

Monthly Bulletin

of the

American Association of Title Men

Vol. 2

MARCH, 1923

No. 4

Dates of Convention Fixed—Executive Committee Plans Many Things—Prizes Offered for Slogan

The Annual Mid-Winter Meeting of the Executive Committee held in Chicago recently will undoubtedly be the beginning of a series of new activities in the Association. The plan of Chairman Wedthoff in inviting the state officials and representatives and thereby securing a conference of the officials of the state and national associations was very opportune and so successful that it is planned to hold them annually.

As stated in his call for the meeting, the purpose was to secure an exchange of ideas, to learn of the problems in the several states, secure a better spirit of co-operation between the state and national associations and to get suggestions as to how the national association could help and assist the state organizations.

Needless to say, the purpose of the meeting was accomplished and it was even more successful than had been imagined. The attendance was most gratifying and all of those present made many timely suggestions. There were twenty-five at the meeting and letters were read from many others who could not attend. Those of the Executive Committee present, together with the state representatives, represented a total of twenty states, from Florida to New York and Texas to Minnesota.

Those present were: President Mark B. Brewer, also representing Arkansas; Vice President Geo. E. Wedthoff, Michigan; Treasurer T. M. Scott, Texas; Executive Secretary, Richard B. Hall, Kansas; Geo. E. Whitcomb, Iowa; J. W. Woodford, Oklahoma; P. M. Bouslog, Louisiana; John E. Potter, Pennsylvania; Henry J. Fehrman, Nebraska; Will H. Pryor, Minnesota; H. S. Patterson, Secretary, Alabama Association; G. H. Nash, Secretary, Florida Association; J. R. West, Tennessee; C. B. Conrad, Secretary, Illinois Association; H. C. Madden, President and C. B. Hillis, Secretary, Iowa

Association; H. L. McNeil, President, O. L. Godfrey, Secretary, Michigan Association; H. J. Feehan, President, New York Association, H. R. Chittick, New York; J. R. Morgan, Indiana; E. D. Boyce, Secretary, Minnesota Association; R. M. Brown, President, Ohio Association, J. L. Chapman, Ohio; Jesse P. Crump, Missouri.

The first day's meeting was devoted to an open and informal discussion. It was called to order by Chairman Wedthoff who briefly outlined the purpose and emphasized the point that the National body desired to extend greater help to the state organizations. He read letters from many who could not be present, but who suggested a number of good ideas. Treasurer Scott, one of the founders and an ever willing-worker for the Association, was then called upon to give a brief history of the Association and some of the things it had done.

He then yielded the chair to President Brewer who called upon each present to give his ideas and suggestions. Some of those present reported their associations in a healthy condition, with interest among the members and of many things being accomplished. Others were somewhat lacking in activity and asked for the assistance of the national organization in stimulating interest.

Some of the many things brought out were: Need to sell the state and national associations to many of the abstracters. Some have the idea that an organization among the profession is not needed and others do not understand its purpose.

One of the best suggestions offered was that the state associations could work for a uniform abstract within their respective states. This would be conducive to better work and more satisfaction from examiners.

It was also suggested that the program of the National Convention be more informal, with more time for

discussion and not so many special addresses.

Many spoke on the need of the organization, and especially for renewed and increased activities on the part of the state associations.

Friendly relations should be developed between the title men and their kindred businesses, the realtors, mortgage brokers. It was also suggested that the title companies and abstracters in the various communities should endeavor to work in harmony and have a friendly relation with each other. An exhibit was on display and created much favorable comment. The work of preparing the questionnaire was commended and approved.

Much approval was also expressed of the plan of having an official of the National Association present at each state meeting.

One of the most unique suggestions was that made by Mr. McNeil of Michigan. He is a radio enthusiast and suggested that talks dealing with the principals and use of abstracts in a real estate transaction and other points of the title business be broadcast.

It was also suggested that the preamble of our constitution be printed on the directory and wherever there was a possibility of its being read.

It was shown that many state organizations were doing some real work. A great number reported that there was a need for their existence and that they had done many things for the title interests of their states. This was particularly true in legislative matters. Others had made arrangements with supply houses and were furnishing members supplies at big savings.

There were three subjects which were mentioned by every one present and the one most emphasized was the need for better acquainting the public with the title business, particularly with the abstracter and his work.

The second was for suggestions for advertising and the need for abstracters advertising.

The third was for facts and figures

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Title Guaranty & Trust Co.
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California-Pacific Title Insurance Co.

MARCH, 1923

**WOULD REQUIRE LICENSE TO
DRAW INSTRUMENTS OF CON-
VEYANCE, ETC.**

Bills requiring an examination for conveyances and a license before one could draw any instruments affecting real estate were introduced in several legislatures this year.

The bills were practically alike in that they required that before anyone could draw deeds, mortgages, etc. or instruments of writing effecting title to real estate he should pass an examination and be licensed. Some exempted any practicing attorney or automatically licensed anyone upon admittance to the bar.

In some respects this seems a mighty good thing and the principal is all right providing it would work in practice. There is always the question as to whether it is possible to legislate wisdom into people.

None of the bills passed or got very far in the intricate path of being made into laws. Practically all were killed in committee.

OBITUARY.

Word has been received of the death of George A. Bryant, well known pioneer title man of Napoleon, North Dakota. Mr. Bryant was a leader in

Prize Contest

The American Association of Title Men announces a contest for the best catch phrase or slogan expressive of abstracts and title insurance. A series of prizes will be awarded as follows:

For the best phrase or slogan describing an abstract or its use: First Prize, \$15.00; Second Prize, \$5.00; Third Prize, \$2.50.

For the best phrase or slogan describing title insurance or its use: First Prize, \$15.00; Second Prize, \$5.00; Third Prize, \$2.50.

