# BUYER PROTECTED IN SALES BY FRAUD

Seller Must Repay Purchase Price if False Representations Are Made.

OF LAW IS STATED

Even if Seller Is Ignorant of Misrepresentations by Agent, Sale Must Be Rescinded and Money Repaid, Courts Have Held.

BY W. B. SHIVELY, hairman Legal Committee of Portland Realty Board. May the buyer of property compel the seller to rescind a sale thereof and to repay the purchase money on acmade prior to the closing of the sale by the seller's broker or agent, not-withstanding that said misrepresenta-tions were made by the agent without the knowledge of his principal, the

The general rule relative to this question may be stated thus: The seller may be compelled by the buyer through the courts to rescind the sale and repay the purchase money where the seller's agent, even without the knowledge or consent of his principal, in order to bring about the sale, misrepresents the facts, if the representations are made within the scope of the agent's authority and if the buyer believes the representations to be true, is ignorant of sentations to be true, is ignorant of

ity and if the buyer believes the representations to be true, is ignorant of their falsity, and thereby suffers damage; the owner cannot take advantage of or profit by the contract made for him by the broker without becoming responsible for the representations which induced it (L. R. A. 1917, F. 362.)

In the case of Wilson vs. McCarthy, 66 Or. 498, 134 Pac. 1189, the facts were that a Mrs. Rogers owned 80 acres of land in Washington practically barren of timber, steep, lying in piaces at an angle of 60 degrees, rocky, rough and with only two acres cleared. There was a one-room cabin on the land. One McCarthy was Mrs. Rogers' broker to sell the land and in order to effect a sale McCarthy represented to the buyer that the land in question was covered with good merchantable timber, that eight to 10 acres of the property were cleared, that the land was practically level, and all of it was susceptible of cultivation and that there was a cozy three or four-room house on the premises.

Buyer Brings Spif.

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The buyer did not go to see the land, but relied on the agent's representations. The sale was closed, after which the buyer discovered the true character of the property she had purchased. She then brought suit to reseind the sale. The seller contended that she personally had made no representations of any kind to the buyer and that therefore the sale should be upheld. The Supreme Court of Oregon said:

upheld. The Supreme Court of Oregon said:

"If the contract was made by Mc-Carthy, who, in order to induce plaintiff to make the exchange, made representations which were known to him to be false and upon which plaintiff relied to her injury, the defendant, Nellie M. Rogers, by availing herself of the benefits of the transaction, is bound by the representations, whether McCarthy was her appointed agent or not. The doctrine is well established and rests upon sound principles of law that a person who seeks to avail himself of a contract made by another for him, whether by appointment or by a self-constituted agent, is bound by the representations made and the methods employed by the agent to effect a contract. Defendant Nellie M. Rogers cannot ratify a part of the transaction negotiated by McCarthy and repudiate the same in part."

In a further case involving, the same principles of law (Firebaugh vs. Bent-principles of law (Firebau

Principal Bound by Agent.

The agent, said the court, "in a general way palitted the transaction with a roseate hue to Mrs. Owen, who was credulous, did not appear to understand." That the foregoing is good law can be received to the contrary. The deciding the case the Supreme Court said: "Air. Jones (the select) asks to be unserspilous agents and profit through their gross misrepresentations." In deciding the case the Supreme Court said: "Air. Jones (the select) asks to be unserspilous agents and profit through their gross misrepresentations. It is expected that the representations made by her broker. He being shown to be her agent in the transaction, she cannot escape the consequences of his acts, whether she as a consequence of his acts and the methods employed by her representations. In the second of the consequence of his acts are to effect the contract."

In deciding the case the Supreme Court with the presentations in the presentation and profit through the result of the agent's effect at the court with the presentation and profit through the presentation of the presentation of

In deciding the case the Supreme Court uses the following reasoning: "It is beyond dispute that this representation was made while Corcoran (the broker) was empowered by the defendant, Ellen Tweedle (the selier) to procure a purchaser for the land in question. It was within the acope of lass authority to describe the land to an intending purchaser and to state what it contained in the way of improvements or timber or the like. Without making such representation it would be impracticable to procure a purchaser. It affects the defendant, Ellen, the same as if she was there personalthe same as if she was there personal present and made it herself. Corcoran was familiar with the land, had been over it and knew the condi-tions there, and his knowledge on that

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subject is imputed to his principal, El

husband both testify that they relied

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negotiated by McCarthy and repudiate
the same in part."

In the case of Owen vs. Jones, 58 Or.
211, 125 Pac. 332, numerous representations were made by an agent of the seller to the buyer, including statements to the effect that the rent of a certain apartment-house offered for sale was \$108 per month (in truth the building could be heated at a cost not to exceed \$10 per month).

Principal Bound by the same transaction cent."

Law Protects Buyer.

