TITLE NEWS

A publication issued monthly by

The American Title Association

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Announcing "Title News"

An Improved Monthly Publication with a Name

The organization of the association has realized for some little time that the most satisfactory thing it could do for the membership would be to provide or arrange for some printed medium of information about current title affairs and articles on topics pertaining to the business. This has received most serious, in fact almost first consideration, for the past few years. The compilation, printing and mailing of a regular printed pamphlet or bulletin can very easily incur considerable expense so the best has had to be made of things and a gradual development and improvement made.

The bulletin or printed medium service has grown with the association. In years past each administration issued what booklets and pamphlets it was able to and they were most worthy efforts. In those times the Torrens Primer, and other Torrens briefs were issued during those periods when almost every session of every state legislature was giving serious and first hand consideration to the proposed passage of proposed Torrens Laws. Various reports on questions, investigation by the association's committees, the opinion relating to the question of whether title insurance premiums were taxable under the War Revenue Act of 1917 and others were printed and may it be said they did effective work.

The foundation of a regular bulletin or magazine feature of the association was in those issued during the terms of T. M. Scott, first as president and later as executive secretary (he having been the first executive secretary under the new plan of organization adopted in Nashville, in 1919 convention assembly).

The monthly letter appeared in 1920 and 1921 and these were an advancement in that they appeared more frequently and regularly.

The next step was the printed monthly Bulletin in its present form which made its appearance in the fall of 1921 and which has been issued each month since.

All of these have been steps of advancement and the association now takes pride in presenting a further improvement and enlargement in giving you Title News for your information and something of value and interest each month on title affairs and subjects.

Every effort has been made to improve the "bulletin" since the Omaha Convention and to give the title business a worth while publication. This it has done and the plan and purpose is to continue to make it better and constantly strive for a higher standard and degree of value. The American Title Association is one of the few commercial or trade organizations furnishing its membership with such a publication without any charge other than the dues and with an entirely unbiased, unprejudiced and non-commercial influence back of it.

The magazine will contain news and stories of current matters of interest concerning the title business and those in it in the various parts of the country. Added to this will be articles on subjects and matters affecting the business. Its purposes are to keep you informed of the activities of the associations, both the state and national; to tell of matters of the title business in the various parts of the country; to report proposals of measures and other influences aimed at or that might affect the business; and to publish articles on particular subjects.

Read it—study it. Many good things have appeared in past issues and many more will come in future numbers.

Support and help it by sending in any matters of interest which you might recall or have come to your attention. If you have any particular subject in mind, write about it and send it in to the executive secretary. It will always contain at least eight pages and will be increased to more as fast as possible.

Did You—

Read the following most worth while articles appearing in some of the past few numbers?

"A New System of Abstract Books," by S. H. McKee and "The Certitude and efficacy of Title Insurance" in the November, 1923, number; "Some Ideas of Title Conveyancing and the Advisability of Shorter Forms" and the statement on "The American Title Association" in the December, 1923, number; "Curative Statutes" in the January, 1924, issue; the first installment of "The Evidencing of Land Titles," by E. J. Stason, and the timely discourse, "What of the Future," by Lock Davidson, in the February, 1924, Bulletin.

If not, read and study them.

These particular discussions and presentations, together with the "Miscellaneous Index" and the many other items in the past five issues are worthy of your reading.

Last Call For Directory Listment

April 15, 1924, is positively the last chance to be listed in the new directory that will be issued by the association. Thirty thousand copies of this book will be circulated to the members of the Realtors Association, Farm Mortgage Bankers Association and other organizations whose members are patrons of title offices.

NONE BUT MEMBERS WILL BE LISTED. If you do not belong to your state title association, make application at once. If you do, PAY YOUR DUES NOW.

This is the last date non-members have for applying for membership, and is the time limit state officials have before closing their membership campaigns.

This is undoubtedly the most attractive benefit ever presented of belonging to the Title Association. The issuance of this directory will be the biggest and is the only national advertising proposition ever undertaken by the association and no effort is being made to gain the utmost from it.

Only a few days are left.

DO IT NOW!

Some states have been consistently at it in an endeavor to get new members. Others have put it off until the

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last minute and made a whirl-wind finish.

Missouri seemed to lead by big odds until a short time ago when Nebraska suddenly came to life and got more new members in a few days than it had in years past.

Now it seems Nebraska may win the cup offered by President Wedthoff for the State Association making the biggest gain.

All it takes is a little effort—a little consideration from those whose duty it is and results can be attained.

Final reports and list of members as of April 15 will be called for and then the directory will go to press.

The circulation of the directory has been enlarged as announced elsewhere and the printing and distribution will be speeded to the limit.

This issuance of it has attracted a great deal of interest not only among our own ranks, but from others. Real estate dealers, mortgage companies and others welcome the publication of a directory of title companies, abstracters and examiners, and anxiously await its distribution.

Listment in it will be very valuable, worth many times the dues of any of the state and national associations.

The officials of the various state associations have only a few days left to offer this attraction for membership and should make a final effort.

Those who have delayed joining, making application for membership and paying their dues should attend to it immediately.

MINNESOTA HOLDS ANNUAL MEETING.

The 1924 Convention of this State Association was held in St. Paul, President Soucheray's town, February 18 and 19. The meetings were held in the St. Paul Athletic Club and the program and efforts put forth were worthy of a much larger crowd than attended.

Minnesota is one of the few states where there is a Torrens Law; where fees are regulated by statute and where it is a prevalant custom for country recorders to be in the abstract business. These, with other problems are of vital concern to the abstracters of the state and they should give more time and better support to a state association, get behind it and overcome some of their local handicaps.

The association was very unfortunate in losing the good services of E. D. Boyce who some few months ago gave up title work and consequently the office of Secretary of the Minnesota Association. He was one of the most active and faithful state officials and has done many good things in the past few years for the Association.

Officials elected for the coming year were: President, J. F. Mushel, Benton Co. Abstract Co., Foley; Vice President, J. A. Selander Becker County County Abstract Co., Foley; Vice President, J. A. Selander, Becker County Abstract Co., Detroit; Sec-Treas., Chas. L. Alexander, Fergus Falls.

OKLAHOMA ASSOCIATION HOLDS 24TH ANNUAL MEETING.

The 1924 convention of the Oklahoma Title Association was held in Muskogee, February 11 and 12, with Secretary Hugh Ricketts as host.

This meeting probably broke all records of any of the state associations for attendance. Certainly the Oklahoma Association is a live one and it is an inspiration to keep in touch with its activities and see what really can be done by such an organization in promoting and improving the abstract business and the conditions of those engaged in it.

If anyone ever has any doubts or questions as to the value and success of such organizations, he should just study and learn of the activities and accomplishments of the Oklahoma title organization.

The program itself was very fine and full of good talks. M. P. Bouslog, New Orleans, La., members of the executive committee of the National Association was the invited speaker and gave a most interesting talk on title matters and particularly title insurance.

The abstract contest for the J. W. Woodford cup was won by the Wagoner County Abstract Co., Wagoner, and congratulations may well be extended to the winner. There was much competition and many fine abstracts exhibited. Abstracting has been developed to a fine degree in this state and it means something to be the winner of this contest held at each convention of the association.

Mrs. Roy Johnson, yes, the bride of the one, only Roy Johnson of Newkirk was presented to the convention. Congratulations, the sincere kind, and wishes for happiness to them.

New officers elected were, President Walter Thompson, Bryant County Abstract Co., Durant; Vice President, H. K. Ricker, El Reno Abstract Co., El Reno; Secretary, H. C. Ricketts, Guaranty Trust Co., Muskogee.

WISCONSIN TITLE ASSOCIATION ORGANIZED.

The efforts of more than a year to revive interest among the abstracters and titlemen of Wisconsin in a state association have been realized.

Through the special efforts of Will H. Hardy, Jr., of Waukesha and John T. Kenney of Madison, arrangements were made to hold the meeting in Madison, February 19, Mr. Kenney acting as host.

Let it be said at the start that the success of the meeting and the interest shown far exceeded the expectations of those sponsoring the move.

Wisconsin is a memorable name in the annals of the American Title Association. The idea of a national organization of titlemen was conceived by abstracters from that state, and the initiative in making it a reality came from them. Since then men from that state have been officials of the national organization, prominent in its affairs and active in their endeavors on behalf of the association. Wisconsin has probably furnished more men active in its affairs and generous in their efforts than any other state and yet the state association lapsed in its standing and became dormant in its activities a few years ago.

