TITLE NEWS

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Important Mid-Winter Business Meeting and Conference Next Month

Session of Executive Committee and State Association Officials a Practical and Profitable Effort

The American Title Association holds two important meetings a year, the Annual Convention and the Annual Mid-Winter Business Meeting. Each has its purpose and place and each produces commensurate results.

The Annual Convention is, as the word says, a Convention and all that such a thing is.

The Annual Mid-Winter Business Meeting is another kind entirely. Business is transacted, the work since the last convention reviewed, strengthened, augmented, changed, new activities launched, and the next few months' work outlined and the coming convention arranged. In addition to all of these things, one-half of the time or a whole day is spent as a conference with the state officials.

Here their problems are presented, an expression received from them, their ideas secured, they become better acquainted with the national organization, its work and scope. In return the national association gets better acquainted with their needs, and can govern its work to a better advantage.

The trip there and the meeting is pleasant, everyone has an enjoyable time, but they work too. It is the real practical and profitable and serious purpose session of the organization.

It has gotten to be more so since the state officials have been asked to attend and a joint session had with them. This will be the third year that scheme has been followed, and every state official is urged to be there. Each of the meetings of the past two years has exceeded all expectations as to attendance and results attained. This is a particularly important one as all convention plans including the selection of the meeting place will be decided at this session.

In addition the report on the plan for the organization of an Abstracters Section will be made.

The meeting is in charge of the Vice President, Henry J. Fehrman, who is also Chairman of the Executive Committee. He is giving his usual tireless interest and efforts towards making it a success.

There should be a large attendance. Every state should have a representative from its officials.

President Condit Offers Cup to State Association Making Most Gain in Membership

Membership Campaign to Be Conducted This Year

A membership campaign will be conducted again this year, and a contest held between state associations. President Condit announces he will give a cup to the state association making the best showing.

Roy S. Johnson of Newkirk, Oklahoma, who was Chairman of the Membership Committee last year, has again been selected to head that same committee for 1925.

The campaign this year should be even more successful than last. This is because the membership lists and rolls of the state associations as filed in the American Title Association office have been revised and a status determined as of December 31, 1924. It will therefore be more simple to arrive at a definite knowledge of just what each association has done.

More members should be secured by every state association this year too. This is because the matter of membership in the state and national associations has been brought to the attention of every one in the business now regularly and periodically during the past two years in most states, and during the last one in every case. There is a better knowledge of the importance of the work and existence of the organizations and more interest in their activities.

Some of the state officials last year did not get into the spirit of the membership campaign and took no interest at all, consequently made no effort and secured no results. This will be a chance to do it and make up for what was not done last year.

Every state organization making a membership campaign in 1924 had most encouraging results. Some secured a 10 per cent increase or more while others a half and one doubled theirs. All it takes is a little effort and interest and results can be secured.

The different state associations should secure 500 more members this year.

Full details and definite announcements as to rules and methods of the 1925 campaign will be announced in a short time.

Nebraska won the cup given last year by President Geo. E. Wedthoff. The success of this campaign will be entirely gauged by the interest taken and efforts put forth by the different state officials. The American Association will however co-operate and help in every way asked and do everything possible to assist.

CAVEAT EMPTOR.

In old Roman days the ethics of selling were embodied in the phrase, "Caveat emptor" meaning, "Let the buyer beware."

Today the ethics of the modern realtor and attorney engaged in the sale and transfer of property have a far different meaning. Protection for the buyer is the foundation of present day real estate investment.

The progress of civilization has brought greater hazards to the buyer. The rapid expansion and increasing population of our cities, the greater value of real estate and complicated laws affecting the title to property have all forced the buyer of real estate to seek the security of abstracts and guaranty title.

The wise buyer of real estate will result specialists who are capable of passing upon title to property.—[Bulletin of Texas Abstracters Ass'n.

Oklahoma to Have License Bill Presented

Measure Presents Many Features; Passage Will Mean New Epoch in Abstract Business

The following bill has been presented to the Oklahoma legislature:

A BILL ENTITLED

AN ACT relating to Abstracting; amending sections 3610-3611-3612, Compiled Oklahoma Statutes 1921, providing for a graduated bond, providing additional qualifications, fixing liabilities; prescribing penalties, repealing conflicting laws.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

ABSTRACTERS, QUALIFICATIONS OF, BOND OF, RECORDS AND INDEXES.

SECTION 1. That Section 3611, Compiled Oklahoma Statutes 1921, be and the same is hereby amended to read as follows:

Section 1. It shall be unlawful for any person, firm, or corporation to engage in the business of abstracting titles to real estate in any of the counties of the State of Oklahoma, without first having executed and filed with the county clerk of the county in which said person, firm or corporation intends to engage in the business of abstracting, a bond to be approved by the board of county commissioners of said county, with three or more good and sufficient sureties residing in the county and worth not less than double the amount of the bond over and above all debts, liabilities and exemptions, or a duly authorized guaranty company in the sum of five thousand dollars for each 35,000 population or fractions thereof according to the last Federal Census, conditioned that he will properly demean himself in the business of abstracting and will pay all damages that may accrue to any person by reason of any error in any abstract furnished by him and will in no way mutilate, deface or destroy any of the records of the several offices to which he may have access, and that he will not in any way interfere with, hinder, or delay the several county officers in the discharge of their duties while using said records in the prosecution of said business of abstracting. The person, firm or corporation who shall execute and file said bond as above provided, for said purpose, shall together with the sureties thereon, be liable on said bond to the State of Oklahoma, in the penalty of one hundred dollars, and to the county or person who shall be in any way damaged by any mutilation, injury or destruction of any record of the several county officers to which he may have access; to the amount of damages actually done said county or person; and to any person or persons for whom he may compile, make or furnish abstracts of title, and to any person who may be misled to his damage by reason of any imperfect, erroneous or false abstract to the amount of damage done to said person or persons by any error made by said person, firm or corporation in compiling said abstract.

Provided Further, that before any such person, firm or corporation shall engage in the business of abstracting titles to real estate he shall have a complete set of indexes to all the records in the office of the county clerk or the county officer charged with the recording of instruments affecting titles to real estate, of the recorded instruments affecting titles to real estate; and which indexes shall contain sufficient information to identify each instrument so recorded or filed for record, and shall be indexed under each description of real estate conveyed or effected, in a record or records arranged according to the alphabetical or numerical designation of the property described. Such indexes shall be made and kept posted from the records and instruments filed for record, and shall not be compiled or copied from the indexes of the recorder. It shall be the further duty of the abstracter to index in a temporary manner all suits, liens or attachments filed in the office of the Court Clerk and all estate and guardianship cases filed in the County Court and all estate and Guardian cases filed in the County Court after the passage and approval of this act; which suits, liens or attachments may be erased, cancelled or removed from the indexes in case of settlement without sale or permanent effect to the real estate involved. The indexes above provided shall be deemed complete when they shall contain all instruments affecting titles to real estate in the office of the County Clerk and are maintained to a reasonable time prior to the making of an abstract, not exceeding thirty days.

Provided Further, that persons now engaged in the business of abstracting, who have no indexes as above provided, may continue to operate such business and make abstracts and extensions thereof, for a reasonable time, while compiling or making indexes as above provided, not to exceed the period of one year from the passage and approval of this act.

Provided Further, that in those counties which have been formed from other counties, or in which the records in the office of the County Clerk are incomplete from other causes, the provisions of this act shall be deemed complied with as to the qualification regarding indexes when the abstracters shall have completed such indexes from the records and transcripts of records in the office of the County Clerk of such counties.

Provided Further, that from and after the passage and approval of this act, each and every person, firm or cooperation, engaged in the business of abstracting titles to real estate shall be required to furnish a certificate or statement with each abstract, supplemental abstract or extension thereof, giving the date and duration of the bond and if a surety bond, the term for which premium is paid; and shall also certify and state in such certificate or statement as to whether he has a complete set of indexes, to the records in the office of the County Clerk, as above provided, and is duly qualified to do an abstract business under the provisions of this chapter.

