Monthly Bulletin

of

The American Title Association

(Formerly The American Association of Title Men)

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Annual Mid-Winter Meeting, Officials and Committees, Chicago, February 8

Vice President Condit, Chairman of the Executive Committee, has issued the call for the annual meeting of the officials and members of committees of the National Association and the officials of the State Associations to be held in the Congress Hotel on February 8.

The annual meeting of the Executive Committee will be held on the following day, February 9.

Notices of this meeting have been sent to all officials, both state and national, and members of the various committees. This is the most important meeting of the association and a large attendance is desired. Plans for the coming convention, and the future activities of the association will be formulated. The past will be reviewed and discussed.

State officials are urged to attend and to bring their ideas, suggestions and problems for presentation and discussion.

The National Association wants to know the problems of the members and of the state associations and to receive ideas as to how it can be of further use and service.

Members of the various committees are urged to come so that they can get together, outline their work and do it.

Everyone who will attend this meeting will get many ideas and realize the meaning and value of the efforts of the associations, both state and national. One always leaves such meetings with a feeling that he has profited and gained a new conception of his business.

Last year was the initial attempt at such a joint session and the success of it was what prompted the move to make it an annual affair.

Even greater results will be attained by this one.

Publication of Directory Awaiting Results Membership Campaign

Many inquiries have been made relative to the date of the distribution of the directory.

This is dependent upon the campaign for members now being conducted by the various state associations. The object is to give as many as possible a chance to be listed therein and ample time will be given.

However the state associations should close their campaigns for members in a few weeks and the book go to press.

Chairman Johnson reports some of the states have done most excellent work and have results to show for it.

The rules for the cup offered by President Wedthoff for the state making the best showing will be published in a short time.

The distribution of the several thousand copies of a new national directory will prove to be the best thing ever done by the association to advertise the title business. It likewise will be very profitable to be listed therein.

Inquiries regarding it are coming to the secretary's office from many sources showing the interest in and need for such a directory.

The time limit for being listed in it will be announced soon, but it will not be far off.

The state associations should work harder than ever on prospects and those intending to join should not put it off a day longer in order that no names will be left out of the directory.

OKLAHOMA MEETING, MUSKOGEE, FEBRUARY 11 AND 12.

The above dates and meeting place have been decided upon for the 1924 convention of the Oklahoma Title Association. The meetings of this state association have been of a high order for the past several years and every member of the Oklahoma Association will find it profitable to attend.

A most attractive program has been arranged. M. P. Bouslog, one of the members of the Executive Committee of the American Association, will attend, and take part.

President Johnson deserves a large attendance by reason of his fine work of many years and also because of his splendid efforts as Chairman of the Membership Committee of the National Association.

RE-ORGANIZATION MEETING OF WISCONSIN ASSOCIATION, FEBRUARY 19.

Arrangements have been made to hold a meeting of the abstracters of Wisconsin and to revive the Wisconsin Association. The session will convene in Madison on the date mentioned above, Tuesday, February 19.

John T. Kenney has kindly consented to be host to the visitors in his town.

The meeting is on the day immediately preceding the State Realtors Convention, thereby affording an opportunity for many to attend both sessions.

This is an important event, and the abstracters of this state should give this their unanimous support. Wisconsin has produced many of the prominent title men of the country and keen interest should be taken in this revival of association affairs in this particular state.

A program will be arranged and some of the officials of the national association will attend.

MINNESOTA MEETING, FEBRUARY 18 AND 19 AT ST. PAUL.

The dates of the annual convention of the Minnesota Association of Title Men have been set for February 18 and 19 and will meet in the home city of President Soucheray.

This will be one of the most important meetings this association has ever held and every abstracter in the state should be present.

Many matters of importance will be discussed and it is probable that a joint session will be held with the state association of county recorders.

No investment on earth is so safe, so certain to enrich its owner as undeveloped realty. I always advice my friends to place their savings in realty near some growing city. There is no such savings bank anywhere.—[Grover Cleveland.

Abstracts of Land Titles—Their Use and Preparation

This is the first of a series of articles, or course of instruction, on the use and making of abstracts. This course of study or suggestions for uniformity of practice and making is presented by The American Title Association for the consideration and use of the members of the Association, those engaged in the title business and others who might be interested.

The objects are to give something of real use and benefit to the profession; to provide a basis for movements within the various states for uniformity in the making of abstracts; to be an aid to those who might want to learn the business or further fit themselves for such work; to be a reference work to employees of offices; and to be a stimulus to better and more efficient work.

This first article is an introduction and a brief outline of some of the facts and more interesting things of the business.

I.

The evidencing of land titles is done by three methods or practices in the United States—Abstracts, the Statement or Certificate of Title and Title Insurance.

An abstract is a history of the recorded title to a piece of land. A statement or certificate of title is just what the term implies—a statement or certificate by the title company that he title is vested in so and so and with further statements as to liens, encumbrances, irregularities, etc., that appear. A policy of title insurance is a guarantee by the title company that it will protect the insured against any loss to the amount of the policy from reason of any defects in the title not excepted in the policy.

Title insurance is the accepted medium in the larger cities throughout the country. Not only in the cities alone but in certain localities scattered over the country it is used almost exclusively.

Certificates of title are used in the southeastern states, New England, and in other parts of the East.