The abstracters of this particular state need an association probably a bit more than some of the others for there are some things it would be well to overcome and they can only be accomplished by mutual endeavor and cooperation.

Will Hardy has always promised the National Association that Wisconsin would reorganize or rather come to life some day. John Kenney promised to entertain the crowd, so finally a date was set, the crowd invited, and may it be said they came.

There should have been more present but those who did not come can only be told they missed something very much worth while, that they will be given an opportunity to join the organization and it is hoped they can attend the second annual meeting to be held some place, some time, about the first of the year, 1925.

The meeting began by the usual registration and get acquainted time. There was some informal talks by those present and an Address of Welcome by Robert LaFollette, Jr., speaking on behalf of the governor.

Luncheon was served at noon and the session convened immediately afterwards for a busy time. A banquet featured the evening, after which the business session was continued from 7:30 until 9 when the crowd attended a theatre party.

W. H. (Bill) Pryor, former President of the National Association came from Duluth to give a talk on the practical workings of the Torrens Law. This was a most interesting part of the program.

Bill presented the subject in a little different light than usual in that he worked on the idea of placing himself as one telling a real estate dealer and property owner of actual and true incidents and examples of how the system works in practice, some of the things it does and how the thing does not work as well as how it does.

This talk of Mr. Pryor's will appear in a near issue of the Title News.

All sessions were held in the senate chamber of the beautiful capitol building.

The following officials were elected:

President, Emil Lenicheck, President of The Citizens Abstract & Title Co., Milwaukee.

Vice President, J. A. Michaelson, Rusk County Abstract Co., Ladysmith.

Secretary, E. M. Webster, St. Croix County Abstract Co., Hudson.

Treasurer, Agnes E. Benoe, Ashland County Abstract Co., Ashland.

Once more Wisconsin is with us. They have a good start on a fine new organization and the National Association is going to expect much from them.

Judiciary Committee Issues Preliminary Report on Fifteen Proposals

Chairman White of the Judiciary Committee has certainly done some mighty fine work in collecting data, opinions and other information about the land laws of the various states and the need, possibility and advisability of a campaign to secure the adoption of the simplified laws as suggested in the Association's Fifteen Proposals for Uniform Land Laws.

He has just issued a printed preliminary report of the work and observations drawn therefrom.

Copies of it have been mailed to each state committeeman, an attorney in each state other than the state committeeman, the teacher of real property law in each law school in the American Association of Law Schools, and the officials of the Association.

Suggestions and criticisms have been asked, and from them a final report and the recommendations of the Judicial Committee will be made. It is planned to print this final report about May 1.

The preliminary report is printed here.

Everyone should read it and then consider the possibilities and responsibilities of the title profession in revision of our land laws toward the end that they will be uniform and simpler and transactions in real estate relieved from technicalities and thereby expedited.

The work of this committee and the great interest and attention given by Mr. White are deserving of the sincere gratitude and appreciation of the entire title fraternity. This is one of the most valuable things ever done by the Association and those who have been commissioned to work out the details, and is a fine example of the uses, purposes and value of the organization.

Members of Special Judiciary Committee,
American Title Association.

For the purpose of getting definite constructive criticism as to the forms of laws that shall be submitted at the New Orleans meeting of The American Title Association (October 14-17, 1924) this preliminary report is being submitted to the committeeman from each state.

The necessarily brief comments which are incorporated herein will be expanded into an intelligible and (we hope) readable final report in time to be printed some months before the convention.

Each committeeman is asked to go over this report with especial reference to the needs of his own state, report his agreement or disagreement with the various proposals and transmit his answer in time to reach the chairman NOT LATER THAN APRIL 15.

The fifteen proposals will be taken up in their order:

PROPOSAL No. 1—"In all states where the limitation on actions to recover lands is longer than ten years, reduce it to that period, and abolish the saving clauses for persons under disability; or in the alternative, provide a longer limitation, say fifteen years, which will render titles absolute, regardless of disabilities."

There is an unfounded idea that there is some sort of constitutional inhibition of the right of a state to make statutes of limitation without saving clauses in favor of persons under disability. As a matter of fact the saving clauses are merely matters of tradition which have come down from the earliest English Statutes of Limitations.

So far as our investigation goes no state has one definite statute of limitations making a definite period of adverse possession without excepting the rights of persons under disability. Several states, however, provide a shorter period of adverse possession excepting the rights of persons under disability, and another statute provided an ultimate period beyond which no action can be brought, notwithstanding the existence of disabilities. This is in accordance with the English statute which provides a twelve-year limitation, with six-year saving clauses as to persons under disability, and an ultimate period of thirty years beyond which all claims are barred.

For those states deeming it advisable to have one section covering the whole subject we recommend the following:

"An action for the recovery of the title to, or possession of, real property shall be brought within fifteen years after the right to institute it shall have first accrued to the plaintiff or to the person through whom he claims. And it is further provided that at the termination of the period herein limited to any person for bringing the action, the right and title of such person to said real property shall be extinguished."

The last sentence above is adapted from the English statute and is inserted for the purpose of obviating all quibbles over the question as to whether or not the statute is a matter of right or remedy.

For those states which may hesitate to go the whole length of the above suggestion, we suggest the following law, adapted from the Kentucky statutes:

Sec. 1: "An action for the recovery of the title to, or possession of, real property shall be brought within fifteen years after the right to institute it shall have first accrued to the plaintiff, or to the person through whom he claims."

Sec. 2: "If, at the time the right of any person to bring an action for the recovery of the title to, or possession of, real property shall have first accrued, such person was an infant, or of unsound mind (here insert any other disabilities), then such person, or the person claiming through him, may, though the period of fifteen years has expired, bring the action within three years after the time such disability is removed."

Sec. 3: "The period within which an action for the recovery of the title to, or possession of, real property may be brought, shall not in any case, be extended beyond thirty years from the time at which the right to bring the action shall have first accrued to the plaintiff, or the person through whom he claims, by reason of any death, or the existence or continuance of any disability whatsoever."

Sec. 4: "At the termination of the period, or periods, herein limited to any person for the bringing of an action, the right and title of such person to said real property shall be extinguished."

For those states desiring a shorter limitation in cases where there is "color of title," or title deducible from the records, we recommend the Washington Statute (or an adaptation thereof) as follows:

"All actions brought for the recovery of any lands, tenements or hereditaments of which any person may be possessed by actual, open and notorious possession for seven successive years, having a connected title in law or equity deducible of record from this state or the United States, or from any public officer, or other person authorized by the laws of this state to sell such land for the nonpayment of taxes, or from any sheriff, marshal or other person authorized to sell such land on execution or under any order, judgment or decree of any court of record, shall be brought within seven years next after possession being taken as aforesaid, but when the possessor shall acquire title after taking such possession, the limitation shall begin to run from the time of acquiring title."

PROPOSAL No. 2: "A 'Lis Pendens' law in those states which have no such law, providing generally that no suit in any court shall affect the title to land unless a notice of lis pendens is filed in the office of the recorder or register of deeds."

Proposal No. 2 happens to be one which the chairman does not favor in his own state, for the reason that all judgments affecting land (except in the few instances where Municipal Courts are situated in cities other than the county seat) are found in the same building in which the recorder's office is located, and since title examiners have to search the court records as well as the records in the county recorder's office, it would be a needless duplication of records to require the filing of "Lis Pendens" in the recorder's office.

The statutes of Ohio are as follows:

"When the summons has been served or the publication made, the action is pending so as to charge third persons with notice of its pendency. While pending, no interest can be acquired by third persons in the subject of the action, as against the plaintiff's title."

"When a part of real property is subject matter of an action, is situated in a county or counties other than the one in which the action is brought, a certified copy of the judgment in such action must be recorded in the recorder's office of such other county or counties before it shall operate therein as a notice so as to charge third persons, as provided in the next preceding section. It shall operate as such notice, without record, in the county where it is rendered. This section shall not apply to actions or proceedings under any statute which does not require such record."

The first section above quoted would be law aside from statute under the general doctrine of "Lis Pendens," and the second section provides for the only cases where examiners of title might be misled.

However, most of the states have "Lis Pendens" statutes, and will require no action under Proposal No. 2.