Provided Further, that any person, firm or corporation who may hereafter file any bond for the purpose of engaging in the business of abstracting titles to real estate; such person, or in case of a firm or corporation, the managing officer thereof, shall, before filing such bond be examined as to his fitness for such duties by a board of three members to be convened as follows: One member to be appointed by the Secretary of the Commissioners of the Land Office of the State of Oklahoma, who shall be chairman, one to be appointed by the president of the State Bar Association, and one to be appointed by the president of the Oklahoma Association of Title Men. The board shall be convened at the office of the chairman, on his call. The applicant shall submit his application to the Secretary of the Commissioners of the Land Office, who shall thereupon appoint the Chairman as above provided, who shall call a meeting of the Board to consider the application and make the examination. The applicant shall tender with the application a fee of twenty-five dollars, out of which the board shall pay all expense of the examination and shall pay to the members conducting the examination, the balance prorated as their fees in full. Should the applicant successfully pass the examination, the chairman of the board shall furnish him a written certificate to that effect, which shall be filed by the applicant with the County Clerk of the county where he may file his bond, and said certificate shall be filed with the bond before the bond may be approved by the county commissioners as above provided. Provided further, that upon the filing of a new bond or the renewal of a bond previously filed and approved no examination shall be required.

CERTIFICATE; HOW ISSUED.

Section 2. That Section 3611 Compiled Oklahoma Statutes 1921, be and the same is hereby amended to read as follows:

Section 2. It is hereby made the duty of the county clerk after the bond of any abstracter has been filed and approved in the manner above provided, to issue to such abstracter, on demand, a certificate of authority in writing, under his hand and official seal to make abstracts. After such certificate shall have been issued, a person, firm or corporation holding the same, during the continuance of such certificate shall have free access to the County records of the several county offices, for the purpose of the prosecution of their said business of abstracting and the compil-

ing, posting and keeping up of their abstract books, necessary for the proper conduct of their said business, under the direct supervision of the county officers having the legal custody of said records; and while handling and using said county records for any of the purposes of this chapter the said abstracters and their officers, agents, or employees shall be under the same obligation to protect and preserve said records as the several county officers who have the legal custody of same, and subject to the same penalties for a violation of such duty as said officers.

FAILURE TO QUALIFY OR FILE BOND, MISDEMEANOR.

Section 3. That section 3612 Compiled Oklahoma Statutes 1921, be and the same is hereby amended to read as follows:

Section 3. Any person, firm or corporation who shall hold themselves out as abstracters and engage in the business of abstracting without first having executed and filed the bond, and received the certificate hereinbefore provided for, or who shall furnish any abstract, extension or supplemental abstract, without also furnishing the certificate above provided for, and any person, firm or corporation who shall hereafter enter in the business of abstracting without first having passed the examination above provided for and fully complied with all other requirements of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars and not exceeding one thousand dollars for each such offence.

Section 4. All laws and parts of laws in conflict with this act are hereby repealed.

Title Insurance—the Reason For It

By Edward C. Wyckoff, Assistant Title Officer, Fidelity Union Title & Mortgage Guaranty Co., Newark, N. J.

It is said that the basis of wealth is real estate. To a large extent this is true for out of the soil there comes all the raw material and the elements of power; and unless they are made available we will have none of the necessities of life.

Stability of government and business economy has made it necessary to give first consideration to security of title to lands; and to this end throughout history we find definite laws controlling the transfer of title; and great care exercised by the courts in the application of the statute and common law as interpreted through precedents. And we find the courts slow to change legal principles relating to land titles, even going to great length to equitably interpret statute laws of radical nature sometimes forced upon legislative bodies by intense but illogical public opinion.

Certainty of title is necessary before capital to promote large industrial, agricultural, mining and manufacturing establishments can be procured.

In our early history residence of everyone was fairly permanent and land owners and business men were generally well known to the community; and the extension of credits by bankers and business houses was generally made through personal knowledge of conditions.

Increased civilization with extension of facilities for travel, transportation and manufacture and the demand for more aide to comfort and pleasure has resulted in more frequent transfer of titles. Rights of labor and of business are being given more protection by way of liens of various sorts dependent for their efficiency upon proper recordings in public offices and prompt attention in the courts. Taxes of increasing variety with resulting liens to compel their payment are being devised each year. Citizens and corporations of different states are dealing more and more with each other giving greater application of Federal laws to local communities.

In short the vast complex machinery of modern business has built up such a mass of laws affecting land titles and securities dependent upon them that specialists in their application have become a necessity. No longer can one charged with the examination of titles depend solely upon his own labors. He must have the help of others to search out and take off the records in the various recording offices and courts and must know when he has exhausted all necessary sources of information and has before him that complete data which is essential for a safe expression of opinion. And then, when this record has been placed before him, he must be acquainted with the means of ascertaining those municipal, county, state and national laws and those decisions of the state and federal courts, which are increasing in such leaps and bounds that one cannot keep pace with them, and be competent to apply them to the facts in hand. To enumerate the details necessary to be considered in any ordinary title would consume the space allotted to this article.

Out of this growth of modern title records and laws there have been evolved the so called Title Insurance Companies with their staffs of expert searchers, examiners, inspectors, surveyors and attorneys, in active cooperation, each group doing its specialized work.

The same attorney who formerly gave his opinion after honest and careful effort to learn the facts and the law and who in that case was not legally liable for an error in judgment, when he takes a place as one of the cogs in the machinery of a title company, has his opinion backed by the assurance of the title policy that if that judgment is erroneous, the insuring company will pay any loss resulting therefrom.

Strictly speaking, we should not say that we are insurers of title as what we in fact do is to render an opinion and guarantee that it is correct. The more dollars back of the opinion the better the policy.

The title insurance business is one of natural evolution and does not crowd out the groups formerly known as abstractors, title examiners and title attorneys, but rather gives them opportunity to combine their several branches of the work to their mutual benefit relieving them at the same time from their personal responsibility, and substituting for it a corporate and therefore a continuing responsibility. And backing this corporate liability with their combined capital and the capital of those having faith in their ability gives them opportunity to make a stronger appeal for business.

Combination of abstractors, title examiners and title companies in one growing national organization for the exchange of experience and ideas, the promotion of their common interests and the education of the public to the advantage of employing them in their several lines of endeavor is therefore natural.

Let us all pull together for a real live national association reaching in time the prestige of the National Bar Association and working in cooperation with it and with local Bar Associations and Boards of Realtors for the advancement of uniform laws tending toward the sanctity of land titles.

GOLD FISH.

Did you ever happen to notice how wise the gold fish look while swimming around in the bowl which is home to them?

But they are not as wise as one would think. They are just like too many of the people in this busy old world today.

This was discovered recently when one of the fair sex announced her intention of cleaning the bowl wherein her pet gold fish lived.

She had filled a large tub with water and then emptied Mr. Goldfish into the tub so he could have a big swim. Mr. Goldfish did not go to the edge of the tub so he could have a big swim. Instead he swam 'round and 'round and 'round in small circles just the size of the glass bowl.

Are not many people and businesses just like that today? Going 'round and 'round in their daily work—never reaching beyond their present circle.

William Wrigley, Jr., the chewing gum king of Chicago, in explaining the rapid growth of his company, said it was all due to advertising.

"But," interrupted one of his friends traveling with him to the Pacific coast, "you have already built up a remarkable business. Why not save some of this advertising money and run along on momentum for a while?"

"Well," Mr. Wrigley said, "we have had a fine, fast trip west from Chicago so far. How much progress do you think we would make if they took off the engine?"

Recent Court Decisions on Title Matters

DEEDS, BUILDING RESTRICTIONS.—Building Line restrictions are valid whether in the first or last part of the deed and will be enforced by injunction. A recital in a deed that property is subject to "restrictions, if any" is notice of restriction in deed to other property by previous owner. An agreement in early deeds to impose restrictions on other property in later deeds is binding on purchases of the other property. (This principal seems very harsh when one considers the practical difficulty of finding restrictions outside the chain of title.) If no expiration is given in the deed, restrictions do not expire until the character of the neighborhood has completely changed. (Milligan vs. Balson, 264 S. W. 73.)

LEASES, TAXES.—A lessee under a lease requiring him to pay all taxes is not compelled to pay the lessor's income tax on the rents. (Elliott vs. Winn, 264 S. W. 391).

LEASES, VERBAL.—A verbal lease for more than a year (which would be void as a lease under the Statute of Frauds) is valid if the lessor verbally ratifies it each year. (Guelledge vs. Davis, 264 S. W. 441).

MORTGAGES, INSURANCE.—A clause in an insurance policy declaring it void if a mortgage is executed is valid. (Day vs. National Fire Insurance Co. 264 S. W. 467).

TAXATION, SPECIAL ASSESSMENTS.—The assessment of special tax bills to a line midway between streets is void. (Parker vs. Dodd, 264 S. W. 651).

