## ORAL CONTRACT FOR REALTY SALE VOID

Agreement Must Be in Writing, Says Oregon Law.

### ESCROW ACTION IS CITED

Case Decided by Supreme Court of This State Shows Importance of Following Law.

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

Where the owner of land orally agrees to sell the same and deposits a deed in escrow to be delivered upon payment of the agreed purchase price may said owner withdraw the deed from escrow and refuse to consum-mate the transaction even though the purchaser may have paid a portion

of the purchase price? This question was decided in the af-This question was decided in the al-firmative by the Oregon supreme court in the case of Foulkes vs. Seng-stacken, 83 Ore., 118, 158 Pac., 952, 163 Pac., 311. In that case the facts were that the owner of the land orwere that the owner of the land orally agreed to sell the same to the defendant. There was no written contract of any kind between them, but in accordance with the terms of the oral arrangement the purchaser paid the seller \$500 on account of the purchase price and the seller executed a deed and deposited the same in escrew with instructions to deliver the deed of the purchaser upon the payment of to the purchaser upon the payment of \$1800, payable in two annual payments of \$500 each. While the deed so lay in escrow the purchaser paid the seller \$250 additional. The seller retained possession of the property all times. Before the payments at all times. Before the payments were completed, however, the seller died, leaving a will devising to Poulkes, the plaintiff, "all real estate which she should possess at the time of her death." Thereafter the purchaser paid the balance of the pur-chase price to the party holding the deed in escrow, whereupon the deed was delivered to the purchaser and

About three years later the plain-tiff, who it will be remembered, suc-ceeded to the land under the terms of the seller's will, filed suit to cancel and poultry industry which has at-the purchaser's deed, contending that the seller's deed was void for the rea-son that the death of the seller prior. The following sales have been reto the delivery of the deed rendered the deed null and void.

In passing upon the question the supreme court based its decision upon the "statute of frauds" of this state. which provides that a contract for the sale of real estate, unless in writ-ing, is absolutely void. The court held that an escrow "presupposes the existence of a valid contract." "There must be," said the court, "an actual contract of sale on the one side and of purchase on the other and until 10-acre home one mile east of Gresh-there is such a contract the instrument executed by the proposed grant-or, though in form a deed, is neither a deed nor an excrow."

Now the only writing in the case

Now the only writing in the case was the deed deposited by the seller, but this deed, the court held, was not sufficient under the statute of frauds for the reason that it did not contain all the terms of the verbal agreement between the seller and purchaser, and the court held that since there was no walled hindling and enforcesable agree.

A considerable movement of resistance. valid, binding and enforceable agreement to sell the land and not a sufficient part performance of the oral contract on the part of the purchaser to avoid the effect of the statute of frauds, there was not, technically speaking, an escrow; that therefore the deposit of the deed by the seller was in contemplation of the law merely a voluntary act of the seller which amounted to nothing more than a continuing offer which might have continuing offer which might have been withdrawn by seller at any time, and which offer necessarily termin-ated with the death of the seller. And, the court held that the death of the selier at once produced the death of the deed and that no subsequent act of the purchaser could "resurrect the writing and make it a living deed."

Deed Is Declared Void. It was therefore held by the court that the plaintiff was entitled to a decree canceling the purchaser's deed,

but that the purchaser should have a

chancellor and yet courts cannot de-clare that contracts are valld when the statute law is positive and un-equivocal terms pronounces them in-In the long run it is better to follow the law. It is to be noted that in the foregoing case the court held the seliers gains. Middle state cities along agains. Middle state ci deed, notwithstanding that the pur-chaser had paid or offered to pay the full purchase price; it would also follow that if she had so withdrawn the offer, the purchaser, having no valid contract capable of legal enforcement, would have been unable to compel her to convey the land. The case above cited teaches this: that notwithstanding the parties to the sale of realty attempt to place their deeds and papers in escrow, either party may withdraw at any time unless the agreement is reduced to writing in the shape of a valid enforceable

BUILDINGS QUICKLY RENTED wemanu for Floor Space in Port-

tand Is Brisk. New buildings going up in Port-land are being rented before they are little more than started, and fre-

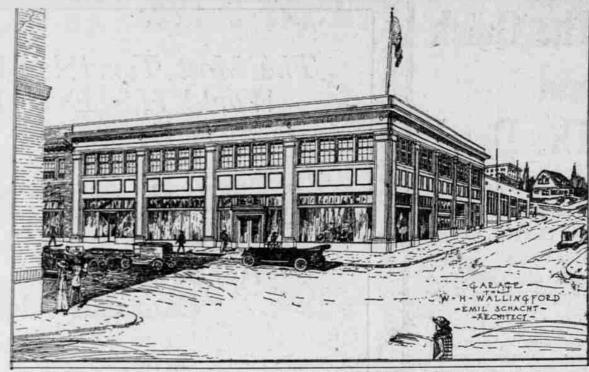
quently all the floor space has been contracted for before ground is broken for the structure, so great is the demand for store space in Port-land, real estate and building firms Work was begun last week on two

one-story store buildings on Broad-way, being erected under the direc-tion of the Metager-Parker, Ferguson company. Floor space of both structures had been put under lease before work was started, said W. W.