For those states having no such statute, and feeling the need of one, we recommend the following, adapted from the Minnesota and Washington statutes:

"In all actions in which the title to or any interest in or lien upon real property is involved or affected or is brought in question by either party, any party thereto at the time of filing the complaint or any time thereafter during the pendency of such action may file for record with the register of deeds of each county in which any part of the premises lies, notice of the pendency of the action containing the names of the parties, the object of the action and a description of the real property in such county involved, affected or brought in question thereby. From the time of the filing of such notice and from such time only, the pendency of the action shall be notice to purchasers and encumbrancers of the rights and equities of the party filing the same to the premises. When any pleading is amended in such action so as to alter the description of, or to extend the claim against the premises affected, a new notice may be filed with like effect. Such notice shall be recorded in the same book and in the same manner in which mortgages are recorded and may be discharged by an entry to that effect in the margin of the record by the party filing the same or his attorney in the presence of the register, or by writing executed and acknowledged in the manner of a conveyance whereupon the register shall enter a minute thereof on the margin of such record. Provided, however, that such notice shall be of no avail unless it shall be followed by the first publication of the summons, or by the personal service thereof on a defendant within sixty days after such filing. And the court, in which the said action was commenced, may in its discretion at any time after the action shall be settled, discontinued or abated on application of any person aggrieved and on good cause shown and on such notice as shall be directed or approved by the court, order the notice authorized in this section to be cancelled of record in whole or in part by the registrar of deeds of any county, in whose office the same may have been filed or recorded, and such cancellation shall be made by an endorsement to that effect on the margin of the record."

PROPOSAL No. 3—"A statue validating defective acknowledgment that has been of record for one year, so worded as to cover future cases as well as past."

The "Curative Statutes" in the various states are legion and there is no uniformity whatever as to their provisions. No state has gone as far as the above proposal, and because of the diverse requirements as to execution and acknowledgment of deeds, and the effect of noncompliance with the various statutes, it is extremely difficult to frame a law applicable to all states.

As a suggestion we recommend for your consideration the Kansas statute as follows:

"When any instrument of writing shall have been on record in the office of the registrar of deeds in the proper county for the period of ten years, and there is a defect in such instrument because it has not been signed by the proper officer of any corporation, or because the corporate seal of the corporation has not been impressed on such instrument, or because the record does not show such seal, or because such instrument is not acknowledged, or because of any defect in the execution, acknowledgment, recording or certificate of recording the same, such instrument shall, from and after the expiration of ten years from the filing thereof for record, be valid as though such instrument had, in the first instance, been in all respects duly executed, acknowledged and certified, and such instrument shall, after the expiration of ten years from the filing of the same for record, impart to all subsequent purchasers, encumbrancers, and all other persons whomsoever, notice of such instrument of writing so far as and to the same extent that the same may then be recorded, copied or noted in such books of record, notwithstanding such defect. Such instrument or the record thereof, or a duly authenticated copy thereof, shall be competent evidence without requiring the original to be produced or accounted for to the same extent that written instruments, duly executed and acknowledged, or the record thereof are competent: PROVIDED, That nothing herein contained shall be construed to affect any rights acquired by grantees, assignees, or encumbrancers subsequent to the filing of such instrument of record."

A committee of the Cleveland Bar Association of which your chairman is a member has prepared for submission to the Ohio legislature the following:

"When any deed heretofore or hereafter executed and recorded, conveying real estate, shall have been or shall be of record in the office of the recorder of the county within this state in which such real estate is situated, for more than twenty-one years, and the record thereof shows that there is a defect in such deed for any one or more of the following reasons: Because the husband did not join with the wife or the wife with the husband in all the clauses of the deed conveying such real estate, but did join with each other in one of them, in the execution and acknowledgment of such deed; or because such deed was not properly witnessed; or because the officer taking the acknowledgment of such deed having an official seal did not affix the same to the certificate of acknowledgment; or because the certificate of acknowledgment is not on the same sheet of paper as the deed; or because the executor, administrator, guardian, assignee or trustee making such deed signed or acknowledged the same individually instead of in his representative or official capacity; or because the corporate seal of the corporation making such deed was not affixed thereto; or because such deed was executed and delivered by a corporation which had been dissolved or whose charter had expired or whose corporate franchise had been cancelled, withdrawn or forfeited, such deed and the record thereof shall be cured of such defects and be effective in all respects as if such deed had been legally made, executed and acknowledged, provided, however, that any person claiming adverse title thereto, if not already barred by limitation or otherwise, shall have the right at any time within twenty-one years after the time of recording such deed, or in the case of deeds of record for more than twenty-one years prior to the effective date of this act, then within one year after the effective date of this act,

to bring proceedings to contest the effect of such deed; and provided further than nothing herein contained shall be construed to operate on any suit or action now pending or which may have been heretofore determined in any court of this state, in which the validity of the making, execution or acknowledgment of any such deed has been or may hereafter be drawn in question."

In those states where the ten and twenty-one year period seems too long, any shorter period than provided in the two examples above given may be substituted and the proposals so changed as to suit the local requirements.

PROPOSAL No. 4 (as introduced)—"A statute permitting married persons to convey their lands without their consorts joining, excepting in the case of homestead, and permit no claim of homestead to be asserted unless a homestead is designated of record by either husband or wife."

PROPOSAL No. 4 (as amended)—"A statute permitting married women to convey their lands without their husbands joining, excepting in the case of homestead, and permit no claim of homestead to be asserted unless a homestead is designated of record by either husband or wife."

As indicated above Proposal No. 4 was amended at the 1913 convention and was adopted in the form indicated at paragraph 2. Your chairman has never been able to see the reason for the amendment, but his opinion is not material.

In our recommendations we must necessarily divide the proposal into its two components.

1. The necessity of joinder in consort's deed.
2. The matter of recording homestead.

As to the first question we must distinguish the question of joinder of wife or husband in order to convey his or her separate interest, from the question of necessity for joinder to release curtesy initiate (in those states where curtesy still exists), or inchoate dower or inchoate statutory interest (in those states where surviving consort has *an interest in land owned at any time during coverture*). The latter question is intimately connected with Proposal No. 5, below.

So far as we have been able to determine, the husband must join in the wife's deed for *purposes other than to release his inchoate interest* in Alabama, Connecticut, Delaware, Florida, Illinois, Indiana, Kentucky, Missouri, New Jersey, North Carolina, Pennsylvania, Tennessee, and Vermont. If we are wrong in our statistics the state committee to whom this is addressed is asked to correct us.

For those state still requiring the joinder of husband and wife in consort's deed for *purpose other than to release inchoate rights*, we suggest the following adapted from the statutes of Arizona:

Section 1: "Married women of the age of 18 years or upwards may convey and transfer land or any estate or interest therein, except the homestead, vested in or held by them in their own right, without being joined by the husband in such conveyance, as fully and perfectly as they might do if unmarried."

Section 2: "Married men of the age of 21 years or upwards may convey and transfer lands or any estate or interest therein, except the homestead, vested in or held by them in their own right, without being joined in such conveyance by the wife, as fully and perfectly as they might do if unmarried."

As to the "homestead" part of Proposal No. 4, your chairman labors under the disability of living in a non-homestead state and therefore feels some diffidence as to his recommendations. So far as he has been able to determine about one-third of the states provide some form of recording homesteads. We recommend for your consideration the Arizona statute which seems simple and which seems to be adequate. It is as follows:

Sec. 1: "Every person who is head of a family, and whose family resides within this state, may hold as a homestead, exempt from attachment, execution, and forced sale, real property to be selected by him or her, which homestead shall be in one compact body, not to exceed in volume the sum of $, and shall consist of the dwelling house in which the claimant resides and the land on which the same is situated, or of land the claimant shall designate, provided the same be in one compact body."

Sec. 2: "Any person wishing to avail himself or herself of the provisions of the foregoing section shall make out under oath ,his or her claim in writing, showing that he or she is the head of a family, and also particularly describing the land claimed and stating the value thereof; and shall file the same for record in the office of the recorder in the county where the land lies."

PROPOSAL No. 5—"Abolish inchoate dower in states where it still exists, or better still, abolish dower altogether and give a wife an interest in fee simple in lands of which her husband dies seized."