The purpose of this contest is to find a catchy expression that could be used in advertising and which would help to popularize and familiarize the public with the purpose and necessity of abstracts and title insurance.

It should be short, snappy and expressive.

The contest is open to all members of the association or employees of firms belonging.

Get busy—think of something and send it in.

The contest will open May 15th and close July 4th.

All entries should be mailed to the Executive Secretary, and bear post-mark of not later than July 4th.

his community and a man in whom every one placed reliance and respect.

**S. H. McKEE WRITES UPON TITLE
INSURANCE.**

The last issue of "Money & Commerce" contains an article written by Mr. McKee, President of The Title Guaranty Co., Pittsburgh, which tells of the use and scope of title insurance, in a very interesting manner. The article describes the advantages and possibilities of title insurance and the points mentioned are cleverly emphasized by examples of local incidents.

**ANOTHER TITLE MAN HONORED
IN ROTARY.**

J. W. Woodford, member of the Executive Committee, has just been honored by being elected President of the Tulsa, Oklahoma, Rotary Club. This is indeed a compliment to Jim and the entire membership of the American Association may feel gratified at having one of its profession again selected as leader of such a club.

Many title men have been selected from time to time as officials of various clubs, organizations, etc. and the list is constantly growing.

We congratulate the Tulsa Rotarians on their wise selection, and Jim may know we are all proud of him.

**TITLE MAN PREPARES INTEREST-
ING PAPER.**

William A. Gretzinger, Title Officer, Republic Trust Co., Philadelphia, Pa., has an article in the last issue of "The Realtor's News," a monthly publication of the Philadelphia Real Estate Board, on "The Origin of Townships, Incorporated

Districts and Boroughs of the City and County of Philadelphia."

This is the first of a series which will run in subsequent issues until the subject has been covered. They will be of great value and interest to realtors, titlemen and land owners of that territory.

**USING ASSOCIATION'S EMPLOY-
MENT OFFICE.**

The Secretary's office has provided many offices with help during the past month. Several others were provided with lists of those wanting positions and no report received as to whether their wants were filled.

Those who want new positions or employers desiring help will do well to list their wants with the Secretary. The Association can undoubtedly be of help in either case. Right now there are many calls for help, so notify the Secretary if you want a new position or know of anyone who does.

Reports coming from all over the country indicate that business is on the increase and showing most encouraging signs. The universal expression of the answer in the questionnaire sent out last year regarding prospects for 1923 was that indications were for a better and increased business.

Many of the larger title companies in the cities report that 1922 was their biggest year. This is due to two things—increased patronage of a title company's service and a generally better business. Many companies report that January, 1923, was one of the best, and in some cases the best month in their history.

Evidence of this is further shown by the number of recent requests made for the office to furnish companies with names of abstractors.

DATES OF CONVENTION FIXED.

(Continued from page 1.)

on the Torrens Law, and for propaganda which could be distributed.

Everyone knows and feels the need for these three things. The first is especially evident, but is probably caused by the second. A great number of abstracters think it unnecessary to advertise, and not only do not know how to advertise the business, but do not want to or think advertising unnecessary.

Suggestions for advertising can be given, but the choice of the best mediums and those that will bring the best results are purely a matter of local conditions and each must decide upon what is best for his own community and particular conditions.

There is a constant demand upon the National Association for the third—that of furnishing Torrens information either for distribution or information. The Executive Committee took action upon this and such material will be compiled immediately and ready to be distributed when called for.

The summary of the whole expression is that the abstract business above all others needs to have an organization to promote its welfare and that there are an unlimited number of things necessary to be done. There is probably no other business so necessary and which plays a part in the business transactions of the country as that of the title company, and yet no other so little understood by the general public.

In return the National Association gave the following suggestions for the state associations:

To issue a bulletin or news letter occasionally; furnish members with a digest of court decisions; make an intensive membership drive; work for the adoption of uniform abstracts and certificates; urge members to attend the state and national conventions; support the Sustaining Fund of the American Association; change their name to conform and be uniform with that of the American Association and also to make their fiscal year the same; work with the Executive Secretary in setting dates of state meetings; keep the Secretary's office informed of happenings within their states; urge members to make use of the facilities and benefits of the national organization's office; urge members to join their local real estate boards and work with the realtors; issue a directory and place same in hands of all mortgage companies, etc., urging them to patronize members of the association, arrange for discounts on supplies, particularly typewriters; have cup contests for best abstract at state conventions.

The joint session closed with the pledge of the National Association to do everything possible to meet the demands made upon it and that its activities would only be gauged by the support given it.

All present were invited to attend

the meeting of the Executive Committee of the American Association to be held on the following day.

Dates of Convention Set at Second Day of Session.

Convocation details were arranged at the meeting of the Executive Committee, formerly called on the morning of the second day. Nearly all of the state representatives present were also present at this one. The 17th Annual Convention meets in Omaha this year. Our hosts will be the Nebraska Association of Title Men and local arrangements are being made by the abstracters of Omaha, and Henry J. Fehrman, President of the Title Examiners Section. Mr. Fehrman is most enthusiastic about the meeting and after presenting conditions, the days of the convention were fixed for Tuesday, Wednesday and Thursday, September 4-5-6. Omaha is one of the premier convention cities of the United States. It is conveniently located and accessible. The attendance this year should be the largest ever in the history of Association and it will certainly pay every title man in the country to attend.

The Committee expressed gratitude to Fred P. Condit, and Allen W. Stelle, of the Title Insurance Section for their work of last year in compiling the questionnaire. The co-operation of the Title Insurance & Trust Co., Los Angeles, also received an expression of gratitude as did those who voluntarily contributed to the expense of preparing this.

The Executive Secretary was instructed to give a report of the questionnaire through a regular issue of the Bulletin.

New Directory.