In a further case involving the same principles of law (Pirchaugh vs. Bentley, 55 Or. 170, 130 Pac. 1129) the court held that the buyer had a right to reply upon the representations of the seller's agents as to the true location of the authority of real estate brokers. In this case the brokers were honestly mistaken as to the true location of the acreage sold, so that there was no element of fraud in the so that there was no element of fraud in the case; nevertheless the court compelled a rescission of the contract and the repayment of the purchase The agent, said the court, "in a gen-eral way painted the transaction with a reseate bue to Mrs. Owen, who was

Locust eggs treated with sulphuric acid and lime are used as fertilizer in Mediterranean countries where the in-

Interstate Realty Association' After New Members.

MEMBERS DESIRED

O. H. Skothelm, Formerly of Eugene, to Manage Oregon Part of Drive in Northwestern States and Also British Columbia.

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"The interstate Realty Association

and cash transferred being in the neighborhood of \$20,000.

Apartment-House for Salem.

SALEM, Or., Oct. 5.—(Special.)—C. W. Niemeyer, of Salem, is exhibiting plans for a \$250,000 apartment-house which it is proposed to construct through iography of the interstate Association not alone to unite efficiently all responsible operators of the Northwest, but to become the largest individual organization of realty men in the world. The prosent Niemeyer, of Salem, is exhibiting plans for a \$150,000 apartment-house which it is proposed to construct through local capital on Court street, near the State House. Federal orders have placed the possibility of construction out of the running just at present, but he says the plan will go ahead as soon as war conditions permit.

Almond Crop Good One.

GOODNOE HILLS. Wash. Oct. 5.—
(Special.)—Many Portland people and others are in the hills gathering their almonds, of which there is quite a crop this year. Among the orchard owners are L. I. Hewes, J. C. George, D. M. Smith, Jesse Hobson, Mr. McNary, Mr. Myres and L. C. Stone, all of Portland, except Mr. George, who resides at Walla Walla.

28-Acre Ranch Brings \$10,000.

ABERDEEN, Wash, Oct. 5.—(Spacial.)—T. T. Jones, of Sequim, has purchased the A. G. Harris ranch of 28 acres, south of Montesano, for \$10,000 cash. This is the largest realty deal of the county for many months. In the county for many months.

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Values Extraordinary in Juniors' and Women's High - Grade Fall Coats

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Velour, Broadcloth, Salts, Plushes, Zibelines, Corduroy -- in fashionable Fall colors -- Russian green, tobacco brown, plum, taupe navy blue and black are featured in Motor, Street, Utility and Dress Coats. Many handsome new models designed with large cape, convertible and muffler collars, empire effects and belted styles to choose from. Women who anticipate replenishing their wardrobe will surely find something here to their advantage, for these beautiful Costs are rarely offered

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Each \$3.95

Monday and Tuesday will be RED LETTER DAYS at Shanahan's Waist Department, Main Floor. These Dainty Waists are made of an excellent quality Georgette. We show them in fiesh, pink, white, maize and taupe, roll collars, neat cuffs, SQUARE or V-neck. Front finished with tucks and hemstitching, others with sprays of embroidery. Don't fail to take advantage of this exceptional offering.

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FOR MONDAY AND TUESDAY ONLY.

Boys' Union Suits, Special 85¢ to \$1.00 Each Boys' Fleeced Lined Union Suits, gray color, high neck, long sleeves, ankle length, sizes 2 years to 16 years. Extra heavy weight for 85c to \$1.00.

Girls' Union Suits, Special 85¢ to \$1.25 Each Girls' Fine Bibbed Fleeced Cotton Union Suits, high neck, long sleeves, ankle length, drop seats or open seat, taped neck, sizes 2 to 16 years. Priced, according to size, 85¢ to 81.25.

Women's Vests or Tights, Special \$1.00 Each Ladies' Extra Fine Ribbed Combed Yarn Vests or Tights, Dutch neck, elbow-sleeve vests, ankle-length tights, with draw-string tops; sizes 54 to 38, especially priced at \$1.00.

Children's "Wunder" Hose, Special 35¢ Pair Children's "Wunder" Hose, medium weight, ribbed cotton, black, double heels and toes, very elastic; an excellent achool hose; sizes 6 to 16. Priced at 35c.

Children's Fine Hose, Special, 3 Pairs 85¢ Children's Extra Fine Ribbed Black Cotton Hose, slightly imperfect double heels and toes; sizes 5 to 91/2; especially good at 3 pairs 85c.

EXTRA SPECIAL

Children's Winter Coats, Special \$4.95 Each
This unusual value is made of medium weight cordurous and fancy mixtures. Without a doubt these values are beyond compare. Sizes 2 to 6

Astonishing Value in Women's Serge Dresses, Each \$9.98

These Dresses are remarkable for quality and workmanship, fine fitting nicely tailored. Colors blue, black, etc. Collars and cuffs in white sill poplin, sizes 16 to 44. Ladies who are seeking something stylish am serviceable will surely find something to their liking among these excellent garments.