When we come to discuss Proposal No. 5, your chairman is reminded of the warning in the old-time almanacs "About this time look for storms." Bold indeed is he who attacks this ancient institution, hallowed as it is by tradition and encrusted with the prejudices of centuries. It happens that your chairman has long believed that dower has outlived its usefulness and in this position he seems to be in quite respectable company, for the revolutionary Property Act of 1922 in England has abolished curtesy and dower entirely. It has also been abolished in quite a number of the states of the Union, but *unfortunately many states in which it has been abolished have substituted either a larger life interest or a fee simple in all lands owned during coverture.* Which, of course results in substituting a larger *inchoate interest* than theretofore existed, and *it is the inchoate interest that we as title men are interested in abolishing.*

Eight states have the system of "Community Property" and are therefore not interested in the question of dower; three states have substituted for dower a life interest in property owned at death; seven states have substituted for dower a fee simple interest in land owned at death.

Nineteen states retain common law dower and therefore have inchoate dower; eleven states have substituted for dower either a life estate, or fee simple interest in all lands owned during coverture and therefore have an inchoate statutory interest to deal with.

It follows from the above that there are thirty states that require joinder of husband in wife's deed either to release dower, or to release the statutory interest that has been substituted therefor.

For those states wishing to abolish inchoate dower only, we suggest either the Tennessee law which is as follows:

"If any person die intestate leaving a widow she shall be entitled to dower in one-third part of all the lands of which her husband died seized or possessed, or of which he was the equitable owner."

There might be added to the above "or of which at decease he held the fee simple in reversion or remainder."

Or as an alternative suggestion the following adaptation of the Connecticut statute:

"On the death of a husband or wife, the survivor shall be entitled to the use for life of one-third in value of all the property, real and personal, legally or equitably owned by the other at the time of his or her death."

For those states which desire the entire abolition of dower ("a consummation devoutly to be wished" in the opinion of your chairman) we suggest the following:

"The estates of curtesy and dower are abolished and neither husband nor wife shall have any interest in the property of the consort other than as provided in the statutes of descent and distribution."

Then provide in the statutes of descent and distribution that the surviving consort shall take a certain share in fee simple (be it one-third, one-half, or other portion) of the property, of which the deceased died seized and possessed.

PROPOSAL No. 6—"An absolute bar to the foreclosure of mortgages ten years after their maturity (or perhaps a shorter period) unless they are renewed of record."

Several states have a law substantially conforming to the above proposal. We recommend either the Mississippi statute which is as follows:

"Where the remedy to enforce any mortgage, deed of trust, or other lien on real or personal property which is recorded, appears on the face of the record to be barred by the statute of limitations, the lien shall cease and have no effect as to creditors and subsequent purchasers for a valuable consideration without notice, unless within six months after such remedy is so barred, the fact that such mortgage, deed of trust, or lien, has been renewed or extended be entered on the margin of the record thereof, by the creditor, debtor, or trustee, attested by the clerk, or a new mortgage, deed of trust, or lien, noting the fact of renewal or extension, be duly filed for record within such time."

Or it might be well to consider Section 7 of The Uniform Mortgage Act adopted by The National Conference of Commissioners on Uniform State Laws adopted for submission to the several states as follows:

"(Limitation of Time to Foreclose.) No suit or proceedings shall be begun or maintained to foreclose a mortgage or trust deed mortgage, unless begun within (fifteen) years from the maturity of the whole of the debt or obligation secured by said mortgage or trust deed mortgage as stated therein or in an extension thereof duly executed and recorded as below provided, and if no definite time for such maturity be stated therein, then within (fifteen) years from the date of the mortgage or trust deed mortgage or such extension thereof."

"This period of limitation shall not be extended by nonresidence, disability, partial payment, agreement or other act, unless an extension of the mortgage or trust deed mortgage be made in writing by the record owner of the mortgage or trustee of record, duly executed and recorded before the period of limitation expires."

"At the expiration of such period of limitation, if no suit or proceedings to foreclose have been begun, the lien of said mortgage shall terminate and be of no further force or effect."

If the uniform mortgage section be used there should be added a proviso somewhat as follows:

"Provided, however, that the period of limitation as to any mortgages now on record shall in no event be deemed to have expired prior to two years from the effective date of this act."

The committee of The Cleveland Bar Association mentioned above has prepared the following bill with reference to Proposal No. 6, to submit to the Ohio Legislature:

"The record of any mortgage which remains unsatisfied or unreleased of record for more than fifteen years after the last due date of the principal sum or any part thereof, secured thereby, as shown in the record of such mortgage, shall not be deemed to give notice to or to put on inquiry any person dealing with the land described in such mortgage that such mortgage debt remains unpaid or has been extended or renewed; and as to subsequent bona fide purchasers and mortgagees for value, the lien of such mortgage shall be deemed to have expired; the mortgage creditor, however, shall have the right at any time to refile in the recorder's office the mortgage or a sworn copy thereof for record, together with an affidavit stating the amount remaining due thereon and the due date thereof, as extended, if it be extended, and thereupon, subject to the rights of bona fide purchasers and mortgagees for value theretofore acquired or then vested, such refiling shall be deemed to be constructive notice of such mortgage only for a period of fifteen years after such refiling, or for fifteen years after the stated maturity of the debt, which ever be the longer period; provided, however, that as to such mortgages of record at the time of the effective date of this act, the constructive notice of their recording shall not be deemed to have expired in any event prior to two years after the effective date of this act."

PROPOSAL No. 7—"Short statutory forms of deeds and mortgages. Providing that the form shall imply all the usual covenants."

Statutory short form deeds are provided by statute in most states, although there seems to be in many states a disinclination on the part of conveyancers to use them.

We recommend the following forms, taken from the Washington statutes. They seem to meet the situation, although there are many other states whose forms are entirely satisfactory:

(A) WARRANTY DEED.

Warranty deeds for the conveyance of land may be substantially in the following form: The grantor (name) for and in consideration of (consideration) in hand paid conveys and warrants to (name) the following described real estate (description) situated in the county of.....State of.....

Dated this.....day of.....19.....

(Signed) .....

Every deed in substance in the above form when otherwise duly executed shall be deemed and held a conveyance in fee simple to the grantee his heirs and assigns with covenants on the part of the grantor:

1. That at the time of the making and delivery of such deed he is lawfully seized of an indefeasible estate in fee simple in and to the premises therein described, and has good right and full power to convey the same;
2. That the same were then free from all encumbrances; and
3. That he warrants to the grantee, his heirs and assigns the quiet and peaceable possession of such premises and will defend the title thereto against all persons, who may lawfully claim the same; and such covenants shall be obligatory upon any grantor, his heirs and personal representatives as fully and with like effect as if written at full length in such deed.

(B) QUIT CLAIM DEED.

Quit Claim Deeds may be in substance in the following form:

The grantor (name) for the consideration (consideration) conveys and quit-claims to (name) all interest in the following described real estate (description) Situated in the County of.....State of....., dated this .....day of.....19.....

(Signed).....

(C) MORTGAGE.

Mortgages of land may be in the following form substantially:

The mortgagor (name) mortgages to (name) to secure the payment of (here recite the nature and amount of indebtedness showing when due, rate of interest and whether secured by note or not) the following described real estate (description) situated in the county of..... State of....., dated this.....day of .....19.....

(Signed).....

Every such mortgage when otherwise properly executed shall be deemed and held a good and sufficient conveyance and mortgage to secure the payment of the money therein specified. The parties may insert in such mortgage any lawful agreement or condition.

PROPOSAL No. 8 (as introduced)—"Barring claims against unadministered estate, say in seven years after the death. Possibly five years would be better."

PROPOSAL No. 8 (as amended)—"Barring claims against unadministered estates after three years from the date of death unless letters of administration have been taken out within that period."

About one-fourth of the states have a law barring claims against unadministered estates, the period of limitations varying from six months to ten years.

The Washington statute is as follows:

"No real estate of a deceased person shall be liable for his debts unless letters testamentary or of administration be granted within the six years from the date of the death of such decedent."

The Kentucky statute is as follows:

"When the heir or devisee shall alien before suit brought, the estate descended or devised, he shall be liable for the value thereof, with legal interest from the time of alienation, to the creditors of the decedent or testator; but the estate so alienated shall not be liable to the creditors in the hands of a bona fide purchaser for valuable consideration, unless action is instituted, within six months after the estate is devised or descended, to subject the same."