Abstracts are the custom in various sections all over the country and used exclusively in the Middle West, as well as in some of the southern and eastern states. They are the medium of evidence in more territory than any of the others. Title insurance and certificates are a development of abstracts but back of them even is the brief of the records—some form of abstract whether it be a formal document or the pencil notes of the searcher. There cannot be good title certificates or insurance without good abstracts.

As said before an abstract is a history of the title to a piece of land and the abstracter may truly be called a "land title historian." The history of a community, of a town or parts of a town and its peoples can be seen in an abstract. They tell of the founding, of development, of prosperity or failure. Between their lines are hints of a boom and the bursted bubble. The conveyances and court proceedings tell of the fight to hold—the winning or the losing; of pathos, dreams, ambitions and sorrows; of bitterness in families, broken ties and oftentimes of the family skeleton being forced out on display.

Years ago the laws of real property were more simple than now. There were few transactions or court actions. Titles were short and not complicated. The land in a community was owned by a small number and the wealth of the rich was in lands, houses and farms. A man's power, influence and financial rating were in terms of the amount of real estate he owned.

But today the land owners are many. The ambition of everyone is to own his home or a piece of land. The farmer wants the land he plows to be his own. Only a few of the large estate farms remain and the big ranches of the West are being broken up and owned by many instead of the rancher.

The march of progress and advance of civilization has brought more land owners, more deals in real estate. Communities begin to grow and have an abnormal growth. There is an army of people who make their living trading, selling and developing real estate.

Real property rights and ownership have always been considered and held as different from others and laws have been made since the beginning of time concerning the use, ownership and protection of land and land rights. Likewise governments have always recognized it a power of government to prescribe and keep up means of preserving them and a record of the events pertaining thereto.

Thus we have our present land title system, the best on earth, the most liberal, broad and free. Not perfect, but very practical and satisfactory to all to the extent that the necessary complexity and magnitude of detail will permit. Its only faults are those arising from the abuse and ignorance of those using it.

As each state retains the right to prescribe the procedure and the recording of transactions in real estate, there are many things to take into consideration. At first no abstracts were used but a person examined the records himself or had some one do it for him and tell him of the condition of the title.

This soon became a big task, expensive and unreliable. The brief or history of the records was evolved and has developed into the present day abstract. It is only the story of things, although some folks think that getting a good abstract means getting a good title. There are good abstracts and poor abstracts—good titles and poor titles. An abstract only shows—an examination of it tells.

The making of abstracts has been caught in the evolution of things the same as others that have endured the march of time and demands of commerce. Abstracts are here to stay. They play an important part in the business life of today and will continue to if those in the business do their part. The fact that they have stayed in the procession of progress and are more necessary today than ever is ample proof of their stability and practicability.

The increased movement in real estate, together with the increased complexity of titles and the demands of examiners for a competent and complete showing, have raised the abstract business to a science or profession requiring skill and training of such a nature as to earn the same respect and admiration for the abstracter as that commanded by any of the higher callings.

Complexity of titles and the demands for an evidence of them has revolutionized the business. The old-time abstracter or "chain maker" has had to become an expert—one possessed of skill and knowledge. No more can just anyone go into the business and expect to stay. He who enters the business expecting to stay must do so realizing that he must be skilled and that it will take time and a long period of conscientious endeavor to become proficient.

The skilled abstracter of today may be just as proud of his learning, craft and ability as the doctor, lawyer, engineer or any of the higher professions.

His work plays a big part in the business of the country. Deals of various kinds are started for sales or the borrowing of money but none finally closed until the title man has done his work—and he must do it quickly and reliably.

The abstract business as a business is a good one and its ups and downs compare most favorably with those of any other. The work itself is varied and interesting and while confining and strenuous there is no reason why it should be made a drudgery and the abstracter travel in a rut instead of on a track. It appeals to both sexes and can be called one of the preferred lines.

Probably no other profession can present any more reliable, dependable citizenry as the title profession. They deal with facts, must take nothing for granted and are continually taking more responsibility upon themselves. They know the trials of others—of their private affairs and have a most excellent opportunity to learn by observing the activities of their fellowmen.

Their business is a serious business and makes for integrity and steadiness of nature.

Their work is that of an artisan and as one with much experience said: "Show me one of his abstracts and I will tell you the kind of a man he is."

Those who plan to enter the work may have a feeling of great expectancy. They will find it interesting and dignified. But they should also have a spirit of humbleness. There will be lots to learn—so much so, in fact, that one's head will buzz at times and he will wonder if all of it can ever be absorbed. But when he does he is a trained man or woman, educated and skilled in a profession.

There will be discouragements, rough places in the road of learning because there are no schools or training places where one may first go to get the idea, the theory and then play making abstracts. It must be done by actual work on real orders and by first-hand contact with the genuine article. It is like the training of the apprentices of old. It is actual and practical but once learned something worth while.

There is a demand for skilled and experienced operatives in title work, for those who have stayed with it and know it. Like all others the bottom is jammed, the middle crowded but sparsely populated at the top.

Let no one tell you there is a limit to the business. Anyone who thinks that is so close to the tree that he cannot see the forest. The only limitations are those of the persons in it.

Service is the keynote of a successful abstract office and he who gives quick delivery of reliable work is the one who will succeed. Everyone waits until the day after he needs his abstract and then wants a hurry-up job. This will always be the prevailing condition so the abstracter must make up his mind to be alert, ready to work under pressure and strain and cheerfully accept it as a part of the business.