MORTGAGES, FORECLOSURE.—A trustee's sale in foreclosure is valid even though he does not have the deed of trust or notes in his possession. (Dolan vs. Talle. 263 S. W. 244).

AGENTS, COMMISSIONS.—Real estate agents can agree to divide commissions and such agreement is valid unless either principal relied on agent for advice or information. (Edward vs. French, 263 S. W. 132.)

DEEDS, CONSTRUCTION.—A deed is construed in favor of the grantee rather than the grantor. (Hobbs vs. Yeager, 263 S. W. 225).

WILLS, RESIDUE.—A contingent reversionary interest in grantor "and his heirs" passes by a residuary clause in his will. (Hobbs vs. Yeager, 263 S. W. 225).

INTOXICATING LIQUOR.—In a State injunction suit against use of real estate because used in violation of National Prohibition Act, a bond must be given or the suit will be void. (Ex parte Gounis, 263 S. W. 988).

MORTGAGES, FORECLOSURE.—The pledgee of a deed of trust and notes as collateral can request the trustee to foreclose without request of the original holder or pledger. (Schelp vs. Nichols, 263 S. W. 1017).

MORTGAGES, FORECLOSURE.—Where a collateral pledgee of a mortgage buys land in at the foreclosure, he holds in trust for the original holder or cestui que trust upon payment of the collateral note. (Schelp vs. Nicholls, 263 S. W. 1017).

DEEDS, BLANK.—Where the name of the grantee in a deed is left blank and a purchaser inserts his own name, without authority from the grantor, the deed is void. (Delaney vs. Light, 263 S. W. 813).

DEEDS, NOTICE.—A grantee under a deed of gift without valuable consideration, takes subject to an unrecorded vendor's lien even though he did not know of it. (Rickard vs. Dorsey. 264 S. W. 51).

BOUNDARIES.—Mutual recognition of a boundary line by an adjoining proprietor, who is not in chain of title of land in controversy, is immaterial. (Whitman vs. Lowe, 126 Atl. 513).

VENDOR AND PURCHASER.—Specific performance decreed notwithstanding the refusal of vendee to perform upon the ground that while he knew of a lease he did not know that it contained an option to lessee to have first preference to purchase; court holding that having notice of lease he was chargeable with knowledge of its terms; but also holding that an option without price or terms being fixed, and prescribing no means of ascertaining them, was unenforceable under the statute of frauds. (Cerrato vs. Megaro, 126 Atl. 531).

TAX SALE.—When under tax act personal service of notice to redeem from tax sale is required, the service of such notice need not be made by official or in a particular mode. Evidence showing that person so entitled actually received the notice is sufficient. (McKenna vs. Harrington Co., 126 Atl. 532).

SPECIFIC PERFORMANCE.—Will not be granted where time of payment is material and the delay is not excused and justified. After a purchaser has fully determined he will not complete his purchase, a contract of that nature should not be considered as automatically converted into an option of purchase in his behalf to enable him to change his mind at some future time. (Fox vs. Fridrich, 126 Atl. 535).

LANDLORD AND TENANT.—A surrender of lease by act and operation of law arises only when the minds of the parties to a lease concur in the common intent of relinquishing the relation of landlord and tenant, and the parties execute this intent by acts which are paramount to a stipulation to put an end to the lease. (Lott vs. Chaffel, 126 Atl. 559).

TRUSTS.—A trust is implied whenever circumstances are such that person taking legal estate, whether by fraud or otherwise, cannot enjoy beneficial interest without violating honesty and fair dealing; and when one conveys title to another in reliance upon the latter's promise, violation of promise for grantee's advantage is a fraud, for which equity will make grantee constructive trustee for benefit of grantor or his beneficiary, notwithstanding grantee enters into agreement with honest intention of performing. When express trustee converts trust property, contrary to his duty, cestui may follow property, if it has not passed into hands of bona fide purchaser, or may hold trustee responsible, personally. (Miller vs. Belville, 126 Atl. 590).

RECEIVERS.—Deals with right of chancery court in Vermont to deal with and fix priorities of various kinds of claims, as between municipalities, general creditors, mortgagee and lien claimants. (Westinghouse Elec. Mfg. Co., vs. Barre & Montpelier T. & P. Co., 126 Atl. 594).

MORTGAGES.—A mortgagor, as a defense in foreclosure of a mortgage, can not set up a subsequently acquired tax title. Nor can a mortgagor, when mortgage contains a covenant of quiet enjoyment, set up in defense of foreclosure a superior title subsequently acquired by him. (Ripley vs. Schenck, 126 Atl. 603).

WILLS.—(a) Word "and" may be read as "or" where necessary to effectuate testator's obvious intent. (b) Gift to persons, not constituting class, by name, is to them individually without right of survivorship. (Elizabeth Trust Co., vs. Clark, 126 Atl. 604).

EMINENT DOMAIN.—The legislature may vacate a public street without compensation to landowners of street either near or abutting part of street vacated; and where public utility commissioners adjudged a street grade crossing to be dangerous, and ordered railroad to relocate it, the property owner is held not entitled to enjoin the closing of the existing crossing because he owned land fronting on public street near part vacated. (Coombs vs. Atlantic City R. Co., 126 Atl. 606).

EASEMENTS.—Where closing of road would not occasion irreparable injury a bill to restrain railroad company from relocating highway crossing on ground that plaintiff had private easement in old crossing was held to present question for law court only as to whether easement, if

any, survived vacation of highway, and bill was dismissed. Adverse user, if relied on to establish private easement, must show use to have been continuous, uninterrupted, and under claim of right adverse to owner, all for statutory period. (Coombs vs. Atl. City R. Co. 126 Atl. 606).

DAMAGE TO REALTY.—Action for damages to realty in New York will not lie in New Jersey court, and the court not having jurisdiction over the subject matter will not be given jurisdiction by consent of defendant. (Van Ommen vs. Hogeman, 126 Atl. 468).

FIRE ESCAPES.—A fire escape placed upon a building in compliance with, and approved as required by, state law held not to be a private nuisance; but a lawful obstruction upon the public highway which all users of the highway must heed. (W. B. Wood Co. vs. Balsam, 126 Atl. 480).

DEED—CONSTRUCTION OF.—Effect must be given to terms of a deed where no doubt or obscurity exists, and in such case a practical construction by the parties can not affect the construction. Held that reservation was of wood and timber standing at execution of deed and would not include that growing thereafter. (Bragg vs. Newton, 126 Atl. 494).

JUDGMENT.—As between two actions, there must be identity of parties, of subject matter, and causes of action, in order that a former judgment may be an absolute bar to a subsequent action. (Buck vs. Hunter, 126 Atl. 504).

DESCENT AND DISTRIBUTION.—It was held error in a suit by one in behalf of himself as heir, and of all other heirs similarly situated, to refuse to permit amendments making administrator and other heirs parties plaintiff. (Buck vs. Hunter, 126 Atl. 504).

ADOPTED CHILDREN.—The right of adopted children to take the estate of the adoptive parent is controlled by the statute in force at the time of the parent's death rather than as of the date of adoption. (In re Hagar's Estate, 126 Atl. 507).

DESCENT AND DISTRIBUTION.—The right to take title by devise or descent is a statutory and not a natural right. The legislature may attach conditions to such right and change the conditions under which such right shall exist. (In re Hagar's Estate, 126 Atl. 507.)

INHERITANCE AND TRANSFER TAXES.—Are not taxes on property but rather conditions under which inheritances by descent or devise may be taken. (In re Hagar's Estate, 126 Atl. 507).

SPECIFIC PERFORMANCE.—Specific performance, being within the discretion of the Court, will not be decreed if the title involved is unmarketable or substantial doubt as to its validity exists. (Neill vs. Petry, 126 Atl. 608).

WILLS.—It is held that where a will devised lands to person which were "to go to his heirs at his death" that under the rule in Shelley's Case the devisee acquired title to such lands in fee; and that the New Jersey statute modifying the rule applies only where land is devised for life and there are children in whom remainder can vest. (Neill vs. Petry, 126 Atl. 608).

DEEDS.—Conditions subsequent are not favored in equity and are to be construed strictly because they tend to destroy estates. (In re Y. W. C. A. of N. Y., 126 Atl. 610).