Metager.

One of the structures is going up at the corner of Sixth and Glisan streets at a cost of \$20,000. This building will be one story in height and will be divided into five store rooms and a garage. The other structure below executed at the corner of ture is being erected at the corner of Broadway and Flanders at approxi-mately \$30,000. This building will be used for store rooms entirely. It is one story in height.

WORK BEGINS ON GARAGE AND MOTOR CAR HEADQUARTERS TO COST \$50,000.



PERSPECTIVE OF NEW HOME NOW BUILDING FOR W. H. WALLINGFORD COMPANY.

Fully three-quarters of the big amount of building now under way in the construction at the northeast of the construction \$10,000. The W. H. Wallingford company has also purchised the present building adjoining its new quarters on the west and occupied by A. C. Stevens and Moltzner-Westcott Motors, Inc., who will remain, however, as tenants. The new building is to be one of the finest motor-car structur's on the Pacific coast.

TRIES FLOURISHING.

Numerous Sales of Farm and Residential Property Closed During Past Week.

Farm and residential property in the Gresham section is beginning to show vigorous movement and a number of important sales have been made during the past wee, while others are in prospect according to Messrs. Krider and Elkington of the Gresham Real Estate company. The movement in real estate is attributed that state; it found satisfactory evitate that state; it found satisfactory evitates in the company of the co

ported from Gresham: The C. A. Johnson farm near Kelso, consisting of 50 acres of farm land with equipment, to William Jocelyn of Portland, for \$10,000.

Karol Shulze to John Cunningham. 21 acres of unimproved land near Hogan station, for \$2800. William Mueller to P. A. Ledine, 20scre farm near Haley station for

Gerald A. Miles to Sherman Lyons am, for \$5100. Emanuel Anderson to Michael J. Byrne, 6-acre home in Gresham, for

NEW YORK PERMITS REACH

LARGE TOTAL. Volume of Construction for August \$27,000,000 Greater Than for

Month of July.

A healthy increase in building

Again the activity is widespread.

155 cities reporting increases as against 13 reporting losses. Southern mailed free to contractors who are

that the industry is in the main in a fairly healthy condition.

Strikes have acted as a strong deferrent to construction during the past month, and many buildings have been held up. The labor situation, even more than the higher level of

material prices, has been a disturb-ing influence in the trade, especially in cities where the unions has broken their contracts, as did the Painters' union in New York. Breaches of falth such as this cause builders to hesitate to accept contracts on the usual lump sum basis, preferring the cost-plus-percentage or cost-plus-a-fixed-fee as being safer.

Costs have increased very appreciably since the first of the year, due

Charles McGonigle Buys Home. Charles McGonigle last week con-luded the purchase of the ten-room

colonial home at 546 Chapman street from Mary L Slauson, the deal being arranged through Mrs. John Brooke. The house occupies one of the beautiful quarter blocks on Portland heights and is notable for the view overlooking the city. Mr. McGonigle and fam-ily will make their home there. Mrs. Brooke also announces the purchase of lot No. 8, block 10, Greenway, by

MOVEMENT SEEN.

Men Tired of Strikes and Generally Unstable Conditions in Cities Turning to Country.

movement in real estate is attributed largely to the success of the berry and poultry industry which has atjustifiable under present economic tracted the attention of outside people.

The following sales have been reported from Gresham:

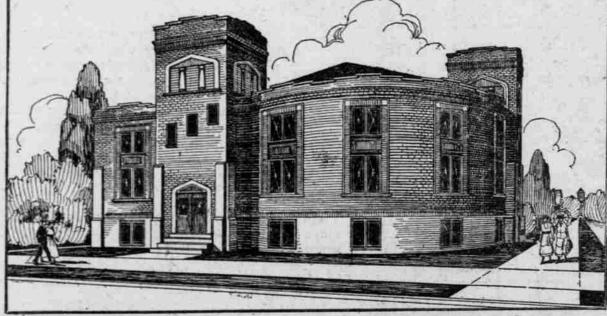
The C. A. Johnson farm near Kelso.

The C. A. Johnson farm near Kelso.

The conditions at satisfactory evidence will fruit and gardence that prevailing prices were dence that prevail then the will then unit there is a Albany last week. He said he had increased real estate activity which is thought to be committed to the prevail that the prices were in all these sections are set in all these sections are set in all these sections are set in all

interference with their work by la-bor unions dominated by foreigners, is preparing a series of articles upon are seeking new locations. They are not farmers and cannot take up gen-to the members of the association et al farm work, but since many through its official monthly publica-

NEW CONGREGATIONAL CHURCH BEING ERECTED AT FOREST GROVE.