There is no trade, craft, business or profession today that presents the opportunities there are in the title game. Its possibilities have not been touched. Commerce is demanding more and better service from title companies.

People are fast realizing that the business is a specialty; that everyone and anyone has no business meddling in it and are therefore placing more work and responsibility upon the competent abstracter.

These demands must be met by those in the business.

II.

Where abstracts are used it is usually said that the "abstract-attorney" system prevails. This means that the abstract is prepared, should be examined by a *competent* attorney understanding the examination of titles and who then gives his opinoin of it. In places where this custom has been followed and where abstracting has been developed to an efficient degree, the titles have been put into a mechantable condition for the most part and there are but few titles that cannot be made passable or merchantible either by the work of the abstracter or by a simple quiet-title action in court.

There are two major objections to the "abstract-attorney" system. One is the poor quality of work and service rendered by those making the abstracts and the other is the delay, confusion and expense caused by the technical objections raised by the different attorneys examining them. These however are stock objections of disgruntled ones and are many times overdone.

But there is some ground for both, and the abstracters are to blame for the first and in a measure for the second. In the smaller places and communities, there is not a large amount of business and oftentimes so many dabble in the making of abstracts that no one can specialize in it and make a living. In others every real estate man, lawyer and ex-county official make abstracts and these things all make for inferior quality of work and poor service.

The solution of both problems is within the power of the abstracters themselves. The business life of today is crying for more expediency in the closing of real estate deals and users of abstracts are fast learning there is a difference between competent and incompetent abstracters. It is the same old story of the survival of the fittest and he who sticks it out and strives to improve and give better service will win.

And just as the public is learning the difference between a competent and incompetent abstracter, so are they learning the difference between one able to pass upon land titles and one who is not. Title law is a special branch of the legal profession, and it is rapidly becoming realized.

Improvements in the methods of examiners cannot be expected until abstracts have been developed in the highest degree.

III.

The Abstract of Title is a big part of our present title system and is the only method used in a large number of places as an evidence of title. In those it has been developed into a high state of efficiency and is satisfactorily serving its purpose.

The development of them has been brought about by the increased demand for something better and the natural initiative and ambitions of those in the business. Offices have been the only places of learning or training and as a result there are almost as many forms and systems used as there are those in the business.

Other influences upon their growth and development and variety of form have been the different laws of each state and local conditions and requirements, particularly those of users of abstracters and the pet whims, requirements and individual demands of the attorneys and examiners.

The authors, knowing these things full well, beg of your leniency and broadmindedness in the ideas and purposes of this attempt. The whole aim and thought has been to be practical and to present a standard or idea that is basic, granting and knowing full well that local conditions, requirements and laws must of necessity prevail and influence the make-up of abstracts in each particular territory.

So far there has been no effort to provide a course of instruction in the making of abstracts and no attempt made at some prescribed uniformity of method. However, there is no reason why some uniformity in general and why in the different states, particularly, abstracts could not be made along some standard of practice.

There are theoretical, practical and impractical abstracts, legal, illegal, hideous and many other kinds.

No attempt is made here to go into the legal phases of abstracts or the abstract business. There are already several books on abstracts and the examination of them that have been ably prepared by those desiring to present the thing from a legal standpoint. The whole aim of this series has been to keep away from theory and the legal angle of the thing.

The conclusions drawn and the things prescribed are therefore of a practical nature.

Those who have prepared this series are practical titlemen who have come into contact with the problems and influences of the business, both those outside and within the office doors.

They present this to you not to dictate, to revolutionize or cause consternation, but as a part of the big program and work of The American Title Association in suggesting a practical, usable standard of methods and ideas. Something for you to study, to think over and make as much application of in your own work as local conditions will permit.

(To be Continued.)

THE ASSOCIATION WILL SUPPLY YOU WITH EXTRA BULLETINS.

It was announced in last month's Bulletin that the association would be pleased to send extra copies of the Bulletin to employes of offices, different members of the firm, etc. Many have written for them, some wanting a quantity in bulk, others asking it be sent separately to individual addresses.

Others wonder if they could get as many as five, six, etc., saying that they do not want to impose upon good nature and wonder if they are asking too much.

You cannot impose upon the association by asking it to be of service to you to any extent, and you will not be asking too much to request any number of Bulletins wanted.

It is only a source of pleasure and gratification to know that you can be supplied with such things and that the association can be of use and value to you.

Just let your wants be known.

Title Insurance Service to Interior Counties Being Developed

Title insurance is the last development in present day systems of the evidencing and passing of title. In some places it is used exclusively while in others it is as yet unknown and there would have to be an educational campaign to induce the public to use it. In other districts there is an open field for its introduction and it would soon gain in popularity.

The laws of the various states require that a company to issue title insurance must have certain capital and be either under the trust and banking or insurance code. This capital is usually a large amount and a company would have a difficult time to support such an investment while endeavoring to popularize title insurance. In many places such a company could not be supported in any case.

There is no state in the country however that does not have one or several cities large enough to maintain and support an adequate title company. Most of the larger cities already have them and there are but few states where there are none.

A few years ago a middle western company enlarged its field of operations and began to issue mortgagees' policies in any county where its mortgage company clients operated, which included several states. An eastern company also entered the field and began to underwrite the titles to the security of loan companies all over the United States.