Plans for a new directory were made and the Secretary instructed to get full information as to form and cost of compiling this book. It was suggested that a large number of them be printed and placed in the hands of every realtor, mortgage broker and other users of abstracts and title insurance in the country.

Finances.

The finances of the Association were shown to be in a satisfactory condition, but it was easy to see that the increased demands upon the organization would call for more funds and that there would have to be many more contributions to the sustaining fund. Those who gave last year or who pledged for a two-year period were just as generous and prompt this year. There should be many more contribute to the fund this year though.

State Conventions.

There had been five state meetings since the last national convention and the exhibit had been on display and one of the national officers present at all but one of these. The Secretary had visited Missouri, Texas and Minnesota and would go to South Dakota from this meeting, while Presi-

dent Brewer had just come from the Oklahoma meeting.

Many state associations were planning on holding their meetings the next few months, and the committee expressed a strong desire to assist them in every way possible.

Change of Name and Fiscal Year.

One of the greatest needs of the association is that the fiscal year of it and all of the state associations should be the same. Uniformity in this is essential and a resolution was therefore adopted, asking that all state associations consider this matter and change to conform with that of the American Association, and that it should be from January 1 to June 1.

It is somewhat deplorable that the state associations have such a variety of names and that but few of them conform with that of the national association. Discussion of this point brought out the fact that possibly the name of the national body should be changed. A resolution was therefore passed that the matter be submitted to the state associations for expression and that it be presented to the convention at Omaha to change the name to "The American Land Title Association;" that all state organizations change their names to conform, and that hereafter no state be admitted to affiliation with the National Association unless designated as "The (name of state) Land Title Association."

Campaign for Adoption of Uniform Land Title Laws.

The matter of advancing the Association's Sixteen Proposals for Uniform Land Laws was given much interest. This is the biggest thing we could undertake and a plan was outlined for action. The Secretary was instructed to proceed immediately with this and have it well under way until the next convention.

The Sixteenth Proposal relating to the Licensing of Abstractors was stricken out as one of purely local character and not pertaining or being relative to the others. This is a matter of concern to the various state associations only and was never approved by the National Association.

Torrens Propaganda.

The Secretary reported that the biggest demand upon the Association was for Torrens information, both for study and distribution and that the Association could not adequately meet this demand, but that something should be prepared. Mr. J. M. Dall, of the Chicago Title & Trust Co., T. M. Scott, Treasurer and the Executive Secretary, were appointed a committee to prepare and issue this material so that it would be available upon demand.

Finance Committee Enlarged.

Argument was presented to show that the President and Treasurer should be added to the Finance Committee which was done.

Convention Program.

President Brewer announced that substantial progress had been made in

arranging for convention features, and he was accordingly given full charge of the program.

Announcement of convention matters will be given in each issue of the bulletin.

Prize for the Best Slogan.

Prizes were authorized for best slogans for abstracts and title insurance. Full details of this appear elsewhere in this Bulletin.

Everyone present expressed the need for more publicity for the title business. Expressive slogans help and have been a big factor in the advertising of various kinds of business. Something of this kind would help ours.

PENNSYLVANIA HOLDS SECOND ANNUAL CONVENTION.

The Pennsylvania Title Association met in annual session March 14 and 15, at the Penn-Harris Hotel, Harrisburg. It was a two-day session, extending from noon of one day to noon of the next, with a banquet and program on the evening of the first day.

President Brewer was representative of the American Association and was the principal speaker at the banquet.

Some of the addresses on the program were: "Mortgages," by Mark R. Craig; "Title Officer," Potter Title & Trust Co., Pittsburgh; "Title Insurance, Its Practical Aspects," Harry C. Bare, Title Officer, Merion Title & Trust Co., Ardmore; "The Revised Price Act," Pierce Mecutchen, Title Officer, Land Title & Trust Co., Philadelphia. There was also much discussion on local problems, such as reports on the Banking Code, Legislation, Uniform Practice and Procedure and Uniform Title Policies and Rates.

The Magazine, "Money & Commerce" will report this meeting fully.

SOUTH DAKOTA CONVENTION, FEB. 12.

It was also the good fortune of the Executive Secretary to attend the meeting of this association held in Mitchell, on the date mentioned above. Here again the attendance surpassed expectation and a most enthusiastic session resulted.

It was strictly an informal affair called to discuss immediate conditions and to formulate plans for increasing interest in the Association and to hold a more elaborate meeting later in the year. South Dakota affords an opportunity for a real state organization. Every abstractor in the state should fall in line and not only join but boost the program it will outline.

This is another one of the states where there is a law regulating fees and allowing the county officials to make abstracts.

Erastus Cornell of Highmore and Robert Clisby of Parker were re-elected President and Secretary, respectively.

MINNESOTA STATE MEETING ONE OF MOST INTERESTING.

It is the great pleasure of the Executive Secretary to attend the annual meeting of the Minnesota Abstractors Association held in St. Paul on February 5 and 6. The attendance was large and not only the number, but the enthusiasm of those attending was certainly gratifying.

Our good friend Henry Soucheray of the St. Paul Abstract Co. was host, which is sufficient to say that every one was made to feel at home.

Past President W. H. Pryor gave the opening talk on the American Association, its purposes and what it could do for the Title Men. Other subjects discussed were "The Value of a Plant and What It Should Earn," by A. W. Thompson, of Preston; "An Abstract of Title Nationally Defined," by E. D. Boyce, of Bemidji; "Are Abstractors in Minnesota Bound by the Statutory Fee," by Chas. L. Alexander, Fergus Falls, and an informal address by the visiting Executive Secretary.