Work has been started on a new edifice at Forest Grove to replace the Congregational church destroyed there in the disastrous fire of last August. The new structure was designed by E. E. McCinran, Portland architect in the Lumber Exchange building. Under the plans the new church will sent S50 people. A basement is provided with room for prayer-meeting hall, social and banquet room and kitchen and boys' and girls' meeting rooms. On the main floor is the auditorium, balcony and Sunday school room divided into ten individual classrooms. The exterior of the structure is to be of red pressed brick, with composition roofing, and the total cost is placed at \$25,000. The building is being erected on the site of the old building on College way, and will be ready for page and the stomach distress is placed. occupancy in about four months, according to present plans.

MOTIVE FOR BACK - TO - LAND

Old Landmark Being Torn Down.

## Paul A. Cowgill Home From Washington Trip.

INLAND REALTY IS

Two Business Blocks at Walla Walla Being Erected on Cost

Plus Basis.

BUILDING IN PROGRESS

Real estate is rapidly picking up brough the Inland Empire, according to Paul A. Cowgill, executive secretary of the Interstate Realty association, who returned last week from a two-weeks' trip to the Walla Walla and Yakima valleys. The fruit and grain crops are abundant and both valleys are in the midst of a period Yakima have not yet organized a board, but Mr. Cowgill expects to re-

them in forming an association.

"Real estate activities are booming in both sections," said Mr. Cowgill.

"Prices are stiffening a little as the demand increases. I found that houses are in great demand in practically all the towns theorems. the towns throughout that section, even the smaller places. I had had an idea that the house shortage was limited to coast cities, but found the sit-uation just as tight in Yakima and Walla Walla as here. "I attribute the shortage of living

accommodations to the fact that there has been practically no building dur-ing the past five years on account of ALBANY, Or., Oct. 4.—(Special.)—
Will continuous strikes and labor troubles fomented by foreign agitators in the unions furnish the motive for a "back to the land" movement which it has been contended is present building is restricted because of high cost of material and high wages. In Walla Walla I was interested in learning that two brick business blocks now going up are being built on the 'cost plus' basis, contractors refusing to make definite bids because of the increasing building expenses." needed in this country?

That they will is indicated by the increasing demand from residents of Toppenish, Mabton, Prosser, Pasco and larger cities for small fruit and gar-

Seattle and that the unions there are property owners as associate memrunning the business of that city. He decided to seek independence and peace on a small farm. He chose this vicinity because of the big cannery here, which assures him a market for the small fruit he expects to raise.

This man says that many people, tired of the continuous strikes and interference with their work by la-

for quick acceleration, this mixture may prove satisfactory in a great

once, but the average owner can make up for the extra cost by getting additional mileage. At the very first sign, plug the slightest tread cut. Inflation should be given a great deal of attention, especially also since the heat of summer adds to the wear.

You will be surprised at the better performance of the car after it has been jubricated at every moving surface.

SALEM, Or., Oct. 4.—(Special.)—Salem police will make an effort to obtain possession of Bert Chinn and Earl Riley, who were arrested in Portland recently. It is charged that these men held up W. W. Forest here during the state fair and relieved him of \$105. It is also possible, Chief of Police Varney says, that the men will be connected with an automobile theft which occurred here early in fair week. Riddle Hearing Scheduled.

SALEM, Or., Oct. 4 .- (Special.) -J

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Compare Our Offerings With Other Local Offerings Frank and Open Statements Have won a large piano business—the largest in the city—for the Schwan Piano Co. Again, this listing of splendid plano and Player Piano values—when considering the

all correctly described, when possible, as 1910-1918-1918 models or used planos and atements so you can know, no need to question our propositions. TO KEEP DOWN THE COST OF LIVING, WE ARE DOING FOR PIANOS HERE

what the government is doing for food now—only we put it specifically—25% lower than local market prices on new models—and, after scouring the eastern piano factories the past months, we have made it possible for you to sidester the recent advance in prices by securing many carloads of new samples, wholesale stock pianos, discontinued

CUT OUT THIS PRICE LIST Take it up with dad, husband, son or daughter, determine then and thore whether you will pay the advancing prices or take advantage of this last opportunity at lower price Sale Price \$435 Refinished or Used Local L STEINWAY & SONS Refinished Rosewood, \$750

HALLET & DAVIS Rebuilt Ehone 4 ft 8 in high..... -\$25 cash, \$8.50 month \$195 CABLE & SONS 1916 mod. mahogany, 8475 \$295 STOREY & CLARK Art style, 1915 model, 8606 HALLET & DAVIS Rebuilt Ebony, pol'd, \$450 STARK PIANO CO. Rebuilt, ivory keys, 5400

THOMPS'N PNO CO. Discontin'd 1915 mod., 525 cash, 59 monthly.