The natural development of this was to also write owners' policies and thus the first steps for a system of making title insurance available to every county in the country was started.

It was realized however that the service must be speedy and some plan must be worked out to quickly issue policies and give immediate delivery.

This of course must be on the plan that the work should be done through the abstracters in the various in the various counties. This meant that some abstracter must be selected, his work and personal integrity be such as to fill necessary requirements and that he be empowered in some way to do the necessary title work; that an examiner be selected to pass upon it and that the abstracter then execute the policies on behalf of the company.

This system has been developed in at least two states and is working in a manner more satisfactorily even than expected.

California, ever progressive, and whose business interests are always alert and keen, took the initiative and now has title insurance available in nearly every county and the parent companies are enthusiastic in their praise of the success of their operations in the interior counties.

Kansas soon followed and now the abstracters of every county in that state can have title insurance connections with a home state institution. The plans used in the two states are almost identical in details.

In California there is one company organized with the primary object of underwriting the titles of the different counties and now operates in over twenty counties. Other companies in the larger cities are making arrangements along the same plan with the abstracters in surrounding counties and making this service possible to them.

In each state the interior company does the title work, makes the inspections and examinations at their expense and the premium is divided between them and the title insurance company. In California this is on a graduated basis, regulated by the amount of the policy. In the Kansas instance the company takes a fixed percentage of division in any amount.

The immediate delivery of the policy is made possible by some member of the abstract company being empowered to execute the policy on behalf of the guaranty company. The abstracter is furnished with all necessary forms, blanks, politics, etc., and executes them for the company. In California the abstracter is made an assistant secretary, with power to execute policies, while in Kansas the scheme used by bonding companies is employed where the abstracter is given a power of attorney and executes the policy as the attorney of the company.

Contracts are made between the title company and the interior title company providing for the course to be pursued in the conduct of the business, division of premiums, setting aside of guaranty fund, indemnifying of the underwriter, etc. And thus have great steps been taken in the development of title insurance service whereby it may be made available in every county in every state in a practical, workable way.

So far these schemes have been successful and given satisfaction. Probably further developments along this line will be made but surely the title insurance business has a big field in this. There is a need and the field presents itself.

Title Insurance Section Conducting Advertising Exchange.

President Daly of this section has started a movement for all companies to send in a specimen of their advertising to the secretary, J. W. Thomas, of the Bankers Title Guarantee & Trust Company, Akron, Ohio. Mr. Thomas will collect the different advertising and start an exchange of it between the title insurance companies.

This will be one of the most profitable and valuable moves ever conducted by the title insurance companies and they are all urged to enter into the plan and co-operate with Mr. Daly and Mr. Thomas by sending samples of their advertising matter to Mr. Thomas.

CURATIVE STATUTES.

By C. Petrus Peterson, General Attorney, Bankers Life Insurance Co., and City Attorney of Lincoln, Nebraska.

(An address given at last Convention of Nebraska Association of Title Men.)

The difficulty of curative statutes is peculiar to our American form of government and arises from the fact that we place certain fundamental propositions as being beyond the control of law making bodies. You will remember that on a certain Sunday morning in 1620, King James I, on complaint of the Archbishop of Canterbury, summoned before him the chief justice of England because the court insisted upon the supremacy of law. It was suggested that inasmuch as the judges were servants of the king, they must carry out their master's wishes. To this Coke, who was then chief justice, replied that the King ought not to be under any man, but that he was under God and under the law.

This fundamental proposition we are sometimes inclined to forget as members of legislative bodies and become fretful when the courts declare certain legislative enactments to be incompetent to carry out the purposes set forth therein. We forget that while we have substituted majorities for the king, it still remains true that majorities, like the king, are under God and under the law.

The law in this particular case is formulated in the constitutional provision which provides that no person shall be deprived of his property without due process of law, or as we put it in ordinary parlance, that every man is entitled to have his day in court. Anxious as we sometimes are to find an easy remedy for apparent defects in title, we are all agreed, I believe, that we would not, even if we could, destroy this basic concept.

In discussing curative statutes, as applied to real estate titles, I believe it will aid to clarify the subject, if we bear in mind a distinction between title and evidence or notice of title. A title existing in fact can not under our system be destroyed by legislative fiat. A legislative enactment which undertakes to transfer title from one person to another is violative of our fundamental law. It is this situation which has resulted in curative statutes being regarded with suspicion. If curative statutes were confined to the manner of proof or the manner of giving notice by record or otherwise, they would be generally sustained and regarded as effective.

We are concerned, then, primarily with curative statutes having for their purpose the determination of the requisite proof of title. A curative act, as I understand it, is one intended to give legal effect to some past act or transaction which is ineffective because of neglect to comply with some require-

ment of law. In general it may be said that retrospective statutes are valid where the matter dealt with was within the legislative power originally, and where the result of applying the statute is in keeping with equitable principles which a court of equity would apply in a given case in the absence of statute.

The reason assigned by the courts in sustaining curative acts of this character, in the absence of impairment of vested rights is either (1) that the legislative act does not operate on the deed or contract of conveyance, creating a right not already in existence, but only operates to establish a mode of proof of facts of which an equity court would take cognizance independent of the statute, or (2) the reason heretofore mentioned and which appeals to me as more basic, that the legislature having discretion originally may dispense with a previous statutory requirement.