The abstractors of this state have many problems to work out and improve, and the meeting was very much taken up by the discussion of these things. Minnesota is one of the few states where there has been a great deal of legislation regarding title matters and in regulation of those engaged in the abstract business. It has a Torrens Law, and two laws regulating Abstractors fees. One is for the work of the private abstractor, passed many years ago and setting the maximum at thirty-five cents per entry. The other is applicable to Registers of Deeds and sets his fee at twenty-five cents, and also requires that the Register shall make abstracts when requested to do so. This puts the public official in direct competition with the private companies. One of the things presented at this meeting was the matter of introducing a bill to the legislature raising this fee of the county officials. However, it was wisely decided that this year especially, it was not advisable to attempt to get new legislation, especially when asking for an increase of any kind.

It was also generally brought out that changing times had demanded that a better abstract be made than prescribed by the old statute and that a fee commensurate with the service rendered could well be charged and people were willing to pay for the higher service.

Mr. Soucheray was re-elected President, and Mr. Boyce, Secretary. This was a real compliment to the good work these two men have done in the past. The membership was tripled last year and many real things accomplished. Mr. Boyce has been a real worker and we will have to give him credit for giving so generously of his time and work. He gets out a most attractive bulletin every now and then and uses his office multigraph and force in doing so.

One of the most interesting parts of the meeting was the cup Contest

for the best abstract. These were compiled from a list of sample instruments gotten out by the St. Paul Land Bank. Mr. Wergedahl, title examiner of the Capital Trust and Savings Bank, gave a review of the abstracts and opinions thereon. Prizes were given by the Land Bank, and the spirit of that institution in sponsoring such a contest is to be highly commended. First prize was won by the Beltrami Consolidated Abstract Co., Bemidji; second, Mary G. Andre of the Todd County Abstract Co. Long Prairie, who received a copy of Warville on Abstracts; third, The St. Paul Abstract Co., St. Paul, honorable mention was also given Pine County Abstract Co., Pine City and Koochiching County Abstract Co., International Falls.

Among the things to be undertaken this year are: Another cup contest; securing of an early decision in test case now in court relative to taxation of abstract plants; improved monthly bulletin; digest of court decisions affecting real estate and publication of same through Monthly Bulletin; division of state into districts and campaign for members and closer relations with the American Association of Title Men.

At the request of the Executive Secretary, the Association voted to take whatever action might be asked of it in changing its name to conform with that of the American Association.

A committee was also appointed to outline a suggestion for the adoption of a uniform form for abstracts in the state.

There probably has never been a meeting of abstractors where there was ever more interest shown than this one. Those present seemed to realize the necessity for united action for progress and development of the profession and a willingness to give of time and thought in working for it.

OKLAHOMA HAS ENTHUSIASTIC MEETING.

As is the custom, this live organization held another good annual convention in Oklahoma City, February 5 and 6. Ray McLain of The Central Title & Investment Co., was host to the gathering.

President Brewer was present as the representative of the American Association of Title Men, and gave an enthusiastic talk on the association, the need for it, and its needs.

Other guests were Ben C. Love, President of the Texas Association and Lewis D. Fox, of Fort Worth. Mr. Fox gave a talk on "Abstracts of Automobile Titles."

The Executive Secretary was also scheduled to attend, but could not be in Oklahoma City and St. Paul on the same day so he sent a proxy in the form of a written message. It was just a short message complimenting the Oklahoma Association on being the best of the state associations. Lewis Fox spoiled the game by telling it was the same printed message sent to all

meetings where the Secretary could not attend, and the same things as told to the Texas convention last year. It was all right to talk that way, but how did Lewis know it when he did not attend his state meeting last year?

The two days program was taken up with addresses on many interesting subjects and discussions of local problems. There were also special luncheons and evening entertainments.

A resolution was adopted endorsing the American Associations program for the adoption of the Sixteen Proposals for Uniform Land laws.

Roy Johnson, who has served so faithfully the past few years as Secretary, was elected President for the coming year, and H. C. Ricketts of the Guaranty Trust Co., Muskogee, Secretary. Walter Thompson of Durant was re-elected Vice President.

The prize abstract in the contest for the trophy awarded by the Title Guaranty & Trust Co., Tulsa, was won by The Cotton County Abstract Co., Walters.

Ray McLain, retiring President, was continued in active service by being given the job of editing and publishing the Monthly Bulletin of the association.

FRANK C. HACKMAN, EDITOR AND AUTHORITY ON TITLE QUESTIONS.

An expression of commendation should be given to Mr. Hackman for the excellent work he is doing in editing the title section of "The Lawyer and Banker." A series of invaluable articles on title matters have appeared since Mr. Hackman has been editing this part of the magazine. The ones on "Federal Liens," "Lis Pendens," and "The Insurance and Operations of the Torrens Law" have been especially worthy of the highest praise. They have been exhaustive of the subject and presented every phase of the matter.

Mr. Hackman is a student and his work may be considered to be an authority. He has the gift of presenting every detail and yet expressing things in such a manner as to hold the reader's interest.

The writing of articles on title matters is his hobby but the title men of the country who read them are reaping the benefit of it and we may feel grateful for having one who is preparing such valuable information on matters of importance to our profession.

Mr. Hackman is associated with the Seattle Title Trust Co., Seattle, Wash.

MAGAZINE PRESENTS CALIFORNIA TITLE MATTERS.

"California Real Estate," the official journal of the California Real Estate Association, devotes a section to the California Title Men and has been presenting most interesting and worthy articles on title matters. Cooperation from publications of this kind are sure to bring results of mutual profit.

BILL TO FIX LIABILITY OF ABSTRACTERS.

The following bill was introduced in the Oregon Legislature:

Thirty-second Legislative Assembly—
Regular Session.

SENATE BILL NO. 48.

(Reprint)

Introduced by Senator Moser and read first time January 19, 1923.

A BILL.

For an act relating to the liability of makers of abstracts of title to real property.

