STATUTE OF FRAUDS—CONTRACT FOR THE SALE OF LAND—WRITTEN AUTHORITY OF AGENT.—The owner of a city lot entered into a written contract to sell the land upon certain terms to one McConnell. The owner later sued the defendants for damages for breach of this contract, alleging that they were the undisclosed principals for whom McConnell was acting. The plaintiff was unable to show any written authority given by the defendant to McConnell to purchase the land. *Held:* The provision in the Missouri Statute of Frauds that "no contract for the sale of lands made by an agent shall be binding upon his principal unless such agent shall be authorized in writing to make such contract" does not require that the agent of the purchaser shall be authorized in writing. *Cook v. Sears, Roebuck & Co.* (Mo. App. 1932) 51 S. W. (2d) 134.

To reach this conclusion the Court construes the identical words in two parts of a single sentence as having different meanings. The Statute involved is the Missouri equivalent to the fourth section of the original Statute of Frauds to which the above quoted words were added by way of amendment in 1877. Mo. Laws 1877 p. 195; R. S. Mo. (1929) sec. 2967. As a basis for its conclusion, the Court cites a case in which the Missouri Supreme Court stated that the reason why the amendment was passed was because of the innumerable suits for specific performance of contracts to sell land in which the agent for the seller did not have written authority. *Lindhorst v. St. Louis Protestant Orphan Asylum* (1910) 231 Mo. 379, 132 S. W. 666. However, this case does not say that this was the sole reason why the amendment was passed and the Supreme Court was probably only dealing with the facts before it. In the instant case the opinion also urges that if the Legislature had meant to require written authority for the agent of the purchaser this result could have been obtained merely by adding the words "in writing" after the words allowing the signature to be made by a duly authorized agent. This holding overlooks the fact that the applicable section of the Statutes deals with several other types of contracts besides contracts for the sale of lands. Thus adding the quoted words was the easiest practical way to impose a requirement applying solely to contracts for the sale of land.

According to the great weight of authority in states where the local statute only requires a written contract signed by the party to be charged or his duly authorized agent, the agent need not have been given any written authority. *McCullough v. Sutherland* (C. C. N. D. W. Va. 1907) 153 F. 418; *Merritt v. Adams County Land Co.* (1915) 29 N. D. 496, 151 N. W. 11; *Levine v. Whitehouse* (1910) 37 Utah 260, 109 Pac. 2; *Godfrey v. Central State Bank* (Tex. Civ. App. 1928) 5 S. W. (2d) 529. In a few states it is held that the agent must have written authority in spite of the silence of the statutes. *Opelousas St. Landry Bank v. Bruner* (1929) 13 La. App. 337, 125 So. 507; *Miller v. New Orleans Canal & Banking Co.* (La. 1844) 8 Rob. 236. These cases apply the rule so as to require written authority for the agent of the purchaser. *Opelousas St. Landry Bank v. Bruner, supra.*

It is well settled that the contract must be in writing and signed for the seller to be able to enforce it as against the purchaser. *Culligan v. Wingerter*

(1874) 57 Mo. 241. In states whose statutes require written authority for the agent, the overwhelming weight of authority is that this applies to an agent of the purchaser as well as to an agent of the seller. *Matheron v. Ramina Corp.* (1920) 49 Cal. App. 690, 194 Pac. 86; *Brown v. Vopicka* (1931) 261 Ill. App. 386; *Twitchell v. City of Philadelphia* (1859) 33 Pa. St. 212. There are some cases which on first reading seem opposed to the weight of authority and to give some support to the instant case. Thus, it has been held that the authority of the purchaser's agent to do things amounting to a waiver of delivery of an abstract of title need not be in writing. *Katz v. Dreyfoos* (Mo. App. 1930) 26 S. W. (2d) 999. Here, the contract for the sale of the land was properly made and the waiver related to a mere incidental part. Likewise, an agent may bid in property for his principal at a foreclosure sale without written authority. *Mills v. Hudman & Co.* (1912) 175 Ala. 448, 57 So. 739. But sales ordered by courts under public authority are governed by different rules and do not come within the statute of frauds. *Hall v. Geising* (1914) 178 Mo. App. 233, 165 S. W. 1181.

Where the offer to sell land was accepted by the attorney for the prospective purchaser, it was not necessary to the validity of the contract as against the seller that the attorney should have been authorized in writing. *Fowler v. Fowler* (1903) 204 Ill. 82, 68 N. E. 414. This case, however, does not support the view of the instant case, since there was no attempt to enforce the contract against the purchaser and the Statute of Frauds only applies to the "party to be charged".

It would seem that in the present case the Court has ignored the true meaning of the statute involved. By construing the statute narrowly and applying it only to the agent of the seller, a door is opened through which at least some fraud will likely enter. It would seem to involve an absurdity to protect the seller and not give equal protection to the purchaser. H. W., '34.

TRADE SECRETS—BREACH OF CONFIDENCE—PROTECTION OF UNPATENTABLE DEVICE.—One Booth designed a revolutionary type of automobile body, the design of which was fundamentally based upon a use or adaptation of the worm drive differential and the "up-kicked" frame. He patented the frame and drive and later obtained reissue patents. He entered into negotiations with the Stutz Motor Car Company with a view to selling the design. After extensive correspondence, during which time the Company had the designs in its possession, the Company refused to buy his designs and returned the plans to him. Subsequently the Company produced a car almost identical in design to that of Booth whereupon Booth brought an action for infringement and accounting. *Held*: the patents, since they embodied no patentable advance over prior art were invalid; but one whose plans, communicated confidentially, enter into the design of a new car is entitled to damages and an accounting to the extent that the plans contribute to the car's success. *Booth v. Stutz Motor Car Co. of America* (C. C. A. 7, 1932) 56 F. (2d) 962.

The court in awarding recovery to plaintiff, though it does not specifically