

Statute of Frauds

A written record of the transfer of land was not required in England until the seventeenth century, but the value of possessing such a record became increasingly apparent throughout the later Middle Ages.

The documents in this case, therefore, were produced during a period of gradual change and are evidence of the primarily memorial function of early deeds. By the time the parchment was inscribed and sealed, the actual deed, the transferal itself, had already occurred. What had happened at the ceremonial Livery of seisin was not recorded, nor was the date, nor the precise location of the land in question. As far as medieval people were concerned, details like these did not need to be written down. After all, everyone in the village knew whose land it was, what it was worth, and where it was located. The purpose of a charter was to remind the men of time to come that an important event had taken place--it was a keepsake and a letter to posterity.

Because the writing requirement for land transactions is so fundamental to our present-day conveyancing system, it can be difficult to imagine a time when it was otherwise. In England prior to the Statute of Frauds, however, the transfer of land by ceremony rather than by a writing was still valid. This method of conveyance, livery of seisin, derived from feudal concepts of land holding. While this method was workable when most of the population was illiterate and ownership of land was a matter of common knowledge in the community, in the seventeenth century this type of conveyance had largely been superseded by more modern, written forms of conveyancing and the old forms increasingly were used when a secret conveyance was wanted for illicit purposes. The lawmakers of the day came to recognize that ceremonial conveyances of land facilitated tax evasion and fraudulent transfers of land, and made litigation over title to land more difficult to resolve. The Statute of Frauds changed conveyancing practice in England by expressly eliminating conveyances of land by livery of seisin and by requiring conveyances of land to be in writing.