The following judicial decisions are illustrative:

Weeping Water vs. Reed, 21 Neb. 261.

Raverty vs. Fridge, 3 McLean 230.

Webb vs. Den. 17 How. 576.

Green vs. Abraham, 43 Ark. 420.

Johnson vs. Richardson, 44 Ark. 365.

Cupp vs. Welch, 50 Ark. 294; 7 S. W. 139.

Summer vs. Mitchell, 29 Fla. 179; 14 L. R. A. 815.

Steger vs. Travelling Men's Ass'n., 208 Ill. 236.

Hornet vs. Dumbeck, 39 Ind. App. 482.

Ferbuson vs. Williams, 58 Iowa 717.

Bresses vs. Saarman, 112 Iowa 720.

Grove vs. Todd, 41 Md. 633 also 252.

Gordon vs. Collett, 107 N. C. 362.

Barrett vs. Barrett, 120 N. C. 127; 36 L. R. A. 226.

Powers vs. Baker, 152 N. C. 718; 68 S. E. 203.

Barton vs. Morris, 15 Ohio 408.

Dengenhart vs. Cracraft, 36 Ohio St. 549.

Journeay vs. Gibson, 56 Pa. 57.

Shrawder vs. Snyder, 142 Pa. 1; 21 Atl. 796.

Ariola vs. Newman, 51 Tex. Civ. App. 617; 113 S. W. 157.

Downs vs. Blount, 95 C. C. A. 289; 170 Fed. 15.

Typical illustrations of this field are requirements of acknowledgment or attestation of deeds of conveyance. Inasmuch as the legislature had the subject within its entire discretion as to whether a witness should be required to a conveyance originally, it may withdraw the requirement by a curative act, thereby rendering the unwitnessed deed as effective for purposes of proof or for purposes of notice as it would have been had it originally been properly attested. In like manner the legislature had complete discretion as to whether an acknowledgment would be required. An unacknowledged deed or a defectively acknowledged deed may therefore be validated by a statute withdrawing the original requirement. (Weeping Water vs. Reed, 21 Neb. 261.) This, however, is subject to the limitation that where such withdrawal would divest the title acquired by a third person before the passage of a curative act who was not a party to the deed on which the defective acknowledgment was made, the statute would be inoperative (Finders vs. Bodle, 58, Neb. 57; Draper vs. Clayton, 87 Neb. 443.)

In the language of Judge Sullivan who is always fortunate in his expressions "one about to buy property is not required to anticipate future legislative action affecting the title offered for sale." (Finders vs. Bodle, 58 Neb. 57, 60.)

The legislative problem in seeking to set at rest outstanding possible equities is the same in this field as in the general field of unrecorded instruments. While the legislature can not destroy a right acquired by a third person by curing a defect in a previous conveyance, the legislature can prescribe a rule of evidence, for the future, including a statute of limitations on which we may safely, in my opinion, rely and operate.

As typifying what I have in mind, I refer to Chapter 223, Laws of Nebraska, 1917. This statute was drawn primarily with a view of fixing statutes of limitation and rules of evidence.

In the special field of abstracts of title we are dealing with evidence of title and with rights of purchasers relying upon the title record. A record title is merchantable if the record in and of itself, when produced in court, will fully establish, under the rules of evidence then in effect, a complete chain of title without outstanding equities. The principal efforts of curative statutes in this state have been directed toward rendering competent as evidence instruments of record which under laws existing at the time of the execution or filing of such instruments rendered the record incompetent. It is my opinion that to the extent that curative statutes have for their purpose to render competent as evidence the record of instruments or of the facts disclosed thereby the same are valid.

When we pass beyond this point of rules of evidence, we enter the field of statutes of limitation. Such an illustration is Section 5 of Chapter 223, Laws of 1917. This action is as follows:

"In all cases where the records in the office of the county clerk or register of deeds of any county show that a contract or bond for a deed affecting any real estate in said county has been recorded prior to January first, nineteen hundred seven, and such records disclose no performance of the same and that more than ten years have elapsed since such contract or bond by its terms was to be performed, then, unless action to establish rights thereunder or to enforce the same shall be begun within one year from and after the taking effect of this act, such contract or bond shall be deemed abandoned and of no effect, and the real estate therein described shall be free from any lien or claim on account of such contract or bond."

In this field we encounter the customary difficulties of all statutes of limitation, namely, that courts of equity do not regard statutes of limitation as establishing affirmative rights, but rather as statutes of repose. Or in the language of the ancient law writers, "a statute of limitation is a shield and not a sword." Outstanding interests in the name of minors or incompetents who are under disability are conserved by courts of equity in spite of statutes of limitation.

These curative statutes then become a basis for determining judicially a fact rather than establishing affirmative rights in and of themselves and for purposes of the title examiner it must be said that he can not give an opinion of a perfect title of record merely because a statute of limitation can be interposed under the condition of the record.

A different situation, of course, exists where a rule of evidence is prescribed by the legislature for future conduct, as, for instance, the rule laid down in Section 6 of the statute in question where it is provided that any conveyance of title to a trustee made subsequent to the statute without naming any beneficiary and without any declaration of the terms of the trust, it shall be conclusively presumed that the trustee has power and authority to convey the title. This is not a curative statute, but a prospective statute applying to new conditions and is as effective as any of the provisions in our recording acts. The statute being at the time of the transaction, the parties are bound by its terms. This is not curative but prospective in operation.