We recommend either the Washington or Kentucky statute with the substitution of three years as the period of limitation, or whatever period may be deemed advisable in the different states.

PROPOSAL No. 9—"Simplifying certificates of acknowledgment and abolishing separate examination of wife in states where it is still required."

Since The National Conference of Commissioners on Uniform Laws as early as 1892, recommended a Uniform Acknowledgment Law which has been adopted in some of the states, it would seem advisable for The American Title Association to recommend the same forms. Their recommendation is as follows:

"Be it enacted, etc.

Section 1. Either the forms of acknowledgment now in use in this state, or the following, may be used in the case of conveyances or other written instruments, whenever such acknowledgment is required or authorized by law for any purpose:

(Begin in all cases by a caption specifying the state and place where the acknowledgment is taken.)

1. In the case of natural persons acting in their own right: "On this.....day of....., 19....., before me personally appeared A B (or A B and C D), to me known to be the person (or persons) described in and who executed the foregoing instrument, and acknowledged that he (or they) executed the same as his (or their) free act and deed."

2. In the case of natural persons acting by attorney: "On this.....day of....., 19....., before me personally appeared A B, to me known to be the person who executed the foregoing instrument in behalf of C D, and acknowledged that he executed the same as the free act and deed of said C D."

3. In the case of corporations or joint-stock associations: "On this .....day of.....,19,....., before me appeared A B, to me personally known, who, being by me duly sworn (or affirmed) did say that he is the president (or other officer or agent of the corporation or association) or (describing the corporation or association), and that the seal affixed to said instrument is the corporate seal of said corporation (or association) and that said instrument was signed and sealed in behalf of said corporation (or association) by authority of its board of directors (or trustees) and said A B acknowledged said instrument to be the free act and deed of said corporation (or association)."

(In case the corporation or association has no corporate seal omit the words "the seal affixed to said instrument is the corporate seal of said corporation (or association), and that," and add, at the end of the affidavit clause, the words, "and that said corporation (or association) has no corporate seal.")

(In all cases add signature and title of the officer taking the acknowledgment.)

Sec. 2. The Acknowledgment of a married woman when required by law may be taken in the same form as if she were sole and without any examination separate and apart from her husband.

Sec. 3. The proof or acknowledgment of any deed or other written instrument required to be proved or acknowledged in order to enable the same to be recorded or read in evidence, when made by any person without this state and within any other state, territory or district of the United States, may be made before any officer of such state, territory or district, authorized by the laws thereof to take the proof and acknowledgment of deeds, and when so taken and certified as herein provided, shall be entitled to be recorded in this state, and may be read in evidence in the same manner and with like effect as proofs and acknowledgments, taken before any of the officers now authorized by law to take such proofs and acknowledgments, and whose authority so to do is not intended to be hereby affected.

Sec. 4. To entitle any conveyance or written instrument, acknowledged or proved under the preceding section, to be read in evidence or recorded in this state, there shall be subjoined or attached to the certificate of proof or acknowledgment, signed by such officer, a certificate of the Secretary of State of the state or territory in which such officer resides; under the seal of such state, territory, or a certificate of the clerk of a court of record of such state, territory or district in the county in which said officer resides or in which he took such proof or acknowledgment under the seal of such court, stating that such officer was, at the time of taking such proof or acknowledgment, duly authorized to take acknowledgments and proof of deeds of lands in said state, territory or district, and that said Secretary of State, or clerk of court is well acquainted with the handwriting of such officer, and that he verily believes that the signature affixed to such certificate of proof or acknowledgment is genuine.

Sec. 5. The following form of authentication of the proof of acknowledgment of a deed or other written instrument when taken without this state and within any other state, territory or district of the United States, or any form substantially in compliance with the foregoing provisions of this act, may be used.

Begin with a caption specifying the state, territory or district and county or place where the authentication is made.

"I,....., clerk of the.....in and for said county, which court is a court of record, having a seal (or, I....., the Secretary of State of such state, or territory) do hereby certify that.....by and before whom the foregoing acknowledgment (or proof) was taken, was, at the time of taking the same, a notary public (or other officer) residing (or authorized to act) in said county, and was duly authorized by the laws of said state (territory or district) to take and certify acknowledgments or proofs of deeds of land in said state (territory or district), and further that I am well acquainted with the handwriting of said.....and that I verily believe that the signature to said certificate of acknowledgment (or proof) is genuine.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court (or state) this..... day of....., 19....."

The National Conference of Commissioners on Uniform Laws also recommends the following form as to acknowledgments taken outside the United States:

"Be it enacted, etc.

"Section 1. All deeds or other instruments requiring acknowledgment, if acknowledged without the United States, shall be acknowledged before an ambassador, minister, envoy or charge d'affaires of the United States, in the country to which he is accredited, or before one of the following officers commissioned or accredited to act at the place where the acknowledgment is taken, and having an official seal, viz: any consular officer of the United States a notary public; or a commission or other agent of this state having power to take acknowledgments to deeds.

Sec. 2. Every certificate of acknowledgment made without the United States, shall contain the name or names of the person or persons making the acknowledgment, the date when and place where made, a statement of the fact that the person or persons making the acknowledgment knew the contents of the instrument, and acknowledged the same to be his, her or their act; the certificate shall also contain the name of the person before whom made, his official title, and be sealed with his official seal and may be substantially in the following form:

.....(name of country).

.....(name of city, province or other political subdivision.

Before the undersigned.....(naming the officer and designating his official title) duly commissioned (or appointed)and qualified, this day personally appeared at the place above named..... (naming the person or persons acknowledging) who declared that he (she or they) knew the contents of the foregoing instrument, and acknowledged the same to be his (her or their) act. Witness my hand and official seal this.....day of....., 19.....

(seal) .....(name of officer)

....(official title)

When the seal affixed shall contain the name or the official style of the officer, any error in stating, or failure to state otherwise the name or the official style of the officer, shall not render the certificate defective.

Sec. 3. A certificate of acknowledgment of a deed or other instrument acknowledged without the United States before any officer mentioned in Section 1, shall also be valid if in the same form as now is or hereafter may be required by law, for an acknowledgment within this state."

PROPOSAL No. 10—"Abolishing private seals and witnesses in deeds and mortgages in states where they are still required."

"*Mirabile dictu*", as they say in the classics, there are some states which still require private seals. For those benighted jurisdictions we recommend the following (again taken from the Washington statutes):

"Sec. 1: The use of private seals upon all deeds, mortgages, leases, bonds and other instruments and contracts in writing, is hereby abolished and the addition of the private seal to any such instrument or contract in writing hereafter made, shall not affect its validity or legality in any respect."

"Sec. 2: All deeds, mortgages, or other instruments in writing or the conveyance or encumbrance of real estate, or of any interest therein, which have heretofore been executed without the use of a private seal are notwithstanding hereby declared to be legal and valid in all courts of law or equity in this state."

PROPOSAL No. 11—"Dispensing with the necessity for words of inheritance to convey a fee simple, and providing that unless otherwise specifically expressed, a deed shall convey all the estate that the grantor had."

There are a few states (not many) which still retain the necessity of the word "heirs" or other word of perpetuity to convey a fee simple. For those states which need a law on this subject, we recommend the following taken from the Statutes of Missouri:

"The term 'heirs' or other words of inheritance shall not be necessary to create or convey an estate in fee simple and every conveyance of real estate shall pass all the estate of the grantor therein unless the intent to pass a less estate shall expressly appear or be necessarily implied in the terms of the grant."

PROPOSAL No. 12—"A statute abolishing the blanket lien of judgments and requiring a specific description of record of the property sought to be held."

Although the blanket lien of judgments is anathema to title men, only a few states have been enlightened enough to provide that judgments shall be a lien from levy only. A shining instance of these enlightened states is Michigan, and your chairman can do no better than to recommend the Michigan law which is as follows:

"Whenever judgment shall have been or may hereafter be rendered in any court of record, execution to collect the same may be issued to the sheriff, or other proper officer of any county of this state; and successive or alias executions may be issued one after another, upon the return of any execution unsatisfied in whole or in part, for the amount remaining unpaid upon any such judgment. Such executions shall be made returnable not less than twenty nor more than ninety days from the date thereof."

"Whenever an execution shall be issued against the property of any person, his goods and chattels, lands and tenements, levied upon by such execution, shall be bound from the time of such levy."