Be it Enacted by the People of the State of Oregon:

Section 1. Any person, firm or corporation who hereafter certifies to any abstract of title to any land in Oregon, shall be liable to any person, firm or corporation for all damages sustained by any such person, firm or corporation, who, in reliance on the correctness thereof, acts thereon with reference to the title of such land, and is damaged in consequence of any errors, omissions or defects therein, regardless of whether the abstract of title was ordered by the person, firm or corporation so damaged. Nothing herein shall be construed to prevent the maker of any abstract of title to land to limit such makers' certificate to such abstract the liability thereunder to any person, firm or corporation named in such certificate, but such limitation of liability must be expressly set forth in such certificate.

This act shall not be construed as any legislative declaration as to what the law was prior to its enactment.

Last reports were to the effect that it would probably fail in passage.

WHO HAS THE TITLE?

The following was part of an ad of the Title Guaranty Co., Pittsburgh, Pa., appearing in "The Pittsburgh Realtor," weekly bulletin of the Pittsburgh Real Estate Board:

"The Timber Lot.

"The other day a farmer came meandering down the street, He landed in our office and knocked us out complete.

He 'had a patch o' timber that the title to wan't right

An' he didn't want no lawin' and he didn't want no fight.'

He told us of his family, his corn and oats and stock;

Of the neighborhood in general, from 'the store' to 'half-way rock.'

Every history, every romance, every reminiscent thought,

Seemed somehow to be connected with that measly timber lot.

He said in numerous other words—and incidentally on the side—

That the land was duly entered by a man named Joel Pride,

Who traded for some oxen, to a preacher—Parson Brown—

Who married a 'grass widder,' to some sixteen children bound.

That Brown, who rode a circuit, turned up missing one fine day.

And his widow wed a bigamist, who mortgaged the land away.

The land was sold thro' 'chancery cou't' at a vendue held in June,

A greedy judgment creditor, redeemed three months too soon;

That under a scire facias ex, the land was sold again;

That one-sixteenth was then bought up by a tax fiend with a wen.

The widow of Joel Pride turned up, and claimed her 'dowery right;'

That she, and her that was Mrs. Brown, had a regular knockout fight,

The land went into courts again, the lawyers claimed their fee;

The minor heirs of old man Brown filed an intervening plea.

Decrees were rendered and set aside, the judges went insane;

The docket was filled for forty terms, with So-and-So v. 'Same.'

Things finally came to such a pass, the parties camped on the ground;

The neighbors came and fought for lots, like they do in a Cherokee town;

The sheriff went down to drive them off, and gobbled an acre or more;

The case went up to the U. S. court, but was never given the floor.

Years rolled by and the squatters fought and poisoned each other's wells,

Shot thro' windows at dead of night ('twas like living in fifteen hells).

And then the Civil War broke out, and captured all the men;

Some were smote on the battlefield; some were sent to the 'pen.'

The women and children drifted away, the place was deserted by all—

All—save 'Uncle Si' Hickory—dead twenty-five years next fall.

Next of kin to 'Uncle Si' was his half-brother's adopted son,

They wrangled 'bout who was owner—divorced—he sold the land;

Who married a maniac daughter of a niece of Parson Brown.

She brought a suit in ejectment, but a guardian took a hand;

'He prayed an order' to sell, lands unprofitable, et cet.

But a cross-bill filed set forth the fact that some one else said 'Nit.'

The coal was mined, the top fell in, brick men stole the clay;

Eventually the hole in the ground by a cyclone was swept away.

In the interim the river rose and a submerged island came,

Got lodged against the section line, and a steamboat 'jumped the claim.'

'Now the owner of the steamboat,' said the farmer unto me,

'Died o' yeller janders in the year o' seventy-three,

I've been livin on the premises—possession—durn my skin!

Still, I'd like to know, by hooky! Who the dad-burned title's in.'

That doctrine about being our brother's keeper is all right except that we always seem to be the brother and never the keeper.—[Ohio State Journal.

REASONABLENESS, POPULARITY, AND PRACTICABILITY OF TITLE INSURANCE.

By A. C. Streitwolf, President, The
Middlesex Title Guarantee & Trust
Co., New Brunswick, N. J.

The value of title insurance is an educational study. Educational in the sense that until you are aware of all the apparent risks and hazards which may involve a title, you cannot fully appreciate the necessity for such insurance. It is for this reason that a title company entering a new field finds it difficult to establish a clientele. Such a company should first endeavor, through an educational campaign, to convince the general public of the real need, necessity and importance of title insurance.

The importance of such insurance is the protection it affords to the owner or mortgagee against defects, liens, encumbrances, frauds, forgeries, etc., and most generally serves to establish the marketability of the title in cases where there are defects and irregularities existing in the early title.

Title Companies in the Central and Western States, as a general rule, do not insure the marketability of a title, but most companies in the Eastern States do, and in some instances define the scope of the term "marketability" in the policy. In a state where it is customary to insure the marketability, it is desirable that the companies within such a state act unitedly on doubtful and unsettled questions. This is done in New York City through a conference board of title companies consisting of learned attorneys who render an opinion on submitted questions by the companies, copies of which questions and the board's opinion are sent to all the companies, who follow the ruling. The importance of united action where companies insure marketability is realized, for you may have one company insuring the title and the second company later refusing it and thereby a possible rejection by a purchaser, followed by suit by the owner for damages against the first company on its guarantee of marketability, and from this result such a situation destroys the practicability of title insurance and likewise diminishes its popularity.