Sensational Sale of Women's Silk Poplin Dresses, Each \$10 Some nifty models with pleated skirts. Surplice Waists, collars and cuffs of white satin, belts of material with large buckles; others with plain skirt, fancy tab trimmings. Colors green, taupe, light blue, navy, brown, black, BURGUNDY. These are beautiful dresses for afternoon, street or evening wear.

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This is the time for every careful, well-informed housekeeper to buy ahead, particularly of these good spreads. We show them in a good range of styles, patterns and quality. A heavy Honeycomb or Marseilles, some hemmed all round, others fringed and cut corners. Sizes to SUIT every bed. PRICES TO SUIT EVERY PURSE.

25 doz. Double-Bed Size Honeycomb Bedspreads, special. \$1.98 10 doz. Double-Bed Size Honeycomb Bedspreads, special. \$2.10 15 doz. Double-Bed Size Honeycomb Bedspreads, special. \$2.98 12 doz. Double-Bed Size Scalloped and Cut Corners Bedspreads. \$3.69 11 doz. Double-Bed Size Scalloped and Cut Corners Bedspreads. \$4.75 9 doz. Double-Bed Size Scalloped and Cut Corners Bedspreads. \$6,25

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\$2.50 Mercerized Round Scallop Table Cloths, Sp'l \$1.98

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with embroidery. Some have graduated

the State Fair indicates that war con-ditions will not interfere with the Port-land show, which he expects will be up to the standard of past years.

Board of Equalization to Meet. SALEM. Or., Oct. 5 .- (Special.)

# Ringworm-Scalp Sores

if you want speedy help try D. D. D. P. Prescription. So easy to apply, not greasy or messy. It washes into the scalp and the relief is instant? Try it today. It is guaranteed. 35c, 60c and

The Liquid Wash

ocludes members of the State Tax commission, will meet here October 21 to equalize properties coming under the tax commission. These include utilities which operate in more than one

Word has been received that Arthur Hutchinson, who was choir boy in the Church of the Good Shepherd, was wounded in the leg at the battle of Mouchy on August 8. He has lost the



When you darken your hair with Sage Tea and Sulphur, no one can tell, because it's done so naturally, so even it. Preparing this mixture, though, at home is mussy and troublesome. At little cost you can buy at any drugstofe the ready-to-use preparation, improved by the addition of other ingredients, called "Wyeth's Sage and Sulphur Compound" You just dampen a "My husband suffered terribly from CATARRH

Lucy Cotton, the ingenue of "Turn to the Right," has just closed a season of 22 months, in which time she did not

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Removed.

Strands of gray hair are unattract-

Strands of gray hair are unattractive and very unnecessary and accelerate the appearance of approaching age. Why not remove all traces of gray in the hair and possess an even shade of beautiful dark hair in bounteous quantities by the use of "La Creole" Hair Dressing? Used by thousands of people every day—everywhere—with perfect satisfaction. No one need be annoyed with gray hair—hair streaked with gray, diseased scalp or dandruff when offered such a preparation as "La Creole" Hair Dressing. Apply it freely to scalp and hair, rubbing it in well, and after a few applications you will be delightfully surprised with the re-

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At the calculation of the addition of other ingredients, called "Wyeth's Sage and Sulpur Compound." You just dampen a song of gas as to seriously stouch bloading of gas as to seriously affect his heart. Doctors warned him that he might drop dead at any time all years which absorbs and affect his heart. Doctors warned him that he might drop dead at any time all years which absorbs and affect his heart. Doctors warned him that he might drop dead at any time all years which absorbs and affect his heart. Doctors warned him that he might drop dead at any time all years which absorbs and affect his heart. Doctors warned him that he might drop dead at any time all years warned him to take Mayr's Wonderful and luxuriant.

Gray, finded hair, though no disgram, and since taking it. 4 months ago, he is feeling like a young man that removes the carried in the combet lites a young and all desire a young and all years and not a medicine. It is a simple, harming and look years younger. This ready has the look of the provided that the provided the look of the provide

The State Board of Equalization, which tuse of the limb and is convalencing miss a single performance. Miss Cot-

## WHEN YOU WAKE UP DRINK GLASS OF HOT WATER

Wash the poisons and toxins from system before putting more

be delightfully surprised with the results.

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In a plein is not eliminated day by day it quickly ferments and generates poisons, gases and toxins which are absorbed or sucked into the blood stream, through the lymph ducts which should suck only nourishment to sustain the body.

A splendid health measure is to glass of real bot water with a tea-spoonful of limestone phosphate in it, which is a harmless way to wash these poisons, gases and toxins from the stomach, liver, kidneys and bowels; thus cleansing, sweetening and freshening the entire alimentary canal before putting more food into the stomach.

A guarier newed.