CHARITIES.—Under statutory provision the chancellor is authorized to order that lands conveyed to a religious, educational or charitable association be sold, when a sale will promote or benefit the trust. Such sale may be made free from the limitations of the trust, and the trust will thereupon attach to the proceeds of sale. (In re Y. W. C. A. of N. Y., 126 Atl. 610).

EASEMENTS.—One cannot create an easement in part of his property for the benefit of the rest by mere user, which could not be adverse to title or right of owner of entire property; and a mere right of way, not apparent and continuous, but enjoyed at intervals, leaving no visible sign of its existence in the interim, is not such easement as will pass under term "appurtenances" unless grantor uses language sufficient to create the easement de novo. Easement for right of way will not arise by implication on severance of title to dominant and servient tenements, unless necessary to beneficial enjoyment of land granted or retained. (Faas vs. Wallwork, 126 Atl. 620).

EXECUTORS AND ADMINISTRATORS.—Order for sale of land given wife for life or widowhood held authorized where payment of debts of estate out of rents would be burden on her. (Staples vs. Newton, 126 Atl. 625, R. I.)

ADOPTION.—An adopted child will inherit from intestate foster father under statute in force at his death. The rights of descent flow from the legal status of the parties, and, where the status is fixed, the law supplies the rules of descent, with reference to the situation as its existed at the death of the decedent. (Appeal of Latham, 126 Atl. 626, Me.)

WILLS—APPLICATION OF ADOPTION STATUTE OF NEW JERSEY TO INTERPRETATION OF.—Formulates rule "that where a testator by a will executed and probated during the existence of our statute as to adoption, devises property to a class designated as 'heirs,' 'lawful heirs,' or 'legal heirs,' (in cases where, prior to the statute of adoption, such words would have been held to mean 'children or children' and 'or the children of deceased children') he must be deemed, in absence of evidence to the contrary elsewhere in the will or surrounding circumstances, to have intended to include within such class children adopted pursuant to such statute, as well as natural born children or grandchildren," and explains why word "issue" was not included, i. e., because of statutory provisions. (Haver vs. Herder, 126 Atl. 661).

BROKERS.—Broker without exclusive authority not entitled to commission, where not proximate, efficient cause of sale. (Bridgeport Land and Title Company vs. Langdon, 126 Atl. 863. Conn.)

TRUSTS—CHARITIES.—Death of person or disbanding of corporation named as trustees will not destroy a trust under Connecticut statute which provides that court may supply trustees; and therefore a corporation formed by representatives of four out of five German organizations named by a testator, where fifth had disbanded, and where testator had provided that other German organizations might be invited to co-operate was such a separate organization as testator intended to administer the trust fund. (City Missionary Soc. vs. August Moeller Memorial Foundation, Inc., 126 Atl. 683).

ATTACHMENT.—Bond given to secure release of attached property was statutory bond and a substitute for property, and for lien of attachment, notwithstanding it was less in amount than value of attached property; and where attachment would have been dissolved by adjudication of bankruptcy within four months thereof, bond was discharged by such adjudication. (McCann-Camp Co., Inc., vs. Globe Indemnity Co., 126 Atl. 687. Conn.)

EXCHANGE OF PROPERTY.—Where one month lease was by consent of parties to contract for exchange of property, included in adjustment of rents, and not considered as an incumbrance, the existence thereof did not constitute an incumbrance in violation of the contract.

WILLS.—Absolute devise held not cut down to life use by succeeding clause. Primary question is testatrix's intention and positive devise in fee or absolute bequest not cut down by clause not clearly expressing such intent. Clause open to implications will not cut down devise in fee to lesser estate, as early vesting of estate favored, first taker being preferred and defeasance provisions disfavored. (Hull vs. Hull, 126 Atl. 699).

WILLS.—Absolute devise may be cut down by subsequent provision clearly showing intent to give lesser estate. Limitation on prior devise of estate in fee read as applying exclusively to event of devisee's death during testator's lifetime. Devise of fee to sons surviving testator held not cut down by devise to daughters in case of sons' death without issue. Absolute gifts can not be cut down by mere implication. Clause authorizing widow to encroach upon principal of estate absolutely devised to children construed as giving her right, if her necessity required, to use principal to such extent as to make her comfortable during settlement of estate, without having to apply to probate court for allowance, as any other construction would cut down by implication devises in fee. (Burnham vs. Burnham, 126 Atl. 704. Conn.)

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Editorial Entries

How many established and recognized abstracters and title companies are there in the United States? No special attempt has been made by the Association or any other agency so far as the Editor knows, to get real definite figures on this point which has probably been thought of by many.

A short time ago a mailing list company advertised among others, that they had a list of abstracters of the country containing nearly 7,000 names. From the other sources at hand, the membership lists of the state associations for the past few years and information gathered by the Association last year in the membership campaign, a fair estimate can be computed.

There is one thing certain, however, and that is that there are not seven thousand real, legitimate and established abstracters or title companies in the United States. There is not over half that number. If one would figure the jack-of-all-trades who, among other things, make abstracts when not repairing wind-mills, poisoning prairie dogs, etc., the number might reach seven thousand.

But a study of this point brings many interesting things to mind. In the first place, the title business is, to a certain extent, one of a limited output. All business is, to some degree, limited by the law of demand, custom, style, fad and other influences that increase or decrease the volume of sales. The title business however is confined entirely to the amount of business made by the movement and activity of land. This means therefore that there is only a limited amount of business, and the more in it the less for each one.

In most places of a large population there are but a few title companies, in some but one in number; while in the smaller ones there are sometimes a dozen, all of them dabbling in the business, or else just one or two real established abstracters and the rest having it as a weak side-line. In fact there is one noticeable thing, and that is that there are but a few—one, two, three, but rarely more—abstract and title companies in the larger cities. The main reason for this probably is because of the capital necessary in a large city for a plant and the over-head, cost of maintenance and conduct of business. The other is that the existing ones have survived through the growth of the community by the quality of their service and efficiency and skill. The limited volume of available business only justified the maintenance and existence of a limited number of adequately equipped and efficient in service institutions.

The opposite of this is seen in the small inland county—where the county seat is one or two thousand in population and the entire county population from eight to twenty thousand. Almost without exception there are always two or three abstracters, and from that number up to twelve. Not many of them are real abstracters, equipped either in office equipment or skill, but lawyers, real estate men, bankers, notaries public and every other one who will make an abstract, either for the public or for their own deals. They are not even curbstoners, just plain "wildcatters" who are everything but an abstracter and who take business from one who would like to have sufficient business to making abstracting his prime effort.

As a result, as a means of existence and of making a living, many abstracters in small communities have real estate, loans, and other really kindred side lines as a part of their business. However, the abstracter who has side lines should not be confused with the one who has abstracts for a sideline.

The exception to this is in those places where there never has and is not yet a custom of using modern abstracts or title insurance, and there are no established abstract or title companies. Attorneys, conveyancers and "searchers" examine the records, and from them and their knowledge of the community augmented by the "traditionary" title given them by the old settlers and residents, issue a certificate of title.

In parts of the country where such a scheme is used and practiced, naturally there are a number of them in the business, practically every Attorney is competent and does do such work.

But taking into consideration only the real recognized abstracters and title companies in those places where modern abstracts and title insurance is used, plus the number of real attorneys and conveyancers recognized as specializing or competent in title work, there probably are not more than half of seven thousand in the country, if that many.

With this comes the question, What is the membership of the association and is that membership representative of the business? Certain it is that the membership is representative of the title business.

There are many not in the organization who should be, but the field has been pretty thoroughly canvassed from time to time, and nearly 100 per cent of the real, energetic, recognized and established titlemen and companies of the country belong.

Most businesses recognize the fact that trade and commercial organizations are essential to the existence of every business, and further that the public treats and looks askance upon anyone who does not belong to the organization of his trade, business, industry or profession. They either figure he cannot belong for reasons of not fulfilling some requirement, or else is behind the times in methods, skill and efficiency and has not enough pride and get-up-and-go in him to keep pace with his fellow men.

That is true of the title associations, the state and national for the state organizations constitute and make the membership of the national. It is true and regrettable that many state associations have not made any great effort to keep up or increase their membership, yet most have from time to time, at least every titleman in the state knows of the organization and could use his initiative if not being "invited" in getting into it, yet generally speaking if a man does not belong, it is because of his own indifference.

Another reason is that several of the state associations have an almost 100 per cent membership of those eligible; they have some kind of rules and requirements for membership and in such cases there is only one thing to do if one can fulfill the requirements, that is, join, for if you do not, then it is self admission that you are either too indifferent to be listed as alive or else cannot come up to the mark.