"Each and every levy by execution on real estate heretofore or hereafter made shall cease to be a lien on such real estate, and shall become and be void at and after the expiration of five years from the making of such levy, unless such real estate be sooner sold thereon."

As a matter of fact this is the one law which the title men would like to see adopted everywhere, and it's probably the one law of the whole list of proposals which it will take years of agitation to enact.

As to the second part of the above proposal "Requiring specific description of record of the property sought to be held", your chairman does not believe in its advisability, for the reason that it would be tantamount to an attachment of the defendant's property for an unadjudicated and unliquidated claim of the plaintiff. In the state of Ohio, whose ridiculous law has been copied by Kansas, Nebraska and Wyoming, by allowing judgment in money cases to date back to the first day of the term, the plaintiff in a money case practically has an attachment on all the land owned by the defendant. The latter part of Proposal No. 12 would not be quite so bad as this since it would be practically an attachment of specifically described property, but in the opinion of your chairman, this recommendation is too bad to justify his spending time in formulating a law in which he does not believe.

PROPOSAL No. 13—"Provide that when a conveyance is made to a trustee and the powers of the trustee and the nature of the trust are not disclosed of record, the trustee's deed shall pass the full title."

Several states, among them Arkansas, California, Colorado, Florida and Oregon have passed laws substantially conforming to Proposal No. 13, and in several states the same result has been reached by judicial decision.

There is submitted for your approval the law that has been drafted by The Cleveland Bar Association Committee for submission to the Ohio State Legislature. It is amplified from the Arkansas statute and has been so framed as to cover the cases where mortgages, as well as deeds, are made to undisclosed trustees: It is as follows:

"The use or appearance of the words, 'trustee', or 'as trustee', or 'agent', or words of similar import, following the name of the grantee in any deed of conveyance or mortgage of land heretofore or hereafter executed and recorded, without other language showing a trust, or for whose benefit the same is made, or other recorded instrument showing the same and the terms and provisions thereof, shall not be deemed to give notice to or put upon inquiry any person dealing with said land that a trust or agency exists, or that there are beneficiaries of said conveyance or mortgage other than the grantee and such as are disclosed by the record, or that there are any limitations on the power of the grantee to convey or mortgage said land, or to assign or release any mortgage held by such grantee; and as to all subsequent *bona fide* purchasers, mortgagees, and assigns for value, a conveyance or mortgage or assignment of mortgage by such grantee, whether his name be followed by the words 'trustee' or 'as trustee', or 'agent' or words of similar import, or not, shall convey or shall be deemed to have conveyed or assigned a title or lien, as the case may be, free from the claims of any undisclosed beneficiaries, and free from any obligation on the part of the purchaser, mortgagee or assignee to see to the application of any purchase money; provided only, that this act shall not apply to suits now pending or heretofore determined in any court of this state; nor to suits brought prior to the expiration of two years from the effective date of this act in which any such deeds of conveyance or mortgages heretofore recorded are called in question, or in which the rights of any beneficiaries in the lands described therein are involved."

PROPOSAL No. 14—"Make it mandatory upon a court in granting a decree of divorce, to adjust and determine all property rights of both parties, and in the case of real estate, require a record of the decree in the office of the register of deeds."

The only statutory provision that your chairman has been able to find which seems to meet all the requirements of the above proposal is Paragraph 3862, Chapter IX, Title 32, Arizona Statutes 1913, Civil Code, as amended March 17, 1919, Arizona Session Laws, 1919, page 98, as follows:

"Before pronouncing a decree of divorce from the bonds of matrimony, the court shall require evidence of the property and estate of the parties, and shall order such division of said property and estate as to the court shall seem just and right having due regard for the rights of each party and their children, if any. Nothing herein contained shall be construed to compel either party to divest himself or herself of the title to separate property. The court may, however, fix a lien upon the separate property of either of the parties to secure the payment of any in-

terest or equity that the other party may have in or to such separate property, or any equity that may arise in favor of either party out of property matters during the existence of the marriage relation, or to secure the payment of an allowance for the support and maintenance of the wife and minor children of the parties. The decree of divorce shall specifically describe the real estate of the parties affected by the decree, situated in this state, and any such decree affecting the title to real estate shall be recorded in the county in which such real estate is situated. Any separate property of either of the parties of which no disposition is made in the decree shall remain the separate property of such party, free of all claims of the other party, and any community property concerning which no provision is made in the decree shall be from the date of such decree, owned and held by the parties as tenants in common, each owning and holding an undivided one-half interest therein."

PROPOSAL No. 15—"Limit the time during which a testator can suspend the alienation of land—say twenty years."

Your chairman has to confess that he has never been able to figure out just what the proposers meant by Proposal No. 15. It seems to involve the intricate questions of "The Rule against Perpetuities" and the question of "Suspension of Alienation',, concerning both of which volumes have been written.

In most of the states the common law rule against perpetuities is in force, some of the states having followed the New York statute as to suspension of alienation, and some of the states have a mixed statute about which your chairman has an even less definite idea than he has about the two sources from which the statutes have been derived.

Mindful of the old saying about "fools rushing in where angels fear to tread," we quote the only statute which we can find which places a definite limitation by way of a term of years, which we find in the statutes of any state. We refer to the California statute which is as follows:

Sec. 715, Calif. Code: "Except in the single case mentioned in Sec 772, the absolute power of alienation can not be suspended, by any limitation or condition whatever, for a longer period than as follows:

1. During the continuance of the lives of persons in being at the creation of the limitation or condition; or

2. For a period not to exceed twenty-five years from the time of the creation of the suspension."

Sec. 772 Calif. Code: "A contingent remainder in fee may be created on a prior remainder in fee, to take effect in the event that the persons to whom the first remainder is limited die under the age of twenty-one years, or upon other contingency by which the estate of such persons may be determined before they attain majority."

Just what the California statute means would require a more thorough examination of the California decisions than your chairman has time to give.

In this connection there is submitted for your consideration a suggestion for a statute on this subject, proposed for those states which have substantially copied the New York idea of "suspension of alienation", made by Prof. E. C. Goddard, University of Michigan, in Michigan Law Review, Volume 22, No. 2, Page 106, as follows:

"The absolute power of alienation shall not be suspended by any limitation or condition whatever, for a longer period than during the lives in being at the creation of the estate of persons taking under the provisions subject to such limitation or condition."

"The absolute ownership of personal property shall not be suspended for a longer period than the absolute power of alienation of real estate."

As stated at the outset this report is submitted for your constructive criticism, more especially with reference to the law of your own state.

You may not agree as to the advisability of some of the proposals but the question for the committee is not so much the question of advisability, as the question as to whether or not the suggested form of laws as to the various proposals will accomplish the intended purpose. The policy of The American Title Association with reference to the proposals has been decided at the 1913 and 1923 conventions and the duty of the committee is to formulate laws to carry out the proposals.

As stated in the beginning it will be necessary for your replies to reach the Chairman NOT LATER THAN APRIL 15TH.

Very truly yours,

CHAS. C. WHITE,
Chairman.

Annual Business Meeting, State and National Officials

Much Interest Shown and Attendance an Inspiration—Increase Circulation of Directory and Issue One Every Two Years

The Annual Mid-Winter Executive Committee Meeting and the Second Annual Joint Meeting of the committees, officials of the State and National Associations held in Chicago last month was beyond expectations. The joint meeting was held on the first day when the officials of the National Association briefly stated the objects of the gathering, the work of the Association since the Omaha Convention and the plans of the future. The various committees reported on the progress of their endeavors so far and then each state official and representative was called upon to give his views and suggestions.

The second day session was the regular business meeting of the executive committee when the formal business of the Association was transacted and the work of the future outlined. All present were invited to attend the second day session.

This meeting stands to be the most profitable one ever held by the Association. Much good was done by it and it was only a foundation of more for the future.

The attendance far exceeded expectations and the display of interest in association matters and title affairs in general was much in evidence.

The idea of this joint meeting was conceived last year by then Vice President Wedthoff, chairman of the executive committee, who invited all state officials, and members of the various committees of the National Association to attend the usual Mid-winter Executive Committee Meeting. The object was to become better acquainted with the state officials, establish a better feeling and understanding between them and the national, learn of their problems, receive their suggestions and develop a plan whereby the most effective work could be done by the organization of title men in being of service to the title business and those in it.