Objections may be raised by counsel for a vendee who is anxious to be relieved of a contract of purchase, and acting under counsel's instructions refuses a deed and takes his chances in either defending an action for specific performance, or instituting an action at law to recover the return of the deposit and damages, hoping he can satisfy the trial judge that the objections raised create a doubt, or a cloud upon the title. Such a vendee does not want the property; he does not want protection of title insurance, or protection from the questions raised by his counsel. He seeks to be relieved of his

contract and to procure the return of the original deposit, and his counsel tries to find irregularities in the record title. The party selling the property (generally referred to as the vendor under the contract) may have title insurance and full protection against the questions raised by such vendee, but the court cannot compel the vendee to accept a like guarantee of the company or any other form of security against any defect or irregularity that appears as a cloud on the title. Consequently while full protection is accorded the owner from any financial loss arising out of such defects or irregularities under his policy of title insurance, it is possible that such an owner may "legally" have an unmarketable title and yet marketable to anyone who has sufficient faith in the financial responsibility of the title company to be willing to accept its guarantee, which it issues in the form of a policy of insurance. If such a company is financially sound, a vendee invariably accepts the company's policy against such reported liens or defects, and it is in this connection that title companies are constantly making marketable titles; marketable in every sense of the word, except possibly as against a vendee desiring to be relieved of his contract.

All questions of defects, irregularities, or encumbrances against or affecting a property give rise to a single question, namely: The marketability of the title. A possessory title may be such that by no known process can the record owner, or his successors in interest, be evicted, or his, or their right to possession of the entire premises disturbed, and still such a title may be unmarketable. No one will knowingly part with full value in acquiring a property if such purchases carries with it the possibility of the purchaser being called upon to defend any litigation concerning his title. This possibility may be ever so remote, but if it exists at all it immediately affects the marketability of the title. These possibilities of litigation may be predicated upon claims unknown to exist to the possessors of them; may be based upon rights acquired through succession or heirship, of which the possessor has no knowledge; may be founded upon old claims in the early title, which are practically nullified or destroyed through adverse possession, and may arise and exist from countless causes, but if the examiners of a title company are reasonably certain in their opinion of the law based upon the facts disclosed in each instance, that the company can successfully resist any attempt made at any time by such claimant, the company should assume the risk in place of the purchaser, by guaranteeing the purchaser from any loss or damages arising therefrom. Title companies, in the performance of this undertaking, are rendering a civic service. They are making titles in a municipality marketable through their guarantee, which otherwise are unmarketable.

The best illustration of such civic service has just recently been rendered by The Middlesex Title Guarantee and Trust Company, of New Brunswick, N. J., of which company I am President, when it perfected and made marketable about four hundred abandoned titles, consisting mostly of lots in the city of New Brunswick, against which unpaid taxes and tax liens had accumulated for thirty and more years, and in some instances dating back as far as seventy years. These titles were perfected through strict foreclosure in the Court of Chancery of New Jersey, process being directed in most instances against the named record-owner, his heirs, devisees and personal representatives. (For authority for such process see Realty Company of New Jersey, vs. Burghardt, 91 N. J. Equity, page 120). As far as the record discloses, it has been the first and only attempt by any city, borough or municipality in the State of New Jersey to perfect or make marketable its abandoned titles by strict foreclosure of its tax lien certificates.

Upon perfecting these titles the city immediately offered the properties for sale and with it the guarantee of the title by our company to the purchaser, which sales were largely attended and the properties sold at prevailing market prices. Without the company's guarantee, no one would have paid the market price for any of the properties and it is questionable whether anyone would have purchased them. Buildings are now being erected on these titles and the city will from now on be in receipt of current taxes from them, which it would not have otherwise received. This serves to illustrate how title companies aid a community in perfecting unmarketable titles by its policy of insurance, guaranteeing the owner against any condition, defect, encumbrance or encroachment, except such as are specifically excepted in its policy.

The address of Harrison B. Riley, President of the Chicago Title and Trust Company, before the Pennsylvania Title Association on May 23, 1922, impressed me more than anything else of what is, and should be expected of title companies, fortifying his statements by the business policy of his own company. He said:

"A company which desires never to incur a loss is, in my judgment, of little aid to its clients or the community."

And again he said.

"A title company which sticks at every possibility will surely lose business which it might otherwise obtain, whereas the acceptance of risks of the character which I call 'possibilities' will very rarely result in litigation, and less rarely in loss. People are not generally inclined to employ counsel and incur the trouble and expense of litigation where the result is fairly doubtful, consequently a very small percentage of anticipated troubles ever materialize."

And again he said:

"If the title company takes the position that it is more economical to refuse risks where there is a possibility of trouble, I am quite certain it will not grow the way it should."

I fully concur with Mr. Riley's statements. Title companies are offering a great field for service when they will assume a risk where its examiners possess the opinion that the company can successively resist an attack arising out of a possible claim or lien. Some title companies believe that the assumption of any such risk is an additional hazard for which an extra premium should be paid in proportion to its character. It is better for a title company to take such a position, than to insist upon excepting liability therefrom. This broad statement, however, has its limitations.

Frequently it is reported to me to have been said in conversation that after eliminating the exceptions in a title policy the holder has but little protection. Such utterances are untrue and emanate from sources of jealousy and hostility to title companies. All title companies are constantly passing defects and irregularities in titles, but if there is a serious defect, or unoffered proof on a vital question, a title company will most likely except liability thereof in its policy, but before doing so it reports the true situation to the vendee or the mortgagee, and it remains entirely with such party, or his lawyer, whether he agrees to act with the known condition to defect fully disclosed by the company. A title company conceals nothing, but to the contrary discloses all known conditions in its report, and on or before the date of closing the title its examiners pass or except the various items appearing therein.