So it can most emphatically be said that the membership of the state associations—and that means the American Title Association—is representative,

and the number of members is very fair.

And the public recognizes it in ours as in every other. In fact the day is almost here when one will be treated with some large degree of suspicion if he does not belong to his trade association.

This is a day when we very often hear of "moral force" and "moral suasion." It is used, recognized and recommended as a means of the accomplishment of many things. In fact one of the recommendations and proposals in a recent international contest for the best plan of establishing permanent peace and abolishing wars was the substitution of moral force for armed action, the literal stopping of the on-rush of armies and the savagery of war by moral force, opinion, thinking, the establishment of ideas and ideals so strongly as to be the prevailing and overwhelming things.

And those in the title business have probably realized this, and those who have not, should take cognizance of the fact that it is becoming more and more so every day that a man must be one of his fellows in the advancement, development and conduct of his business. And while there are many who do not belong to the organization, a large per cent of those eligible and established in the business do.

Everyone who belongs gets the direct and indirect benefits of the existence and activities of his state and the American Association, and is a part in the thing.

If he is in the business and does not belong to the title associations, he is playing indifferent, or sponge-like, absorbs the benefits and value he receives by the work and mere existence of the organizations.

But the membership at its best will be small, limited in number which will not be large in comparison with other businesses. While it will grow, it will never have an unlimited number to attain—and then too, title companies are not established and begun in large numbers every day, rather there will be a decrease now due to mergers, the going out of business due to natural events, and the survival of the fittest and most efficient.

Therefore the American Title Association can see that it must get its membership and means of operation from a rather staple source and limited number.

Many organizations have large memberships and can charge a membership fee sufficient to provide ample funds for the necessary work. Others have a small membership but a large fee for belonging.

Many national organizations however are composed of units made up of city, state or national associations who provide for the operation of the larger by a per capita fee. This means of course that the part paid the national is small, because there has of necessity been a split in the fee paid by the individual.

This is the method used by the American Association because of the nature of the organization and those composing the membership. It has been found to be the most logical.

But because of the smallness of the fee, and the limited possible membership, adequate funds cannot be secured by the plan. There must be money to carry on the work. The activities of the organization have always been curtailed, held back and confined to the funds at hand to carry it on. The scope of its activities could be increased a hundred fold and the title business raised to new and unconceived ideals and standards were the funds at hand for after all it is the money that pays the bills that does the work that gets the results. Willing hands and minds are everywhere; the moral support far over weighs the other.

So through voluntary giving and broad-minded generosity, funds have been provided by a few for the benefit of the whole. The individual dues paid by the state associations for their members, a per capita of $2 is the smallest known fee for membership in any national organization, and certain it is that the American Title Association is giving a hundred fold times that amount of benefit of a real tangible and practical value. It is simply foolish to try to estimate the value in dollars and cents.

Only about 20 per cent of the membership—one fifth—participate in giving to the Sustaining Fund. That one-fifth really provides for the other four fifths.

A small percentage of that 20 per cent give very generously. The group composing the Sustaining Fund Members have been faithful for a time now and been most considerate and liberal in order that the organization might go on and prosper, and EVERYONE in the title business benefit.

The fine thing would be if a great majority of the membership would support the sustaining fund to some fair amount. If 75 per cent of the membership would each give something, more money would be had, more would have had a part in the support and it would be better for everyone and everything.

Every member has been sent a letter. The response to them will be awaited with interest, hope and anticipation.

NEWS OF THE TITLE WOMEN

Their Column

Edited by Mrs. M. B. Brewer, Oklahoma City, Okla.
809 West 18th St.

Now that our Christmas and New Year's greetings and wishes have been exchanged, the strenuous struggle is on to keep our many, many New Year resolutions which we so readily made and will so thoughtlessly break—perhaps in the first few days of the New Year; but nevertheless there is a wonderful thrill in resolving to do and not to do.

In looking forward to the coming events of this year naturally the convention of the American Title Association comes first in my thoughts, and I'll tell you one of my New Year's resolutions—one I am going to keep—is to try and help make this convention one of the best; try to interest every woman who is professionally engaged in the abstract and title business and encourage them in coming into the Association where there is a place for every one; to know and be known to every member.

In the past a number of women interested in the American Title Association have attended; some as members; some representing their own business or the company with which they were connected. Most wonderful papers and interesting talks have been given by them. The Association needs every woman and certainly every woman needs the Association.

Do make this New Year's resolution, and stick to it, that this year you will attend your State Association convention, help build it up and interest all members to join the American Title Association and attend this year's convention.

It has been my great pleasure for the past ten years to attend the conventions as a visitor and as an interested visitor I will tell you of my impressions.

At every convention I meet the brilliant men and women from every state who compose this wonderful organization. The programs are delightfully interesting, being made up of addresses by the ones long experienced in the many interesting phases of title and abstract work, impromptu talks, discussions that help every one to solve the many perplexing problems that confront them in their "workaday" life.

Honestly, I will tell you, I do not yet know what an abstract is. To me one is as clear as radio on a stormy night; and a title—well—that word suggests to me a king, or queen, a wearer of the royal purple—or perhaps Bill Hart, Douglass Fairbanks or Ben Turpin. And "escrows," and all the other funny words are Greek to me—found only in the verticals and horizontals of crossword puzzles. But, I enjoy it some way or other and take a deep interest in even the most technical shop talk.

When in the course of human events

my name is required on a bit of awfully important looking paper, Mark says, "Min, write your full name plainly on this dotted line." (There he has placed a little x) And I do it. And as the ink is drying, I try to read the "whereases, wherefores and know all men by these presents" and then I note to my consternation that I am listed only as a mere "*et ux.*" Dutifully I hand the fearfully important looking document back, having played the "*et ux*" part, hoping sincerely that some day I will really learn all about it and know just what I have done.

At the Chicago convention I recall that a mere man member, thinking I was an abstracter, asked me what were my ideas of certain conveyances; where I was located and if I owned my own plant. I will always remember him kindly and thank him gratefully for the compliment.

Again, let me urge every woman to come to the Convention this year. There is something worth while going on every minute of the time, and if you have made the resolution to attend, be sure that it is the one resolution that you will not break.

From time to time we will give the readers of the Title News expressions from the women members, visitors and from the wives—the "*et uxes*"—assuring you that they will be of genuine interest to the readers of this page especially.

This month, Mrs. Jessie L. Chapman, Secretary of the Land Title Abstract and Trust Company, of Cleveland, Ohio, possibly the most well-known woman in the United States in this line of business, gives us an expression. Mrs. Chapman has served on many committees in the Association, some of which I recall, but principally as a member of the Executive Committee, the Committee on Standardization of Abstracts. She has also given some most interesting and charming talks at our conventions, and is a tireless worker for the betterment of the Ohio State Association as well as the American Title Association.

JESSIE L. CHAPMAN
Secretary, The Land Title Abstract and Trust Co., Cleveland, Ohio.

"To get the purely feminine reaction, this should be written by a woman who attended the convention as a spectator rather than as a participant.

"If I had attended as a visitor only, it seems to me that what would chiefly impress me is the earnestness which pervades the association and its meetings, and at the same time the wonderful spirit of friendliness that is manifested by the members and the hospitality that is extended by the association and the City where its meetings are held. It seems to me that I would have the feeling that it was a privilege to meet the class of men who comprise the association and their charming wives, sisters and sweethearts, and that the friendships made at the convention would be things to cherish as a pleasant recollection.

"However, I have always attended conventions as a member and my impressions bear no purely feminine imprint. As a woman in business I have been impressed with the fact that in the title business there is no discrimination, and that in the deliberations of the convention, men and women meet on a plane of absolute equality. This equality is evidenced by the change of name from The American Association of Title Men to The American Title Association.

"Having attended conventions since 1912 I have seen the association grow from an association of Western abstracters into a nationally representative organization of title men, gathering into its ranks the leading title companies of America. It seems to me that during that time I have seen a constant growth of the idea that the title business is no longer a mere job, or a trade, but that it is a well recognized profession entitled to standing as such. And it seems to me that this result has been brought about largely by the work of the association.

"And yet, while the serious side of the convention has its appeal, it is true after all that one's chief 'reaction,' whether he be man or woman, is the sense of fellowship and friendship derived from intimate association with the men and women who make up the personnel of the association.