This first meeting was such a success that it was decided to make it an annual affair. Chairman Condit therefor sent out a call for the second such meeting.

The first day's session was called to order in the morning by Vice President Condit who extended greetings and explained the purpose of the meeting.

President Wedthoff was then presented. He outlined the work of the past, told of the great necessity for the organization and of the title men taking an active part in the simplification of the proceedure of real estate transactions with special reference to the Association's Fifteen Proposals.

Treasurer Scott gave his report and the executive secretary was called upon to give a report of the activities of his office since the Omaha Convention and of the work of the future.

The general condition of the Association, was reported to be in a most sound and healthy state. Much interest was being shown and there was a ready response and willingness on the part of all asked to help.

The Title Examiners' Section was continuing its usual good work under the direction of Henry Fehrman, president, and J. R. West, secretary. New members of the usual high character were being secured from time to time and an intensive campaign for additional ones would be started in the near future.

The Title Insurance Section has been especially active. The section is gathering a collection and exchange of advertising matter. Secretary Thomas

has been rather busy with this job. The editor of the Bulletin expressed a real appreciation to Mr. Daly, president of the section for his fine co-operation with the Bulletin and in securing a number of fine articles for it.

The financial condition was reported to be very satisfactory. The Association owed no bills and for one of the few times in its history had a balance on hand probably sufficient with careful management to permit the carrying out of the year's work. The response to the pledges to the Sustaining Fund for the two year period were very pleasing but some short of what must be had. The budget this year provides for increased expenditures on the bulletin, and those caused by the membership drive and the new directory. The officials believe that the directory should be made the most of and as much spent on it as is needed. The dues of the Association do not finance it was a long ways, and support to the Sustaining Fund is very necessary. The annual dues are trivial and support to the fund is therefore warranted. Many more things could be done if there were more funds to provide adequate financial resources.

Membership.

Chairman Roy S. Johnson was called upon to report the progress of the membership campaign being conducted by the State Associations with the support of the national. He reported that no definite report could be made as most of the associations were at that time carrying on their drives. Some states had done exceedingly well and showed a big percentage of increase as a reward for their efforts. The date of closing the campaign prior to the issuance of the directory had been set as April 1. (This has since been extended to April 15).

Mr. Johnson has done some fine work in this campaign and given the matter strenuous attention. The success of it is not in his hands however, but squarely within the powers of the various state officials. Some of the state organizations have not gotten into the spirit of the thing and as a result are letting their best chance go by. With the directory as an inducement, never has there been such an opportunity to solicit new members.

The National Association has offered to help in every way by furnishing extra bulletins, pamphlets, etc. There should be 1,000 new members to the National Association, which means there should be 1,000 more members in the various state organizations.

Progress of the Uniform Laws Proposal.

Chairman Charles C. White of the special judiciary committee working on the Association's Fifteen Proposals excited the admiration of everyone when they learned of the work he had done.

He has had a tremendous job but has done it well. He reported on the work, the efforts it took to arouse interest and gave a brief outline of the conclusions drawn, and stated that a fuller one would be prepared and issued soon. It appears in this issue. The greatest handicap was caused by indifference on the part of those upon whom he called for help.

Many of these laws—in fact practically all of them—are in existence in some of the states at present, so they can easily be copied or adapted to the others.

Sectional Conferences for Program.

The next convention is going to be the best ever and every attention is being given to studying how those present can get the most good from it.

One of the plans is to have sectional conferences, or round table discussions. These are a part of nearly every kind of a convention and would be a profitable feature at ours. Arrangements for these are in the hands of Earl G. Smith, Akron Ohio, who will work with the program committee. Mr. Smith has investigated the matter and is quite enthusiastic about it. He asked for an expression of opinion from those present as to the value and place they would occupy. Everyone present voted in favor of them.

Committee on Co-operation.

This committee, with Jesse P. Crump, has done some valuable work in presenting the Association to other organizations. Much correspondence has passed between the Title Association and other kindred associations with the result that a spirit of friendliness and co-operation has arisen.

Following these reports and discussions, roll call by states was had and those present asked to tell of affairs in their localities, what their state associations were doing and to give suggestions.

Needless to say much of value was offered and from the things expressed, many ideas for work for the national organization gathered.

The second day session was devoted to business. The finances were given careful consideration. This matter is always one of concern and there has not been a time until of late that the association has had its head above water. May it continue to enjoy that comfort.

The directory is to be pushed to completion as soon as ever possible. The executive secretary reported that the circulation should be increased to 30,000 and it was so ordered.

A suggestion was also adopted that a new directory should be issued every two years.

The Bulletin received much discussion. The officials feel this is an important feature of the Association and decided to spare no effort in improving it, increasing the size and make it the best and most valuable title publication in the country. It was given a real name and the members may expect it to be of more and more value in the future.

A membership campaign will be conducted in those states where there are no state associations. The National Organization will do this work itself and individual memberships opened to title men in such states.

The committee was also deeply concerned with the condition of each State Association and will do everything to help them, strengthen them and assist with their activities, state conventions, legislative matters, etc. A representative of the National Association will be present at every state convention.

Other things decided at the meeting are reported in separate stories in this issue.

Notes of the Meeting.

There were but few of the members of the various committees and officials of the National Association unable to get to the meeting. Everyone who was absent sent an expression of regret and a good cause for being detained.

Mark Brewer and Henry Fehrman missed their first association meeting of any kind in years. Mark was just recovering from a long sick spell but sent a long letter to be read.

The permanent president of the Examiners' Section was likewise detained by having to yet completely recover from a sickness but sent two able representatives in John Campbell and Frank Norton, well remembered as two of our hosts from Omaha.

A resolution of commendation was passed for Charley Lambert, secretary of the Indiana Association, for the preparation of his most excellent bulletin of the last convention of the Indiana Association which he so generously distributed by sending a copy to the members of the American Title Association.

Charley certainly prepared a wonderfully valuable book and everyone who received a copy of it should be grateful to him.

The attendance was most gratifying. More came than was anticipated and everyone enjoyed it. There were over forty present, representing twenty-three states. A most excellent showing to say the least.

Quite naturally there was plenty of entertainment to go to. There were an unusual number of good shows. Most of the folks attended a different one each evening but some of the fellows were caught going to the Follies every night.

The crowd all dined together on Friday evening. It was just an informal dinner for the gang and it made everyone feel a bit more friendly and sociable.

The Cleveland crowd was there intact. What would a meeting of the Association be without that quartet? (No, they don't sing, there are just four to the crowd). Everyone reading this who does not know what is meant by the Cleveland crowd better come to New Orleans and find out.

There were some there for the first time and everyone was glad to meet them. One of them who came a long way, was J. F. Kehoe, president of the California Land Title Association.

Another was Geo. F. Buzbee, Benton, Arkansas, secretary of that State Association.

Walter E. Skinner, president of the Kansas Association and long worker in

TITLE NEWS

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that state organization was initiated into a national meeting.

T. S. Simrall, from Missouri, was another one of the very active state officials who attended his first national meeting.

Such meetings are certainly worth while. It is good for the individual attending, and it is doubly good for those in the active work of the Association. It is gratifying to see such interest displayed and gives encouragement to them to proceed with renewed vigor. The officials of an organization, however, always have an added sense of responsibility impressed upon them which is augmented by a determination to give added endeavors to the organization and its work.

There was a noticeable amount of "milling around" among those present. The crowd hung together all the time and talked shop. It was really like a miniature national convention and certain it is every one there gained much that will be of value to him personally.

Some of the Things Accomplished and Planned.

Especial attention to be given the publication, the Monthly Bulletin, now worthy of being called the "Official Publication of the American Title Association" and therefore the official organ of the title men of the United States, with the constant aim of making it bigger and better.

The membership campaign to be speeded up and closed.

The circulation of the directory to be increased to 30,000 and copies distributed everywhere they might be of advantage.

The report of the Committee on the Association's Fifteen Uniform Land Laws be published and the Association to keep on with its work for the enactment of simplified land laws.

The Torrens Pamphlet to be issued.

Greater co-operation and help to be given to the state associations, and a visitor from the National Association to be sent to each state meeting.

Membership campaigns for individual memberships to be made in those states where there are no state associations and new state associations to be formed where possible.

A directory of association members be issued every two years and distributed in large circulation.