To summarize, then, we conclude:

1. Curative statutes which remove preexisting satutory requirement relating to manner of proof or record are valid and can be relied upon by title examiners.

2. Curative statutes prescribing new statutes of limitations while valid are ineffective in and of themselves to supply a record title since outstanding equities in persons under disability are not effectively barred.

3. In so far as statutes are intended to apply to future transactions, they are outside the scope of curative acts.

"If you want to know whether you are going to be a success or failure in life, you can easily find out. The test is simple and infallible. ARE YOU ABLE TO SAVE MONEY? If not, drop out. You will fail as sure as you live. You may not think so but you will. The seed of success is not in you.—[James J. Hill.

It isn't getting to the top that counts; it's staying there.

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CALIFORNIA REAL ESTATE—A FINE MAGAZINE FOR TITLEMEN.

"California Real Estate," official magazine of the California Real Estate Association, is one of the outstanding publications on real estate and title matters.

It is edited by the secretary of that association, Glenn D. Williman, Merchants' National Bank building, Los Angeles.

It also presents a fine example of cooperation between the realtors and titlemen. Mr. Williman devotes a great deal of space to articles and news on title matters and is always anxious and willing to receive things on title matters for publication.

He would naturally have to be a keen, live gentleman to have been selected as secretary of this great state organization of realtors and he may know the titlemen are appreciative of the spirit shown by him.

Every person who invests in well selected real estate in a growing section of a prosperous community adopts the surest and safest method of becoming independent, for real estate is the basis of wealth.—[Theodore Roosevelt.

Dues in Title Association Lowest of Any in Country

Hod Carriers Even Pay More to Their National Organization

One of the biggest, strongest and most influential trade organizations of the country recently made a survey of the annual dues of the various associations of the country, and found that the per capita dues of their organization next to the lowest in the country. Theirs were $3 and the hod carriers were next, with something about $2.65.

For some reason or other they missed ours, which is $2 a year, and we may well be proud that they did, because it might not be a thing to be proud of to admit that we paid the lowest of any, even lower than the lowly hod carriers.

By reason of this low fee and the comparatively small number of available members, the amount of money raised by dues is not near enough to carry on the business of our association.

The per capita dues through state association is but $2, while the direct memberships of the title examiners and members in states where there are no state organizations is $5.

Nearly all national organizations prefer a small membership fee but have some other plan for raising the necessary revenue to carry on a decent program of activities.

Some call it an endowment fund, others contributing membership, but the Title Association has its Sustaining Fund. This is a purely voluntary matter although there is a suggested schedule.

Some kind of a contribution or pledge from every member would make life a different matter for those directing the affairs of the association and provide sufficient funds to do the ever so many things which should be and that would bring great benefit to the members.

The organization is doing mighty fine work—every member is getting the worth of whatever amount he puts into it, but it would be great should a great many more pledge to the Sustaining Fund.

The benefits to the members are only limited to the amount of funds available to carry on the work of the association.

The fund has been supported very well in the past and most encouragingly this year, but there are so many things that could be done were there the funds to pay their way.

NAPA COUNTY TITLE CO. EXPANDS.

The Napa County Title Co., Napa, California, announces that the business of the Guarantee Abstract Company of Napa has been purchased by Napa County Title Company and will be operated by the new company under the name of Guarantee Abstract Company of Napa, until January 1, 1924.

The new company has been organized by John N. Mount, John T. York, and Frank J. Soares of Napa; H. A. Bewley and R. F. Chilcott of San Francisco.

The Napa County Title Company is affiliated with Western Title Insurance Company, and will issue policies of title insurance to lands in Napa County.

The business will be managed by Mr. Frank J. Soares, the able assistant to the late E. J. Drussel. Mr. John T. York, the vice-president, has practiced law in Napa County for forty years, and will act as attorney for the company.

Mr. John N. Mount, the president, has been actively engaged in the real estate business in Napa County for eighteen years, and is secretary and manager of the Napa Building and Loan Association.

STATE OFFICIALS SHOULD EXCHANGE MATTER.

It would be a fine thing if the various state officials would exchange bulletins, pamphlets, letters to members, etc. Several of the states issue some kind of a regular bulletin and it would be very beneficial if they were distributed to the other officials of state organizations.

The last bulletin (December) contained a list of the various state associations and the officials of each.

CALIFORNIA COMPANY CONTINUES TO EXPAND.

The Security Title Insurance & Guarantee Co. (Glen Schaefer's Company) announces the opening of the company's office in Visalia. The new building to be occupied is now completed and a public opening was held. Officers in charge of the Visalia branch are James Erskine, Vice President; R. G. Kemp, Assistant Secretary-Treasurer; George D. Smith and J. Pierce Gannon.

HOW THREE MEN DIVIDE THEIR INCOMES.

	Tightwad	Spendthrift	Thrifty Man
Living expenses	37%	58%	50%
Education	1	1	10
Giving	1	1	10
Recreation	1	40	10
Savings	60	0	20

FOR 1924.

WORK MORE.....REST LESS
THINK MORE.....TALK LESS
SELL MORE.....SPEND LESS

THE MISCELLANEOUS INDEX

Being a review of interesting matters presented to the Secretary's office

The initial appearance of the "Miscellaneous Index" was enthusiastically received. Several letters were received from readers all expressing favor of having this page in the bulletin.