"It is always a pleasure to talk shop with those whose problems are the same as ours; it is a greater pleasure to meet the members of the association in the intimacy of social friendship."

Abstracts of Land Titles—Their Use and Preparation

This is the tenth of a series of articles or course of instruction on the use and preparation of abstracts

There are four kinds of abstracts; or classes of work called for:

1. The Complete Abstract.—This begins with the government grant—the original muniment or beginning of title from some conveyance or act of a governmental body, and shows the complete title from that down to the present time.

2. The Continuation Abstract, which is merely the bringing down to date of a prior abstract, one certified to some date back. Some abstracters, in fact the most of them, follow the practice that is to be recommended; they simply add to, include in and make the new work a part of the old under the same cover and thereby making but one document to handle.

3. The "Term Abstract"—a monstrosity of the business. This is an abstract dating back from seven to twenty or more years. The use of such a thing is confined to certain localities where custom and an interpretation of the laws have decided that it is only necessary to show the title for a certain period of years back, that everything is cured or alright back of that time, so why bring it forth in evidence.

Some loan companies, examiners and others in those few localities where this is used only ask for and demand "term" abstracts, while others will not accept them. Their use is to be discouraged; they will eventually be discarded and their elimination will be brought about when the abstracters refuse to make them.

4. The Supplemental Abstract, which is a term abstract to a certain extent but should not be confused with them or considered in the same status, for Supplemental abstracts serve and are intended for an entirely different purpose. Term abstracts really take the place of an original or Complete Abstract by just ignoring what has transpired back of a certain time.

A Supplemental Abstract is merely a continuation of the complete abstract when it is not available at the particular time.

They are usually used for renewals of loans, when the original abstract has been examined and approved down to the existing loan, and it is merely desired to know the status of the title since.

A supplemental abstract usually starts with the day of filing of a particular instrument, usually the first mortgage and shows the title since that time.

They are used in sales, too, when the prior abstract is with a loan and the purchaser is either entirely or tentatively satisfied with the title since it was accepted by a loan company, so a supplemental is ordered since that time to show the present status.

In such cases they are to be encouraged, and the abstracter should suggest their use in place of his looking up a lot of free information as to the title, taxes etc., as he is often times asked to do.

An abstract of any of the four kinds is for a definite piece or tract of land of certain size and dimensions, and it originated in the beginning from a larger piece, a certain section, quarter section or tract. It is carried down and split into smaller ones and is a farm, a small tract, or a city lot.

Townsites and additions to a city originate as a piece of "farm" land—some large tract, then that tract is divided into lots and blocks or tracts, each of which is given a designation by number, or some other key, and described accordingly thereafter.

We therefore start with showing the title to the larger tract, in which the last or the one being abstracted is contained, but eliminating all those parts of the larger or original tract sold off from time to time and in which no part of the one in consideration is contained.

The most open confession and evidence of being a poor abstracter is to have a lot of entries in your work which do not affect the title to the piece being abstracted.

The Entries Proper.

We are now ready to go into the detail of the showing of the various "entries" which are the briefs or showing of the various conveyances.

First, a few rules or explanations will be given.

There will be some objection to these things, because you do not use them, the examiners in your community would not accept them, but since the attempt of this series is to outline a uniformity of practice, some stand must be taken on certain forms, they must be described and recommended, and what follows is the result of investigation of forms used all over the country, of the requirements of all kinds of examiners, and the reason is given for each.

After all, do the abstracters have to make an abstract in the particular form wanted by every examiner and user? Why cannot the abstracter provide an adequate form, sufficient in all respects, and make them or endeavor to reconcile the users to his form? Who knows best? The abstracter should, and besides could he not make as many different forms and styles almost now as there are attorneys examining them?

An attorney not accustomed to examining abstracts, and some who do, can make as many requirements as to how he wants the form, the "i's" dotted, "t's" crossed, etc., how he wants the abstract made, as he can for bona fide requirements on real title points. Therefore the abstracter is justified in prescribing his own form, make it sufficient and efficient, and then insisting that it be accepted.

An instrument or abstract of a conveyance must show the following:

1. Grantor.
2. Grantee.
3. Nature of Instrument.
4. Date of Instrument.
5. Date of Filing.
6. Date of acknowledgment.
7. By Whom Acknowledged, Title and Residence.
8. Consideration.
9. Book and Page of Record.
10. Description of Land Conveyed or Things Done.
11. Exceptions (if any).
12. Terms, if a lease, mortgage or other similar conveyance.
13. All discrepancies set out, and a full explanation of each.
14. References, if any, to any other instruments or parts of the abstract which have a bearing upon this particular entry.

Let us now briefly take each separate.

1. The grantor is the one who conveys or does the act. His or their names will appear in more than one place in the instrument, viz., at their place of signature, in the body of the instrument, and in the acknowledgment, in some forms possibly others. The grantor is SUPPOSED to have his name the same in every place in the same instrument and it will so appear if the instrument has been carefully and properly drawn and its execution supervised, but alas, that does not often happen.

So since it will not,—that is, always, then we will first mention his name as it is signed, that is in mentioning who the grantor is, we will take it as the name appears at the signature. Then if there is a discrepancy in mentioning it in any of the other places in the instrument, the body or acknowledgment, we will make an explanation and showing at another part of the entry described later, calling attention to the fact and showing how it appears in the other places.

It is necessary in most states that married persons have their consorts join in a conveyance (deed, mortgage, actual conveyance) of property, and it is therefore necessary that it be told that they are husband and wife, or single, if so. This information should be contained in the body and acknowledgment of the deed BOTH, and the abstracter should give the exact wording of the status as given in the instrument. If not given, then explanation should be made, "Marital Status Not Given." If it says in the body of the instrument what their status and relation is and the acknowledgment does not, or vice versa, notation should be made accordingly. This

however does not apply to states where each has their own property rights and the consort of one does not have to join in a conveyance of their individual property.

This also applies to Administrators, Guardians, Trustees, and others who convey and execute the instrument—make a full and complete explanation of their status and relation as it is given in the deed.

Corporations convey by an officer authorized to act, and his signature is usually attested by the Secretary or some other, and the Corporate Seal affixed.

Such a conveyance should be shown as executed by the Company, by such and such an officer, his title, the attestation if any, and a notation as to the affixing of the seal. If the seal has been left off, most assuredly call attention to the fact.

A partnership or firm executes an instrument in much the same way, except that it is by "Doe & Roe, by John Doe, A Member of said Firm (or partner)" TOGETHER with the individual signatures of each partner or member of the firm and his consort joining, the same as an individual, with the further explanation that the conveyance is by "Doe & Roe, A co-partnership (or firm) composed of John Doe and Richard Roe," all of which should be told in the body and acknowledgment and the abstract so show.

In other words, leave no loop-holes for doubt. Show and make a full and complete explanation and evidence of everything appearing in the instrument explaining who the grantor is and his status.

2. The next is the grantee. This usually and does always in all regular conveyances appear but once when it tells of the party of the second part, or to whom the premises is being conveyed.

Show this EXACTLY as in the instrument, and if it gives any explanation, such as being in Trust for so-and-so, or if it is to more than one party and their relation is given, or share of each is mentioned, or in case of a Trustee with a Third Party as holder of notes, the name of each, FULL information exactly as given in the instrument.

3. Nature of Instrument. Just a plain statement as to Deed (and what kind, warranty, special warranty, etc.), Mortgage, Trust Deed, Power of Attorney or whatever it is.

4. Date of Instrument. Plain statement of month, day and year.

5. Date of Filing. Here again a plain statement of the month, day and year but IT IS NOT NECESSARY TO SHOW THE HOUR OF FILING unless other instruments effecting the same land have been filed the same day or there is some particular question involved or unless the certificate is to be closed that day at the particular time of the filing of that particular instrument.

Showing the hour of filing is the custom in many places but it is superfluous except for special cases. Our recording laws, laws of after-acquired title and other things make it unnecessary.

The only times it is necessary is as mentioned above, when there have been other instruments filed that same day and the questions of priority come in, such as a case of where a first mortgage and a commission mortgage is filed the same day with a few minutes between, then it should be mentioned or unless the abstracter has filed a certain mortgage, say at 10:30 in the morning, and is certifying to the abstract at that time, it being the time it was checked, etc., and the certificate is to be closed on that time of that day.

There is absolutely no common sense reason or necessity for showing the hour of filing. It is just a custom in some places largely because attorneys want it. It is rather a provincial and petty practice.