Every assistance be given to states this year where Torrens Laws might be introduced.

Abstracts of Land Titles—Their Use and Preparation

This is the sceond of a series of articles or courses of instruction on the use and preparation of abstracts.

In last month's installment the source of the matter shown in an abstract,—the public records, was presented. This one will deal with which of the public records must be examined and why. Next month's will be on the subject of keys to them, the indexes of a title plant or how the abstracter or searcher can find the information affecting a certain tract of land.

A complete abstract consists of three principal parts: 1. The "chain of title" or the recognized instruments of conveyance such as deeds, mortgages, releases of them, affidavits explaining various matters, and such things as constitute the instruments of sale, etc., as would show the steps in ownership. 2. The transcripts of court actions involving the various steps in ownership, such as sheriff's deeds, guardians, administrators, executors, trustees deeds and the probate and any other proceedings showing the passing of land by bequest or descent by heirship. 3. The certificate which is the abstracter's word for correctness, responsibility and completeness of showing; a statement as to any liens other than liens by conveyance and a statement of taxes against the premises.

The principal parts of the abstract should include and show everything that is on record affecting the title to the land in question.

1. The Chain.

Those things in the first, the chain of title will be found of record in some county office which is designated by different names or kept by different officers in the various states. In some these records are kept by the "Register of Deeds" in others by the "County Recorder" "County Clerk" "Clerk of Records" but the name makes no difference, every state provides that some officer shall keep them and there they may be found.

All land came first from the government so every complete abstract will show the first instrument as that one vesting title in some one by a government grant.

Sometimes this is by a patent or land grant of some kind from some branch of our government either state or national. The right for some grant of land from the United States Government began by the passing of an act of Congress providing that the public lands of the United States were available and should the given to states, individuals or corporations as an aid, assistance or inducement to expansion of the settlement of the country, colonization or as a reward or bonus to soldiers and for other purposes tending to work for the development of the country and the advancement of the general welfare.

Some of these first "entries" on the abstract will therefore be from the United States Government itself, or from state, territory or other recognized branch of government.

After the land is vested in some private citizen, corporation or other as provided by law, the real fun starts. From then on it is a descending series of deeds, contracts, agreements, mortgages and other liens as created by instruments of writing or conditional conveyances. Intermingled with them will be leases, easements, vacations or condemnations by city or county governments adding adjoining streets, alleys, etc., to the property or taking portions from it. There will be party wall agreements, various kinds of contracts between parties for all kinds of uses of the property and in fact it is amazing just all of the many kinds of things people can find that will put an influence of some kind on an unsuspecting piece of real estate.

But no matter what kind it is, if of record it must be shown. And in the process of all these various things conveying, granting temporary use or possession and otherwise juggling with a piece of land, discrepancies and errors will creep. Then steps must be taken to cure or correct them and instruments of explanation or correction will be used such as affidavits, statements of fact, and deeds to correct former conveyances or errors.

In most states all of these things will

be found in the main place of records, the county recorders, for the reason that they provide that vacation proceedings, condemnations, etc., by city governments, court actions and otherwise must all be certified to the recognized central recording office to be valid upon the property.

Others do not so the abstracter must search the city, court or other records in order to find all of them.

But no matter what of the circumstances, any such instrument actions, or other step affecting title to land should be shown in order that the chain will be complete and the one using the abstract know that there is a showing on all matters.

So govern yourself accordingly and be influenced by whatever are the circumstances and conditions in your locality no matter how many different places of record.

2. Transcripts of Court Actions.

In the chain will be found deeds by reason of various court actions such as sheriffs', trustees', special masters' sales, deeds in partition by order of the Court, and other conveyances arising from proceedings or actions in civil courts, or other courts having jurisdiction in such matters.

Oftentimes the land will be vested in a man or woman and the next conveyance will be from his or her husband or wife, one or the other having gotten a divorce and been given the land by decree. This calls for a showing of the divorce proceedings.

In parts of the country where the abstract-attorney system is used suits to quiet the title or perfect it are had and these must be shown.

The other class of court proceedings affecting real estate are those in the probate court and are evidenced by administrators, executors, trustees, guardians or deeds by the heirs of a deceased person where there is only an administration and the interests have been acquired under the laws of descent and distribution.

But just as the chain of title should show all conveyances and instruments or writing affecting the title, so should the abstract contain a transcript of all matters in ANY court affecting the title.

The word "transcript" of court proceedings is used for as will be shown later, copies of court proceedings are not an evidence of good technique on the abstracter's part and a desire or request for them by an examiner is a sign of provincialism on his.

3. The Certificate.

The certificate is the real important part of an abstract from the abstracter's viewpoint and situation. In it he states that the abstract is a complete showing of the record title and that things shown are complete as to necessary detail and correctly shown.

The next statement or series of statements in the certificate is as to whether or not there are any suits pending, judgments, transcripts of judgments from the United States Courts, and others, mechanics' liens, executions and other such actions or liens as may effect the title now, later, or be a lien thereon, and recently, whether or not there are Federal Liens of any kind.

Before passing to the third or last series of statements in a certificate, that pertaining to taxes let us briefly study the matters in the second or series pertaining to court liens.

In some states suits pending are not a lien until judgment is rendered and judgments rendered in lower court such as municipal, justice, etc., are not a lien until certified to the District, Circuit or other main court, while in others a suit or judgment in any court is a lien.

This same is true in the case of judgments rendered in a federal court as some states have statutes providing that the clerk of the United States Court must certify a transcript of any judgment rendered in his court in the county wherein the judgment debtor owns real estate before that judgment may become a lien upon real estate. This same thing is true in the case of Federal Liens for income tax, violation of the prohibitory laws, etc., which have been causing so much trouble and consternation to the title men lately, as some of the states have laws providing too that these liens must be filed in certain offices within the county wherein the real estate is located before such liens can become effective against the land of the debtor.

But as in the case of things affecting the chain and the source of judicial deeds, whatever the circumstances and conditions whereby any such liens, judgments, suits pending etc., are effective against real estate, no matter in what kind of a court, the abstracter must search all of them and make a statement of the condition of things there are involving the land being abstracted.

4. Taxes.

The third and last series of statements in the certificate is about taxes, whether there are any regular or special taxes and assessment against the property that are a lien thereon.

In some states only taxes certified to the county treasurer office are a lien, and no sidewalk, curbing, paving, park or special taxes and assessments of any kind are a lien until certified there.

Other states do not make such a provision, however, but the city, the county, the state and any special taxes for either are collectable in any one of the three or more offices and a lien at once.

Consequently here as in the cases of the things in the first and second part the abstracter must go to any and all offices where tax records are kept and make a notation and statement as to the condition of this form of lien that might be effective against the property.

So it will be seen that an abstract is a pretty complicated and important thing, and he who makes it must know what to show, and where to get it.

The thing to keep constantly in mind is that the abstracter must go to all recognized places of record of matters in the chain, in the court proceedings, and in the offices of record for taxes, assessments, etc., and there examine all things affecting the title, show them on the abstract so that the purchaser of the land or user of the abstract will have a complete and reliable statement of all matters of any kind.

THE MISCELLANEOUS INDEX

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

The Title Insurance and Guaranty Co. of San Francisco announces the opening of two more branch offices, one at Colusa and the other at Marysville, from which their policies of title insurance will be issued.

An abstracter recently received a "jolt" when an abstract was presented for completion and satisfaction of attorneys requirements. The jolt was occasioned by the request that the abstract show where the United States acquired title to the land in caption.

The abstracter wrote the following on the list of requirement: "By the Louisiana Purchase. Read your United States History. You should have learned this in the Sixth Grade."

Nothing more was heard from the examiner who by the way happened to be "examining" for one of the large eastern life insurance companies.

A new clause is appearing in the certificate of many of the loan or life insurance companies. It is to the effect that the abstracter waives any ground for action to escape liability under his certificate by reason of the taking effect of the statute of limitations against the certificate.

This is because of the recent decisions in so many of the states whereby it has been decided that the statute of limitations begins running against the abstracters certificate in a really very short period of time.

Some of these special certificates of some loan companies contain a statement to the effect that there are no defects, liens or encumbrances not of record of which the abstracter has knowledge and which he has not noted in the abstract.

No one should expect the abstracter to sign a certificate with such a statement in it. The abstracter should strike out any such words or statements of this nature.