The popularity of title insurance depends entirely upon the nature of the community and is consequently local in character. Where lands are not great in value, and exchanges are not frequent, it competes with certain lawyers within its locality who are financially affected by the activities of a title company. To cultivate the bar in such localities to the extent of having them advise their clientele to procure title insurance is a difficult and almost a hopeless task. Popularizing title insurance in such a community can only come by the client being educated to the need and protection that title insurance offers as against a lawyer's opinion. Every lawyer realizes that title insurance is constantly growing in popularity and it is only a question of time when every vendee and mortgagee will insist upon it, as is now being done in the city of New York. Big values create a demand for title insurance and the popularity of such insurance is thus assured; otherwise a greater and more painstaking care in passing doubtful questions, irregularities and petty objections in titles must be manifested and if consistently followed such insurance will be sought and accepted as readily as other forms of insurance.

Title insurance is practicable. Hazards or irregularities in the early or late title are unknown to the average purchaser or mortgagee who leave such matters entirely to the judgment of their counsel and who may or may not inform them of any perplexing questions arising in the record title, but men who have had experience in business affairs find it is prudent to spend a single premium to a title company for the protection afforded by title insurance. Title insurance never originated through any commercial design for revenue; circumstances surrounding the sale of large values and the acceptance of a lawyer's opinion on doubtful questions brought about the necessity for it. I believe it was in 1880 in the city of New York, that a group of lawyers conceived the necessity of title insurance and organized the first company, since which time the popularity and practicability of title insurance has grown tremendously. It will continue to grow, but it can be nursed to a greater demand by an intelligent explanation by every title company of the real need, necessity, importance and protection it serves, and thereby educate the public to the advisability of procuring it.

SOME WEAKNESSES OF THE CANADIAN TORRENS LAW.

Torrens advocates get quite a "kick" out of eulogizing the Canadian Torrens System. They love to tell the story of its beauties but seldom mention the weak links. The following shows some of the exceptions in the form of certificates of indefeasible title. This certificate of indefeasible title is void as against the title of any person adversely in actual possession of and rightly entitled to the hereditaments included in same at the time of the application upon which this certificate was granted and who continue in possession, and is subject to—

(a) The subsisting exceptions or reservations contained in the original grant from the Crown.

(b) Any Provincial tax, rate or assessment at the date of the application for registration imposed or which may thereafter be imposed on the land, or which had theretofore been imposed and which was not then due and payable.

(c) Any municipal charge, rate or assessment at the date of the application for registration imposed or which may thereafter be imposed on the land, or which had theretofore been imposed for local improvements or otherwise and which was not then due and payable, including any charge, rate or assessment imposed by any public corporate body having taxing powers over an area in which the land is situated.

(d) Any lease or agreement for lease, for a period not exceeding three years where there is actual occupation under the same.

(e) Any public highway or right-of-way, water-course, or right of water or other public leasehold.

(f) Any right of expropriation by Statute.

(g) Any *lis pendens* or mechanic's lien, judgment, caveat, or other charge, or any assignment for the benefit of creditors or receiving order or authorized assignment under the "bankruptcy Act," registered since the date of the application for registration.

(h) Any condition, exception, reservation, charge, lien or interest noted or endorsed thereon.

(i) The right of any person to show that the whole or any portion of the land is by wrong description of boundaries or parcels improperly included in this certificate.

(j) The right of any person to show fraud, wherein the registered owner or wherein the person from or through whom the registered owner derived his right or title otherwise than *bona fide* for value has participated in any degree.

TRADE PAPERS AND THEIR VALUE.

All trades, businesses and professions have their magazines and publications of various kinds, which have as their object the presentation and discourse of problems and matters devoted to a certain trade, business and profession. Some are the official publication of the organizations representing the various businesses. Others cover a more general field, but specialize on matters pertaining to a certain trade.

The title men have no official publication other than the monthly bulletin, but there are many journals that devote a department or part to title matters. These are worthy of consideration and will furnish much valuable matter. They are essential if one desires (as he should) to keep in touch with things pertaining to his business and what is going on.

The publishers should be encouraged in their work and supported by subscriptions. Investigate and find which best meets your approval.

Among them are "The Lawyer and Banker," New Orleans; "California Real Estate," Los Angeles; "Financial and Insurance News," Los Angeles; "Real Estate News," Chicago.

These all print worth while articles on title matters.

Spend Your
Vacation
this year in
Omaha, Neb.
Sept. 4-5-6
by attending the
17th Annual
Convention

REALTOR'S LICENSE LAW UPHELD.

The National Association of Real Estate Boards has gained its victory in their proposed License Bill, the validity of which was settled in the decision of the Supreme Court of the United States.

This means that the license laws as passed in Fourteen States already are constitutional and the realtors have accomplished their biggest single object in their campaign to elevate the dignity and standards of their business. This sounds the death-knell to the unscrupulous broker and the Jack-of-all-trades who dabbles in real estate. The National Association of Real Estate Boards has had a marvelous growth and accomplished wonders for its membership. A real estate man is now a "realtor" and instead of a business, his is a profession.

The following is taken from the New York Journal of Dec. 2:

"Realty License Law is Held Valid—Ruling of United States Supreme Court of Vital Importance to Fourteen States.

"The most notable legal decision directly affecting the real estate business ever rendered was made by the United States Supreme Court when it held recently that the Tennessee real estate brokers license law is in all respects valid. The power of the several states to regulate the real estate business by law is affirmed as a proper exercise of the police power under the constitution. The Tennessee law is declared to be valid in all of its provisions.

"The National Association of Real Estate Boards has been vitally interested in this case and through its General Counsel, Nathan William MacChesney, prepared the briefs and arguments which were presented to the Supreme Court. Officers of the association are elated with the outcome of the case and are now assured that as far as the courts are concerned, at least, the propriety and desirability of regulating the real estate business for the benefit of the public has been forever determined.

Law Was Upset.

"The Tennessee real estate license law was adopted in 1921 and was based upon the Model License Law prepared by the National Association in 1915. Some months ago, in a case known as R. W. Bratton vs. William Chandler, the United States District Court of the Western District of Tennessee held that this law was unconstitutional as being in violation of the fourteenth amendment of the Constitution of the United States and certain clauses of the constitution of Tennessee, and an injunction was issued restraining the Tennessee Real Estate Commission from enforcing it.

