

good principles into the ground. Freedom is a good principle, the very best, for the maintenance of which we are prepared to risk everything we have,—and yet it seems running it into the ground to allow a man, without adequate reason, to leave his children paupers. So *caveat emptor*, let the purchaser look out for himself, is no doubt an excellent general principle, but it is surely carrying it too far to say that if a man sells horses, or cattle, or other goods, which are subject to latent defects, of which he himself is perfectly aware, and of which he knows that the purchaser is not aware, the sale nevertheless holds good, and no liability to damages results, so long as the vendor makes no kind of representation. Such a rule I submit condones what is obviously dishonesty. In the well-known case of *Ward v. Hobbs* (1878), 4 App. Cas. 13, 3 Q. B. D. 150, in which the House of Lords unanimously affirmed the decision of the Court of Appeal. Hobbs sent to a public market certain pigs to be sold by auction. True, the conditions of sale provided that the vendor would not warrant them, and that they were open to inspection of intending purchasers, who must take them with all faults. Still Hobbs knew that his pigs were infected with the germs of typhoid, a fact not discoverable on inspection, in other words, a latent defect. Ward bought the pigs, put them with other pigs of his own, which became infected, and the majority both of the pigs bought at the sale, and of the other pigs, died as a result. Ward sued Hobbs to recover damages for the loss sustained, and it was held that he had no remedy under the law. I may take two sentences of Lord Selborne's judgment as stating the law. He says:—

"The argument which for some time most weighed with me was that for a man to sell to another, without disclosing the fact, an article which he knows to be positively noxious, and which the other man does not know to be so (even though he expressly negatives warranty, and says that the purchaser must take his bargain with all faults) is an actionable wrong. I confess I should not be sorry if the law were so; but I know no authority for the proposition that such is the law, even with respect to the particular case of infectious disease in animals sold."

Roman law from very early times by the edict of the Aediles,