

## BUYER MUST SHARE RESPONSIBILITY

Whole Burden in Real Estate Sales Not on Seller.

### RULE IN LAW IS SET FORTH

Although Fraud Is Never Permissible, Courts Hold That Purchaser Should Make Investigation.

BY W. B. SHIVELY,  
Chairman Legal Committee Portland Realty Board.

What duty rests upon buyers of real estate to investigate and verify representations of fact made by sellers to induce a sale? To what extent must a buyer rely on a seller's misrepresentations to enable him to rescind the sale and recover the purchase money?

With reference to instances when the buyer and seller are dealing "at arms' length," having equal opportunities for investigation and the ability to investigate, the Supreme Court of Oregon has stated the rule, in the case of *Reimers versus Brennan*, 84 Ore. 52, 164 Pac. 552, as follows:

A purchaser must use reasonable care for his own protection and should not rely blindly upon statements made by a seller, and between parties dealing at arms' length, where no fiduciary relation exists and no device or artifice is used to prevent an investigation, it is the general rule that a purchaser must make use of his means of knowledge, and that he cannot recover on the ground that he was misled by the seller.

And our Supreme Court has held that a buyer cannot be permitted to disregard information obtained from sources other than the seller and rely upon an apparent falsehood. A man is bound to make use of his means of information. As stated in *Wheelwright versus Vanderbilt*, 69 Ore. 326, 138 Pac. 457:

**Buyer Should Be On Guard.**  
A mere nakedness of fact, though told with the intent to deceive, upon which nobody acts and by which nobody is deceived is not actionable.

No rule, applicable alike to all cases, however, can be laid down, except that it may be generally stated that a duty rests upon the buyer to use his ability and opportunities to prevent a fraud being practiced upon him. Each case is to be determined on its particular circumstances.

It is well settled, however, that before a buyer can obtain any relief through the courts on account of a seller's misrepresentations, he must have in fact relied on the representations as made and have been ignorant of their falsity. Our Supreme Court laid down this rule in the early case of *Wimer versus Smith*, 22 Ore. 463, 30 Pac. 416, and said:

Even where misrepresentations are made, if a person relied upon his own judgment, when he has full means of knowledge, he cannot complain of such misrepresentations. In the case of *Wheelwright versus Vanderbilt*, above mentioned, the buyer investigated the representations of the seller before concluding his purchase. Later he sought damages from the seller for the latter's alleged fraudulent representations. Practically the sole question before the court was whether or not the buyer had relied upon the representations of the seller in his purchase. The court held that if the buyer had in fact relied upon the seller's representations he would not be permitted to investigate and make his own investigation.

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has been fraudulently imposed upon. An instance of such application of the law is found in *Sherman vs. Glick*, 71 Or. 451, 144 Pac. 606.

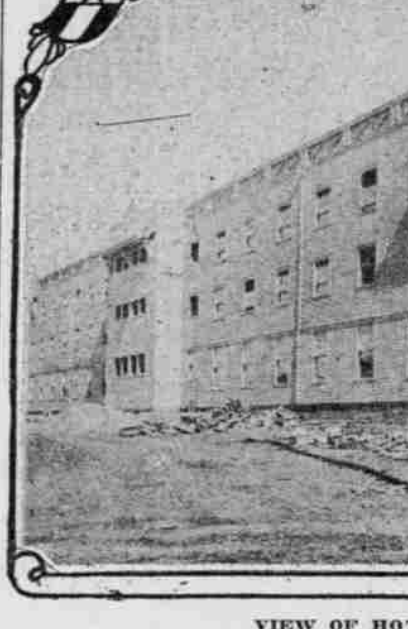
There a widow, 67 years of age, almost without education, wholly ignorant of business and without knowledge of real estate values, was prevailed upon to exchange a farm worth \$3000 for \$500 in cash and a house and two lots which were represented to be worth \$2500, but in fact were worth not to exceed \$750. Though it was shown that the widow examined the house and lots, the court held that the parties were not on equal terms, owing to the advanced age and inexperience of the widow; that the representations as to the value of the house and two lots were so gross and glaring as to amount to fraud, justifying a rescission of the sale and the restoration of the parties to their original holdings.