It can be made very valuable in the exchange of ideas. Let the Secretary know of the little things occurring from time to time that would be good to mention here.

Building and Loan Associations offer a profitable field for title insurance business. These loan associations should be just as quick to grasp the value of title insurance as the life insurance companies. They would find it very convenient and profitable to require a policy with every loan.

Some of them do already, and in one of the larger cities a movement has been started by the association of building loan and savings companies to use title insurance.

The Texas Abstracter's Association, under the signature of their most worthy and energetic president, Tom W. Massey, sent a Christmas letter to members and friends.

It was a cordial season greeting on special holiday stationery, and was a very nice attention from the association.

The Pennsylvania Title Association will hold its 1925 convention in Atlantic City. A meeting at this popular summer resort should be an added inducement to attend.

President Potter has just issued a letter calling attention to this and other matters of interest to the title men of that state.

John Henry Smith and Jesse P. Crump of the Kansas City Title & Trust Co. were the speakers at a recent luncheon of the Real Estate Board of that city. They were invited to address the Board on title insurance.

Such things are fine not only because it shows the Realtors are interested in the title business, but also because an opportunity is afforded to explain and discuss the problems and relations of those in the two businesses.

The realtors organization has done some most commendable things not alone for their own business but for betterment of a great many influences on the commercial life of the country.

There is a very close relation between their business and ours and much good to both will come from a better understanding between the two.

There are several close friends of Charley White who have wondered as to from just what country he might claim to have descended.

He is Irish. There is no doubt of it now since we have learned his full name. It is Charles Callaghan White.

The Oklahoma Association recently issued a new directory that was given distribution generally throughout the state to loan companies, real estate firms, etc. The following commendable statement appeared on the first page thereof:

"The Oklahoma Association of Title Men an organization of abstracters and others directly interested in land titles whose purpose is to better the interests of its members by best serving the public; to make the preparation of abstracts of title more nearly uniform and perfect; to continually strive for the improvement of the present title system."

A most worthy purpose and it can be said the association is really accomplishing the things set forth therein.

Many times we think a better charge system could be worked out. Donzel Stoney recently made some expressions on this subject to a body of realtors in his state, California.

Mr. Stoney said:

"The question of who should pay for the policy of title insurance is one that I wish you would consider. We believe that the buyer is the one to pay. The seller has to pay the real estate commission, generally a mortgage also, taxes and other incidental expenses. Often he is under expense in clearing up objections to title. He gets no benefit from the policy of insurance. The buyer should pay for the title insurance just as he pays for his fire insurance. There are certain benefits that accrue to him as the insured. If he wants thereafter to borrow money on his property, or to change his loan, he can have the title run down to date for a nominal schedule expense and get a new policy of title insurance. If he dies, the insurance redounds to the benefit of his heirs or devisees. We use but one form of policy. We insure the owner, and if he has a mortgage on the property; like fire insurance, the loss is made payable to the mortgagee as his interest may appear. Should the holder of the mortgage want to sell it, the loss payable clause can be made to the purchaser without cost, unless the latter insists upon having the title run down and a new policy issued.

"Should the mortgagee foreclose and acquire the property, he occupies the position of the insured, and has the privileges of renewal or continuation rates while he remains the owner."

Banks have a habit of lending money upon real estate security without requiring any showing of title from the borrower.

This is especially true when a second mortgage or a deed is taken as security, and if the truth were known, many banks would have to admit that an abstract or certificate of title would have saved them from losses many times.

In these turbulous times some showing of title is most necessary and the titleman can secure business by a campaign, either by mail but more preferably by personal work, by calling upon the banks, explaining the value of such showing and the small cost and expense thereof. Supplemental abstracts, certificates, statements of title, etc., only incur a minimum of expense and are satisfactory for such purposes.

The Union Title & Guaranty Co., Detroit, Mich., was organized two years ago and began to popularize title insurance. Since that time they have issued practically $45,000,000 in policies which speaks well of their success.

These be "hectic" times. People are in a funny state of mind, characteristic, however, of times and conditions.

Bargain hunters are in majority. Expecting a little off regular price, ways of eliminating expense, etc., are popular pastimes. More reasons are being presented now for cutting prices on abstracts than ever before, and it behooves those in the business to maintain higher standards of quality and compensation than ever before.

A review of the proceedings of the last convention of the Pennsylvania Title Association shows that this state organization did some very effective work with the legislature, not so much with laws particularly affecting the title business either, but in matters pertaining to real estate affairs generally.

Progress was made also in measures for uniform practice and procedure.

These are two things well within the convenience of every state association, in fact a duty.

Advancement of efforts toward uniform practice and procedure is the most practical and beneficial thing the title men could undertake.

This is especially true in those states where title insurance and the services of title companies are in extensive use.

President Potter has just sent a letter to the members of his State Association calling attention to these two important things and the need for some thought on them before the next convention of the state association.

But few states require bonds for abstracters but in those states the titlemen figure the bonding law a good thing and that being known as a "bonded abstracter" a business asset.

The bonding laws of most states not only protect the public against the abstracters mistakes, but gives the abstracter more privileges and freedom in the use of the county records. The bond is also a guarantee to the county for the abstracter using the records and prescribes that by reason thereof county officials shall recognize that the abstracter has certain privileges.

(Continued on page 8.)

THE MISCELLANEOUS INDEX.

(Continued from page 7.)

