an actual sale, but only a contract to deliver, and therefore is not within this section of the Statute.

But contracts like in *Cobbold v. Caston*, 1 Bing. 399, where there was an agreement to procure coals at B. and convey them to J. at a price agreed on, need not be in writing.

With respect to the price of 10*l.*, (a pound being by law four dollars and eighty-four cents), it is settled that in ordinary sales where several articles are ordered successively at the same time, each of which is under the value of 10*l.* but which together exceed in price that sum, it is one entire contract, *Baldey v. Parker*, 2 B. & C. 37; it is otherwise, if the party take time to consider of one article, *Price v. Lea*, 1 B. & C. 156. But at auction sales, the purchase of each lot is considered a distinct contract, *Emmerson v. Heelis*, 2 Taunt. 38.<sup>132</sup> The price of every commodity is an entire thing also, and cannot be divided into as many payments as there are considerations included in the price, and so a contract for a sale of goods, at a higher price on account of the vendor engaging to deliver them, is within the Statute, and is not a mixed contract for the carriage as well as sale of them, *Astey v. Emery*, 4 M. & S. 262; see also *Harman v.*

<sup>128</sup> See note 57 *supra*.

<sup>129</sup> A contract to bequeath personal property is within the seventeenth section of the Statute. *Hamilton v. Thirston*, 93 Md. 218. As to fixtures see note 63 *supra*.

<sup>130</sup> See notes 65, 66 and 126 *supra*.

<sup>131</sup> Overruled in *Webb v. R. R. Co.*, 77 Md. 92. But see now sec. 22 and the definition of "goods" in sec. 94 of the Sales Act of 1910, (Code 1911, Art. 83, secs. 25, 97).

<sup>132</sup> See the Sales Act of 1910, [Code 1911, Art. 83, sec. 42 (2)].