6. Date of Acknowledgment. Plain statement of month, day, year.

7. By Whom Acknowledged. The acknowledging officer's name, his title, whether notary public, county or city official or other, his place of residence, county or city, and state.

Here again it will be noted that the matter of showing whether or not the seal was affixed and expiration of commission, if a notary is left out.

IT SHOULD BE TAKEN THAT THESE THINGS WERE REGULAR or a note made, and which the abstracter should do. Rather take it for granted and leave it to the abstracter to call attention to the fact that the seal was NOT affixed, and the notary's commission as mentioned HAD EXPIRED in those few instances where such will be the case, than to mention these two points as regular the thousands of times where there is no fault.

This point will be further covered too, in the certificate, described in later articles, and which will contain the statement, "ALL ACKNOWLEDGMENTS ARE IN DUE FORM UNLESS OTHERWISE NOTED."

8. The Consideration. This is a plain statement of the amount as given in the instrument.

9. Book and Page of Record. This should properly state the Book number of mortgage, deed, miscellaneous or other, and the Page number.

10. Description of Land Conveyed or Things Done. This should clearly describe the land conveyed, in the words, and designations as given in the deed, following its form and wording as nearly as convenient as given in the instrument, abbreviating to a certain extent.

It is recommended that all directions of dimensions be written out and begin with capital letters. For instance, Northeast, not "N. E.," and West, not "W.," South, not "So." Write them all out—it is neater if nothing else. Also write out all words such as "thence;" "beginning;" "point;" "rods;" "feet;" "inches;" "chains;" "commencing;" "parallel;" "right angles;" etc.

Dimensions can be abbreviated by using numericals and not writing them out.

A few examples are shown below, the description as found in an instrument being shown first, and as it should go on the abstract second.

As in conveyance:

"A certain tract of land in the South East Quarter (SE¼) of Section Nine (9), Township Twenty-three (23), South, Range Five (5), West, of the Sixth Principal Meridian, more particularly described as follows:

Commencing at the Northeast Corner of said Southeast Quarter (¼) aforesaid, thence running South along the East line of said section, to its intersection with the north line of the right of way of the C. K. and G. Railway; thence in a northwesterly direction along said north line of railroad, Four Hundred twenty-nine and one-half feet, (429½); thence due North, One Hundred and Twenty-seven (127) feet to a point; thence East at right angles, 100 feet to a point; thence due North Six Hundred and Seven (607) feet to North line of Section, thence East to place of beginning.

As shown in abstract this could be condensed as follows:

Conveys: A tract in the South East ¼ of Section 9, Township 23, Range 5, West, described as follows: Commencing at the North East Corner of said South East ¼ aforesaid, thence South along the East line of said Section, to its intersection with North line of right-of-way of C. K. & G. Ry.; thence Northwesterly along said North line of railroad, 429½ feet; thence due North 127 feet; thence East at right angles, 100 feet; thence due North 607 feet to North line of section; thence East to place of beginning.

Another example as found in a conveyance:

All of lot Twenty-seven (27) in Block Five (5) of Highland Park Addition to the City of Smithville, Smith County, Kansas, according to the duly recorded plat thereof.

As shown in abstract:

"Conveys: Lot 27, in Block 5, Highland Park Addition to Smithville, Kansas."

Anyone knows it is all of the lot unless some part is stated, and also that it is according to the plat, copy of which should be on the abstract as stated before in these articles, and the abstract shows the plat was recorded, and the deed was drawn with a knowledge of it so why mention it in every conveyance shown in the abstract that it is "according to the duly recorded plat thereof."

Another thing about showing descriptions to city property, by writing them the same in every entry which can usually be done, a neater abstract is the result.

Care should also be taken in watching for interests conveyed, such as "An Undivided ½ interest in and to the following described property, viz," or "All of grantors interest in and to etc."

Some instruments such as releases and assignments of mortgages and others not conveying land can be set out as following, but here again telling in plain language and describing the act.

"Conveys:—Release of mortgage recorded in Book 122, Page 56, mentioned at No. 19 hereof."

11. Exceptions. This refers to a portion of the land excepted or a reference to a mortgage, taxes, etc., excepted from the warranty and the conveyance, ALL OF WHICH SHOULD BE SET OUT IN FULL IN THE EXACT WORDING OF THE INSTRUMENT ITSELF.

12. Terms. This refers principally to mortgages in existence at the time of the completion of the abstract, giving time and rate, when interest is payable, and in cases of building and loan or other payment mortgages, the amounts and dates due.

Leases and such miscellaneous instruments should be set out in full as will be gone into detail later. However, a lease which has lapsed or expired, need only be made mention of and the terms given to show it has so lapsed.

Time and rate, and other terms of released mortgages need not be shown.

13. Discrepancies. All such should be noted, and the thing made clear and of no doubt. Part of this has been explained above.

14. References to other instruments and parts of the abstract which have a bearing on this particular one. This is the test of a true "technician" —a real abstracter. All such little notations and references help the examiner, make the abstract plain and easy to understand.

For instance, if there is an affidavit identifying any of the parties to a certain conveyance, make a reference right at that entry, "See Affidavit of Identity at No. 14 hereof."

Likewise if a mortgage has been assigned and released, make a notation "Assigned at No. 25. Released at No. 26."

If a deed by heirs make a notation, "See Affidavit of Death, Heirship and Settlement of Estate at No. 26 hereof." Or if it is backed by an abstract of court proceedings in an estate, say "See Abstract of Court Proceedings, Estate of John Doe, deceased, Exhibit 'B' in back hereof."

These are just an explanation in a geenral way of the principal points involved.

The showing of each separate kind of an instrument and an example of the form will follow, with minute explanations for each.

Some Rules on the Interpretations of Deeds

By William A. Gretzinger, Title Officer, Republic Trust Co., Philadelphia, Pa.

Rule 1.—DEED CANNOT BE VARIED BY WHAT HAPPENS BEFORE OR AT TIME OF EXECUTION. No evidence of extrinsic circumstances is admissible to contradict, vary, or add to, the terms of a deed.

Rule 2.—SUBSEQUENT ADMISSIONS OR CONDUCT. The subsequent admission, or subsequent conduct of a party to or person claiming under the deed as to the true meaning of the deed, cannot be received to contradict, vary, or add to, the terms of the deed.

Rule 3.—CUSTOM OR USAGE. Evidence of custom or usuage is admissible to add to the contract expressed in a deed, terms which are inconsistent with it.

IMPLIED ADDITIONAL TERMS. —This rule having reference to IMPLIED additional terms, must be carefully distinguished from one with which it is often confounded, the rule, namely, that extrinsic evidence may be used to show the meaning that the usage of the business to which the contract relates has affixed to words or phrases employed in setting forth the EXPRESSED terms of the contract.

Rule 4.—ALTERATIONS AND INTERLINEATIONS in a deed are presumed, in the absence of evidence to the contrary, to have been made prior to execution.

Rule 5.—MATERIAL ALTERATION MADE BY PARTY AFTER EXECUTION. If a material alteration be made in a deed by or with the consent of any party to it after execution, by erasure, interlineation, or otherwise, he cannot afterwards as plaintiff enforce any obligation for his benefit contained in it.

Rule 6.—IMMATERIAL ALTERATIONS. An immaterial alteration made in a deed after execution does not vitiate it, by whomsoever such alteration is made.

Rule 7.—EXPRESSED INTENTIONS. To interpret a deed, we must discover the expressed intention of the parties.

Rule 8.—DEEDS FAILING TO TAKE EFFECT IN MANNER INTENDED. If, owing to some rule of law, a deed fail to take effect in the manner intended, it will, if possible, be construed so as to take effect in some other manner which will carry the expressed general intention of the parties into effect.

Rule 9.—WORDS TO BE TAKEN IN PRIMARY MEANING. When the words used in a deed are in their primary meaning unambiguous, and when such meanings are not excluded by the context, and are sensible with respect to the circumstances of the parties at the time of executing the deed, such primary meanings must be taken to be those in which the parties used the words.

Rule 10.—EXTRINSIC EVIDENCE. Extrinsic evidence is admissible for the purpose of determining the primary meanings of the words employed, and for no other purpose whatsoever.

Rule 11.—Omitted words may be supplied, repugnant words may be rejected, words may be transposed and false grammar or incorrect spelling may be disregarded, if the intention of the parties sufficiently appear from the context.