"Aside from the general questions involved, the court held the law to be void because in its opinion a man might be deprived of his lawful rights to engage in business without 'due notice and hearing.'

"Lower Court Reversed.

"The case was appealed directly to the United States Supreme Court,

which reversed the findings of the lower court. In its decision, which is technical in phraseology, the Supreme Court holds that:

"1. Regulation of the real estate business is constitutional.

"2. The Tennessee statute will not deprive any one of rights without 'due process of law.'

"3. Action under the statute is intended to be open and direct, not to be remitted in any part to secrecy, prejudice and intrigue.

"4. The statute is drawn with care to details and their importance to the business regulated and the persons who will desire to engage in it.

"5. The act construed as we construe it will take no power from the Commission necessary to the performance of its duties, and will leave no power with it that it can exercise to the detriment of any right assured to an applicant for a license by the Constitution of the United States.

"6. The decision of the lower court ordering a temporary injunction be reversed and the validity of the act be sustained.

"This decision is of especial importance to the fourteen States which now have real estate license laws. The general legality of these laws can no longer be questioned."

Those interested in this decision and wanting a brief of the same may secure it by writing to the National Association of Real Estate Boards, Consumers Building, Chicago, Ill.

PETERS COMPILES NEW BOOK ON "LAND AREAS."

V. E. Peters has issued a new book on land areas surveys and methods for determining the area of a tract. It is arranged in text-book form, and small yet arranged so that anyone can in a short time learn to figure any kind of a tract, regular or irregular, and not only determine the correctness of the survey but the acreage involved. Tables and rules are given which makes it a very simple matter.

Mr. Peters was a surveyor for twelve years and then turned lawyer, specializing for a long time now on titles. This career has given him a realization of the carelessness of drawing instruments and the need of knowledge in making descriptions, especially when irregular tracts are involved.

He has compiled several works on land and title matters, all of which have been most complete and covered a long-felt want. His "History of Ohio Lands" is especially commendable.

It is fine to know of one who spends his extra time and has as his hobby the compilation of information in books such as these. Progress of business and the work of those engaged in all branches is made easier by these text books compiled in the spare moments of others.

"No war unless the people vote for it," says a suffragette, but adds nothing about an invading people who don't wait to vote.—[Wall Street Journal.

WINNER OF AMERICAN LAW BOOK GRAND PRIZE.

L. G. McKinley, Examining Attorney for the Keokuk Trust Co., Keokuk, Iowa, is announced as winning both the prize for the State of Iowa and grand prize for the United States in the American Law Book contest for best answers to a set of legal questions.

Ralph Smith of Keokuk says Mr. McKinley is going to become a member of the Association soon and attend the next convention.

MINNESOTA ASSOCIATION ISSUES DIRECTORY.

This Association has issued its year book on "Who's Who Among Organized Abstracters in the State of Minnesota." It gives the county, town, company, and officials or manager of same. It also calls attention to the fact that better service can be had from members of the organized title men.

STATEMENT OF THE OWNERSHIP, MANAGEMENT, CIRCULATION, ETC., REQUIRED BY THE ACT OF CONGRESS OF AUGUST 24, 1912.

Of Monthly Bulletin, American Association of Title Men, published monthly, at Mount Morris, Ill., for April, 1923.

State of Kansas } ss.
County of Reno }

Before me, a Notary Public in and for the State and county aforesaid, personally appeared Richard B. Hall, who, having been duly sworn according to law, deposes and says that he is the editor of the Monthly Bulletin, American Association of Title Men, and that the following is, to the best of his knowledge and belief, a true statement of the ownership, management (and if a daily paper, the circulation), etc., of the aforesaid publication for the date shown in the above caption, required by the Act of August 24, 1912, embodied in section 443, Postal Laws and Regulations, printed on the reverse of this form, to wit:

1. That the names and addresses of the publisher, editor, managing editor, and business managers are: Publisher, Kable Brothers Company, Mount Morris, Ill.; Editor, Richard B. Hall, Hutchinson, Kan.; Managing Editor, Richard B. Hall, Hutchinson, Kan.; Business Manager, Richard B. Hall, Hutchinson, Kan.

2. That the owners are: (Give names and addresses of individual owners, or, if a corporation, give its name and the names and addresses of stockholders owning or holding 1 per cent or more of the total amount of stock.) American Association of Title Men, Mark B. Brewer, President, Texarkana, Ark.

3. That the known bondholders, mortgagees, and other security holders owning or holding 1 per cent or more of total amount of bonds, mortgages, or other securities are: (If there are none, so state). None.

4. That the two paragraphs next above, giving the names of the owners, stockholders, and security holders, if any, contain not only the list of stockholders and security holders as they appear upon the books of the company but also, in cases where the stockholder or security holder appears upon the books of the company as trustee or in any other fiduciary relation, the name of the person or corporation for whom such trustee is acting, is given; also that the said two paragraphs contain statements embracing affiant's full knowledge and belief as to the circumstances and conditions under which stockholders and security holders who do not appear upon the books of the company as trustees, hold stock and securities in a capacity other than that of a bona fide owner; and this affiant has no reason to believe that any other person, association, or corporation has any interest direct or indirect in the said stock, bonds, or other securities than as so stated by him.

5. That the average number of copies of each issue of this publication sold or distributed, through the mails or otherwise, to paid subscribers during the six months preceding the date shown above is. (This information is required from daily publications only.)

RICHARD B. HALL.

Sworn to and subscribed before me this 30th day of March, 1923.

(SEAL)

Guy W. Morton.

(My commission expires Feb. 18, 1925.)