### MEMBERSHIP CAMPAIGN IS ON

O. H. Skotheim Conducting Drive to Add Members to Realty Body.

Real estate men associated with the Interstate Realty Association may adopt an insignia. In connection with the campaign for 1920 new members from the Northwest states and Alaska and British Columbia, it has been proposed that every member of the Interstate Realty Association have prominently displayed upon his stationery or

### COMFORT OF SHIPBUILDERS AFTER WORKING HOURS INSURED BY MODERN HOTEL, BIG APARTMENT-HOUSE AND NUMBER OF MODERN BUNGALOWS AT VANCOUVER.



VIEW OF HOTEL LIBERTY, ONE WING OF WHICH IS OCCUPIED.

business card some characteristic emblem to be recognized by the public as a guarantee of responsible dealings.

O. H. Skotheim, with offices in the Henry building, is conducting a vigorous membership campaign and reports that up to the present 6000 communications to representative dealers in the Northwest and Western Canada have gone out from his offices.

"We are working night and day," says Mr. Skotheim, "to carry out our programme for expanding the membership and influence of this wonderful organization by personal appeals to every responsible dealer in the entire territory."

### KLAMATH FALLS RANCH SOLD

C. A. Bunting Place Purchased by Arthur Frazier, of Milford.

KLAMATH FALLS, Ore., Oct. 26.—(Special.)—The sale of the Bunting place, a mile and a half from Merrill, on Lost River, to Arthur Frazier, of Milford, Cal., has been made through the agency of J. P. Maguire, who formerly occupied the premises, has just expired. The room in the same building on Third street, formerly occupied by the New York Central, has been leased to L. J. Struette for a tailor shop.

### Steamship Company Takes Quarters.

The large store room at the southwest corner of Third and Stark streets in the Railway Exchange building has been leased for a term of years to the Pacific Steamship Company, through the agency of the Portland Securities Company. The lease of the Chicago Milwaukee & St. Paul Railway, which formerly occupied the premises, has just expired. The room in the same building on Third street, formerly occupied by the New York Central, has been leased to L. J. Struette for a tailor shop.

### WESTERN SCOUT FASTEST

NEW STEEL FREIGHTER HOLDS RECORD IN HER CLASS.

Rate of Over 13 Knots Over Measured Course Credited to Ship Built by Northwest Steel.

Having averaged 13.74 knots over a measured course on Puget Sound, the 8800-ton steel freighter *Western Scout* first earned first place as the fastest steamer of her model and size yet to be turned out by the United States Government.

This announcement was made by Edward Pape, plant manager of the Willamette Iron & Steel Works, after a check had been made as to the performance of other ships.

"The *Western Scout* is undoubtedly entitled to be flagship of her class, according to the best information we have obtained," says J. R. Bowles, president of the Northwest Steel Company, which built the ship and sent her to the Willamette plant for machinery installation.

The day she entered Puget Sound, where the official trial was held over a measured course off Alki point, a new 8800-ton ship from Japan, the first built for the United States by the Japanese in return for shipments of steel plates to that country, was met off the coast by the *Western Scout* and necked for 40 miles, when the *Western Scout* drew ahead and made Seattle about a mile in the lead of the Oriental vessel.

The *Western Scout* is fitted with a 3000-horsepower turbine engine and is the first with that gear to be tried out officially. Captain E. D. Parsons, of the entrance pilots at Astoria, took the ship over and Ham Hewitson, of the Willamette's force, was chief engineer. The vessel was tested by the Emergency Fleet Corporation at Seattle and then turned over to the Pacific Steamship Company.

**Tides at Astoria Sunday.**  
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