Rule 12.—EXPRESSION OF IMPLIED WORDS. The expression of a clause that the law implies has no effect.

Rule 13.—REPUGNANCIES. Where there are two repugnant clauses in a deed, the first shall be received and the second rejected, unless there is a special reason to the contrary.

Rule 14.—THE WORDS IN A DEED shall be construed most strongly against him who uses them, if so doing works no wrong, unless a different construction appears from the context to be necessary.

Rule 15.—ELECTION OF GRANTTEE. When a deed may enure to divers purposes, he to whom the deed is made shall have election which way to take it, and he may take it that way as shall be most for his advantage.

Rule 16.—GENERAL AND ALSO PARTICULAR STATEMENT. Where a deed contains both a general, vague, or indefinite, and also an exact or particular statement of intention, the latter must prevail.

Rule 17.—WHERE NEITHER WHOLE DESCRIPTION NOR ANY PART APPLIES. If neither the description as a whole, nor any part of it, renders it certain what was intended, we can affix no meaning to the words employed, and the deed or clause is void for the uncertainty.

Rule 18.—WHERE PART OF THE DESCRIPTION RENDERS IT CERTAIN WHAT IS INTENDED. If the description as a whole fits no object, but part of the description renders it certain what is intended, the rest of the description may be rejected.

Rule 19.—DEED TAKES EFFECT FROM DELIVERY. A deed takes effect from the time of its delivery, not of its date.

Rule 20.—EVIDENCE ADMISSIBLE TO PROVE TRUE DATE. Where a deed bears an impossible or erroneous date, or bears no date at all, evidence is admissible to prove the true date.

Rule 21.—REFERENCE TO "DATE," HOW CONSTRUED. Where a deed bears no date, or an impossible date, and in the deed reference is made to the "date," that word must be construed "DELIVERY;" but if the deed bears a sensible date, the word "DATE," occurring in the deed, means the day of the date, and not that of the delivery.

Rule 22.—"FROM THE DAY OF." A term limited to commence from the day of the date, or from the date of the deed, or from a certain day, will be taken to include or exclude that day

according to the subject-matter of the deed.

Rule 23.—OPERATIVE PART, IF CLEAR, NOT CONTROLLED BY RECITALS. Where there is a discrepancy between the recitals and the operative part of a deed, the operative part, if clear and unambiguous, must be followed.

Rule 24.—MISRECITALS. A misrecital will not vitiate the deed, if it be sufficiently clear what is intended.

Rule 25.—LAND ABUTTING ON HIGHWAY. By the conveyance of land abutting on a highway, or separated from it by a strip of uninclosed land, the PRIMA FACIE presumption of law, in the absence of evidence of ownership, is that the strip and the soil of the road USQUE AD MEDIUM FILUM pass.

Rule 26.—EASEMENTS BY WHAT WORDS CREATED. No special words are necessary for the creation of an easement.

Rule 27.—THINGS APPENDANT OR APPURTENANT PASS BY CONVEYANCE OF PRINCIPAL. That which is legally appendant or appurtenant passes by the conveyance of the principal, without the words "with the appurtenances," or the like.

Rule 28.—GRANT OF PART OF A TENEMENT PASSES CONTINUOUS AND APPARENT EASEMENTS, WHICH ARE NECESSARY. By the grant of part of a tenement, all those continuous and apparent easements over the part retained by the grantor, which are necessary to the enjoyment of the part granted, and have before and up to the time of the grant been used therewith, pass to the grantee.

Rule 29.—CONVEYANCE OF ALL A MAN'S ESTATE AND INTEREST FOR VALUE. Where a party conveys all his estate or right, or title or interest in property to purchaser for value, every interest vested in him will pass by the conveyance, although not vested in him in the character in which he is made a party.

Rule 30.—OMISSION OF PARCELS FROM HABENDUM. The omission from the habendum of the thing granted will not prevent it from passing.

Rule 31.—OMISSION OF PARCELS FROM PREMISES. If the thing granted be named in the HABENDUM only, and not in the premises, it will not pass.

Rule 32.—NO HABENDUM OR NO GRANTEE MENTIONED IN THE PREMISES. If there is no habendum, the grantee takes the estate limited in the premises, and if no person is mentioned as grantee in the premises, the person mentioned as grantee in the habendum takes the estate limited by the habendum.

Rule 33.—NO SPECIAL WORDS NECESSARY TO CREATE COVENANT. No particular form of words is necessary to create a covenant. It is sufficient if, from the construction of the whole deed, it appear that the party means to bind himself.

Rule 34.—EXPRESS COVENANTS EXCLUDE IMPLICATION. Where a deed contains express covenants, no implication of any other covenants on the same subject-matter can be raised.

Rule 35.—AGREEMENT FOR DEED CONTAINING COVENANTS. An agreement under seal to execute a deed which ought to contain certain covenants, operates as a covenant to perform such covenants.

Rule 36.—IT IS HEREBY AGREED AND DECLARED. Where, in a clause commencing "it is hereby agreed and declared," it is stated that a person is to do a thing, he alone is bound to do it.

Rule 37.—INTERRUPTION MEANS LAWFUL INTERRUPTION. The words "interruption," "disturbance," and the like, in the covenant for quiet enjoyment, mean lawful interruptions and disturbances only.

Rule 38.—"ISSUE," MEANING "CHILDREN." Whether the subject of the articles be realty or personalty, the word "issue" may be explained to mean "children."

THE MISCELLANEOUS INDEX

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

The Seattle Title Trust Co. announces the removal of its Mortgage Loan and Trust Department to new quarters on the Second Avenue level of the Title & Trust Building, Second Avenue, at Columbia, on December 29.

At the same time the Title Department, including the Home Office of the Washington Title Insurance Co., took over the entire Columbia Street level of the building excepting only the space taken by the Safe Deposit Vault.

This gives every department fine quarters and every convenient facility for transacting business.

Edwin H. Lindow, Vice President of the Union Title & Guaranty Co., Detroit, gave an address on "Title Insurance" at the convention of the Iowa Association of Real Estate Boards, held in Des Moines the second week in last December.

The last issue of the "National Real Estate Journal" announced his talk would appear in that magazine in an early issue.

The Indiana Title Association recently held one of the most interesting meetings in its history. It was in Indianapolis, on December 3 and 4.

Charles C. White, Title Officer, Land Title Abstract & Trust Co., Cleveland, Ohio, Chairman of the American Title Associations' Judiciary Committee and the man who formed the report and recommendations on the Fifteen Proposals for Uniform Laws attended as the representative of the American Association and also to give a talk on "Modern Evidence of Title."

Other speakers were Clarence E. Bowen, Crawfordsville, Examiner for the Mutual Benefit Life Ins. Co., on "Experience from the Standpoint of an Examiner"; W. L. Rogers, Counsel of the Federal Land Bank, Louisville, Ky., on "Excess Baggage"; W. L. Curdes, Fort Wayne, President of the Indiana Real Estate Association, on "Relation of the Realtor and the Abstracter."

Mr. Bowen has a card index system on decisions in the Superior Court affecting various title matters, which he demonstrated.

There was a good attendance, a fine program and a mighty enjoyable time provided.

Samuel Morrison of Frankfort, was elected President, John F. Meredith of Muncie, Vice President, and Charley Lambert of Rockville was of course re-elected as Secretary-Treasurer.

The Indiana Association paid a fine tribute to Charley Lambert at their convention this year in presenting him with a fine watch. The following inscription was engraved on the back, "Presented to Charles E. Lambert, in appreciation of his loyal service to the Indiana Abstracters, December 3, 1924."

This was a splendid appreciation of the efforts of a most conscientious man. Charley Lambert has served the association faithfully and well for many years and he is certainly deserving of the token of the realization of his work.

The officers of the Texas Abstracters Association sent out a most attractive greeting card for the holiday season. This was a fine little expression of good will, not only for the seasonable spirit prompting it, but as an expression of the interest the state officials have in their work and responsibility.

The Texas Association is another one that is alive to its possibilities in serving the title men of the state and having an effective influence on conditions.

Lawyer (to the widow): "The law gives you a third, madam."

The Widow: "Well, I'm not going to take any chances in that direction. I shall proceed to look around for my third, just as I did for my first and second."

Salesgirl (to inebriate waiting in a department store): "Could I interest you in a one-piece bathing suit?"

Inebriate: "S'mother time—my wife's just over at the ribbon counter."