Jay A. Whitfield, of the Kittitas County Abstract Co., Ellensburg, Wash., offers additional suggestions about the necessity for lenders of money on real estate security to require and have some evidence of title. Mr. Whitfield brings out the necessity for this and calls attention to the fact that many first mortgages are made in many places without requiring an abstract, merely taking it for granted that a man has title and a good title at that to the land offered as security.

In places where such a practice is used, the abstracter has a real problem in business getting and should go after it, both by advertising and a personal talk to money-lenders on the necessity for a showing.

Sooner or later someone will suffer a loss through the practice and then a most excellent opportunity will present itself in a practical example of the necessity for it..

But this practice is not limited in many places to the lending of money. In many places a big percentage of the deals are transacted without a showing of title, in fact it is done to some extent in every place.

The secretary has a most interesting letter on hand from a title company in a progressive state wherein the writer mentions that he thinks there is need of educating the people that when buying land or lending money some evidence of title is necessary. No commissions are paid and the banks, brokers, etc., apparently see no reason for asking for abstracts and believe they should not particularly as they get nothing for it. Why add expense to their client?

Lawyers, notaries public and justices of the peace all give opinions on titles and draw all kinds of instruments and conveyances. The lawyer searches the records, etc., and seems afraid to insist on an abstract because the client might go to one of the others who would not require one, and vice versa.

The community has settlements of foreigners who have formed the habit of passing title by deed only, with the result that there are many breaks in the chain, irregular conveyances, and the like. Some day when they learn to examine the titles, business should be good for the abstracter. And it will be some day for progress and time will bring it about.

This title company has a problem, one that can only be solved by energetic advertising, and a personal campaign of education.

Many state associations have always been and are yet reluctant to admit examiners into their membership, or form an examiners' section to their association.

There are but few that do, less than a dozen, Missouri being the latest one to broaden out and just deciding to do so at its last meeting held in October.

There are many arguments both for and against, but the secretary is of the opinion the arguments against are largely theoretical. Much good has come from the association with the examiners in those states where it has been done.

However, admission of examiners should not mean that any practicing attorney need be admitted. Probably it would be well to choose only those attorneys who examine a great number of abstracters, or who are the regularly recognized examiners for loan companies, etc.

Sentiment seems to be growing in favor of admitting them and forming examiners' sections. Each year sees another one doing it and the move probably will grow.

The attorney general of Montana is of the opinion that the bonds of the abstracters there are cumulative. The initial bond is in the sum of $5,000 and he seems to think that it would be $50,000 at the end of ten years.

Certainly the legislature did not contemplate such a thing, but there seems to be a great difference of opinion on the subject.

There have been many suits brought to recover damages under abstracters certificates until there is a large amount of law on the subject and the thing is pretty well defined. As in all other things, an abstracter can in many cases clear himself on technical grounds. This however is poor policy.

It makes no difference what the loop holes are nor how many present themselves that could be used as means of beating a claim. If morally and actually liable, the abstracter should pay and take his loss.

Responsibility should not be shirked in any measure. If anyone suffers through your mistakes, settle with him. The good will of your customers and a name for reliability is worth more than dollars.

The constant aim of everyone in the title business should be to give more service and assume more responsibility. An indefinite, around-the-bush certificate or statement is poor business.

Instead of trying to shirk liability, the titleman should assume the amount expected and necessary, be clear and emphatic about it and bear his burden. By doing so the public will have more confidence in the present systems of evidencing of titles and there will be far less complaint or agitation for something new.

PROBABLY WILL BE FINISH DE APASTRACTA TODAY; OR ABSTRACTING IN UTOPIA.

Respectfully dedicated to my friends, my enemies and those that don't care one way or the other.

This may be a delusion, perhaps an intrusion,
Upon your good nature and sense,
But through my confusion I've come to conclusion
Non compis will be my defense.

You may sneer in derision as we meet in collision,
But little that matters to me,
I have made my decision—though (I may need revision)
My invention I must let you see.

Too long have our clients been open defiants
In efforts to bolster up speed;
I've called an alliance with invention and science,
And I think I can now fill the need.

Our business we'd magnify, our clients we'd satisfy;
All would run smoothly and well,
Our profession we'd dignify, our titles we'd certify,
Our competitors we'd more than excell.

Our orders, why list 'em? A follow-up system?
No need for such rig-a-ma-gig;
Typewriting? Reviewing? Our records renewing?
For those I'll not offer a fig.

Assembling? Locating? Numbering? Dating?—
All slips as they daily accrue?
Searching? Indexing? Title officers vexing?
The old order giveth way to the new.

No more tracing nor chasing—misplacing—erasing,
No devising, revising or such;
No accounts for collecting—no vaults for protecting;
Presto change, by a twist and a touch.

A small, neat device—both compact and precise—
Nicely fitted with cash-box and cranks,
Read directions and follow—drop coin in the hollow—
Turn handle—get abstract and thanks.

Lest I appear confiscating, unfair, unrelenting,
Greedy, unprincipled, mean;
I've decided right hea'h—I've struck the idea,
So I'll let YOU invent the machine.

J. CICERO SINGER, 10-5-23.

(The above was written by Mr. Singer, of the Land Title Abstract and Trust Co., Cleveland, Ohio, and from the vividness of the thought expressed, we imagine he must occupy the position of "buffer" or "front counter" man.)