THOMPS'N PNO CO. mahogany, dull ivory, 525 cash, 511 monthly.

CRAMER PIANO CO. Rebuilt 1910 model, 5450

CRAMER PIANO CO. dull mah., ivory keys, \$345 SMITH & BARNES Refinished, plain, 4 sars \$265 STARK PIANO CO. 1915 mod. fancy case, 8550 STARK PIANO CO. 1915 mod. fancy case, 8550 SINGER PIANO CO. 1918 model oak, good 8625 dull mah., ivory keys, -\$15 cash, \$8 monthly.

GAYLORD COMPNY 1910 mod., fancy case, \$425 425 cash, \$9 monthly. VOSE & SONS Rebuilt ebony, dull 8475 \$235 STEGER & SONS Food VOSE & SONS STOREY & CLARK HARDMAN P'NO CO. Rosewood, refinished, \$450 \$265 LELAND UPRIGHT

THE STEGER THE MOST VALUABLE PIANOS IN THE WORLD.
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S5 Or \$10 in records purchased New 1918-1919 Model Original Local Value, 1 Reed & Sons, fine mah, 900 and 100, 1 Reed & Sons, fine mah, 900 and 100, 1 Reed & Sons, mah, wal 1000 2 Steger & Sons, mah, oak 1150 In magnificent mahogany, Circassian walnut, fancy American walnut, handsome oaks, fumed, satin, dull finishes and high pollishes, including cabinet and duet benches.

Wholesale Factory Samples. Local Sale New, Discontinued Models. Value, Price Steere in fancy walnut. 2700 28560 and duet benches.
Wholesale Factory Samples.
New. Discontinued Models.
Steger in fancy walnut. \$750 \$560
Steger in magnificent oak 750
Steger in Circassian wal. 750 560
Steger in Splendid oak. 750 560
Steger in Flemish oak. 650 485
Steger mission in oak. 625 465
Steger Circassian walnut. 850 595
Steger Circassian walnut. 750 562
Steger ln finest walnut. 750 562
Steger ebonized. 625 435



2 Steger & Sons, mah., oak 1150
Original Sale
Resale and Used Planos. Value, Price
Weber, art model, mah., 4750 \$235
Davis & Son, fumed oak, 450 290
Steger & Sons, mission, 625 395
H. Board, small upright, 275 75
Usehall & Co., large oak, 500 295

cash, \$12 menthly, model fumed oak, \$625

ished mahogany...
cash, \$8 monthly.
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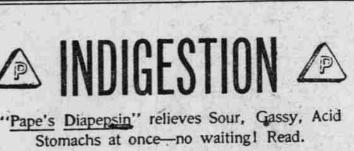
but that the purchaser should have a lien upon the land for the repayment of the amount paid by him under the terms of the oral contract. In its conclusion the court said: This complete to the sympathy of a naturally appeal to the sympathy of a chancellor and yet courts cannot declare that contracts are valled when clare that contracts are valled when contracts are valled when clare that contracts are valled when contracts are valled when clare that contracts are valled when contracts are valled when clare that contracts are valled when contracts are valled by the transportation end the plane contents of the five plane of the plane contract of the same plane contracts of the five plane contract of the same plane contracts of the five plane contracts of the five

Hard on Auto Thieves. Through the efforts of the Penn-

fair week.

highway commission, has received a telegram from Roseburg to the effect that arguments of the demurrer to the complaint in the case filed by S. H. Rockhill of Riddle to restrain the state from proceeding with construction of the so-called Canyonville portion of the Pacific highway had been set for a week from next Tuesday. The new highway, as proposed thieves.

Through the efforts of the Pennsylvania State Motor federation a real law for automobile thieves is being considered in the Pennsylvania State Motor federation a real law for automobile thieves is being considered in the Pennsylvania State Motor federation a real law for automobile thieves is being considered in the Pennsylvania State Motor federation a real law for automobile thieves is being considered in the Pennsylvania State Motor federation a real law for automobile thieves is being considered in the Pennsylvania State Motor federation a real law for automobile thieves is being considered in the Pennsylvania State Motor federation a real law for automobile thieves is being considered in the Pennsylvania State Motor federation a real law for automobile thieves is being considered in the Pennsylvania State Motor federation a real law for automobile thieves is being considered in the Pennsylvania State Motor federation a real law for automobile thieves is being considered in the Pennsylvania State Motor federation a real law for automobile thieves is being considered in the Pennsylvania State Motor federation a real law for automobile thieves is being considered in the Pennsylvania State Motor federation a real law for automobile thieves is being considered in the Pennsylvania State Motor federation a real law for automobile thieves.



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