

it was not sufficient to shew that the purchase was made solely for his benefit. *Hutchinson v. Hutchinson*, 6 Gr. 117.

Where it was shewn by evidence that the defendant had orally agreed to attend and buy in a property, offered for sale by auction, as the agent of the plaintiff and for his benefit—Held, affirming 21 Gr. 391, notwithstanding the statute had been set up as a defence and there was not any writing evidencing the agreement, that the plaintiff was entitled to a decree to carry out the agreement. *Ross v. Scott*, 22 Gr. 29.

**Recovery Back of Consideration.]**—If a party pays money on an oral agreement for the sale of lands, he cannot, without shewing any thing more, maintain an action to recover it back, on the ground that the agreement is void by statute. *Barber v. Armstrong*, 6 O. S. 543.

**Right to Cross Railway.]**—A right to cross the land on which a railway is constructed will not pass by a parol agreement. *Mills v. Hopkins*, 6 C. P. 138.

**Right to Redeem Mortgage.]**—The plaintiff, who was mortgagee of certain lands, alleged that L., the present holder of the mortgage, purchased it from C. with knowledge of the fact that C. had purchased it from the original mortgagee as trustee for the plaintiff, who was to be allowed to redeem on paying whatever C. should pay for the mortgage, and a certain additional sum for C.'s services; and sought to redeem on payment of what was due under the said agreement with C.:—Held, that the above agreement fell within the Statute of Frauds, and should be evidenced in writing. Held, also, that even if this were not so, L. could not be affected by such agreement, having purchased without notice of it. *Wright v. Leys*, 8 O. R. 88.

**Sale at Price per Acre—Agreement to Pay Excess.]**—It was orally agreed to sell the land at a certain price per acre, the purchaser paying the amount computed on fifty acres. The vendor agreed to refund the excess should the property be shewn to contain less than the fifty acres, and the purchaser at the same time agreed to pay for any excess above that number at the agreed rate:—Held, that the statute did not prevent the vendor shewing these facts by parol and recovering for any excess of acres, although a conveyance of the land had been executed to the purchaser. *Kitchen v. Boon*, 24 Gr. 195.

**Sale of Mortgage.]**—Plaintiff having bought land from defendant, agreed to pay him \$1,000 on a certain day, and to give a mortgage on the lot for the balance of the purchase money, defendant agreeing to accept in part payment of the latter an assignment of a mortgage held by plaintiff for \$1,600, bearing six per cent. interest, which was to be sold to defendant at such a reduction as would pay him eight per cent.:—Held, that the agreement for the sale of the mortgage was not an agreement relating to the sale of land requiring to be in writing. *Carscaden v. Shore*, 17 C. P. 493.

**Sale of Wood.]**—The plaintiff had agreed to purchase from F. certain land, one condition being that he (the plaintiff) should take

possession and begin his improvements at once, but should cut no wood for the purpose of sale, but only as required for his own use, or for the purpose of clearing. The plaintiff afterwards agreed with defendant to sell him 500 cords of wood at 3s. 9d. a cord. M. had agreed to cut this wood for the plaintiff at 2s. 6d. a cord, and defendant was to pay M. the 2s. 6d., and the plaintiff 1s. 3d. as owner of the trees. In an action for breach of this latter agreement:—Held, that the plaintiff's agreement with F. did not restrain him from selling wood off the land cleared by him, and that a payment on account by the defendant to M. took the agreement sued upon out of the Statute of Frauds, being a payment on the contract as much as if made to the plaintiff. *Brady v. Harrah*, 21 U. C. R. 340.

**Sheriff's Sale.]**—A sheriff sold property under an execution, but a settlement was effected and the execution creditor desired the sheriff not to convey. The purchaser filed a bill against the sheriff to compel specific performance, but no memorandum had been made or signed by the sheriff:—Held, that the contract must be in writing under the statute. *Witham v. Smith*, 5 Gr. 203.

### 3. Memorandum to Satisfy the Statute.

**Acceptance of Offer before Signature.]**—An acceptance in writing by the owner of land of a written offer therefor addressed to him but unsigned by any purchaser, and without any purchaser being named or in any way described therein, is not a sufficient memorandum to satisfy the statute, and does not become binding upon him when a purchaser is subsequently found who signs the offer. *McIntosh v. Moynihan*, 18 A. R. 237.

**Agent's Bond for Deed.]**—A., by power of attorney, authorized his wife to sell and convey certain lands, and immediately afterwards left the Province and died abroad. The wife employed B. to find a purchaser, who accordingly agreed with the plaintiff for a sale at a certain price, payable by instalments, with interest; upon payment whereof he was to receive a conveyance, and B. gave his own bond for a deed, in which were contained the terms and conditions of sale. The wife subsequently ratified the bargain, and B., with her consent, let the purchaser into possession of the property. Upon a bill for specific performance of the contract:—Held, that this was not a contract in writing, within the meaning of the statute; but that sufficient appeared to authorize the court to decree a specific performance of a parol contract upon the terms of the bond as being partly performed and within the terms of the authority. *Farquharson v. Williamson*, 1 Gr. 93.

**Agent's Letter to Principal.]**—The owner of land gave parol authority to an agent to sell, and the agent accordingly entered into a parol contract for sale, and communicated the fact and the particulars of the contract to his principal by letter:—Held, sufficient to satisfy the statute. *McMillan v. Bentley*, 16 Gr. 387. See, also, *Jennings v. Robertson*, 3 Gr. 573.

**Agent's Recognition of Contract.]**—An agent's subsequent written recognition of