

TITLE NEWS

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The American Title Association

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APRIL, 1925

No. 3

Chicago Meeting Concludes Interesting Things

Denver Chosen as Convention City, for 1925—Abstracters Section Recommended—
Twenty-one States Represented

The Annual Mid-Winter Meeting of the Executive Committee of the Association, and the Third Annual Joint Meeting with the State Officials was held in Chicago, March 6 and 7. It was an interesting, worth-while meeting and many things of interest presented and disposed of.

Every member of the Executive Committee was present. There were many state officials, members of committees, those just interested in the thing, and a few wives along which made a crowd of about fifty.

The meeting was called to order Friday morning by Vice President Fehrman, Chairman of the Executive Committee. Talks were made by the Chairman, President Condit, and the Executive Secretary. They told of the purpose of the gathering, of the things contemplated for the future, and then each present was asked for an expression of opinion and suggestions.

Roy S. Johnson, of Newkirk, Okla., Chairman of the Committee on Membership and Extension, told of plans for the coming membership campaign.

Many things of interest were brought out—reports of special happenings in the various states mentioned, questions asked, and everyone there had a most profitable time mingling with the others from over the entire country.

An informal dinner was held in the evening, where everyone had another chance to visit and then the crowd attended various shows. All were invited to attend the meeting of the Executive Committee next day and most of them did.

Report of Committee on Abstracters Section.

One of the first things taken up the following morning was the report of this Special Committee, who reported favorably on the project. The report was accepted, and action taken as told in a special article on the subject appearing elsewhere in this issue of "Title News."

Convention City Selected.

Of great interest was the next matter to be settled—that of the selection of the 1925 meeting place, left to the Executive Committee.

Mr. Lyne Herndon, Vice-President of the West Baden Springs Hotel, West Baden, Indiana, appeared and asked that West Baden be considered. Inasmuch as the invitations of other places had been taken for consideration, and submitted to the membership by a questionnaire, his invitation was formally entered on record and it was suggested that West Baden be presented at some future meeting time.

Four other places had been formally considered: Yellowstone Park, Estes Park, Denver, Colorado, and Seattle, Washington. The first had been eliminated by reason of uncertainty of accommodations and inability to make necessary arrangements as have to be done in such a place. The second was incident to Denver, which left but the two for final consideration.

Walter Daly appeared personally to speak for the invitations of Worrall Wilson and the various agencies extending the hospitality and advantages of Seattle and the great Northwest. Their invitations were further made generous by the expression of their sentiment that although we were wanted in Seattle, and it would be a great pleasure for them to be able to entertain us and be our hosts, yet they also desired that the best interests of the Association be considered first.

The invitation of Denver was then extended by Golding Fairfield. He was supported by P. W. Allen of Greeley, Colorado, too, and they had best wishes and invitations from every organization, official and other body or individual in the state.

A report was then called for upon the result of the questionnaire. The Executive Secretary reported that approximately 700 questionnaires had

been returned with Denver having more votes than all the other three points voted upon together, and read the figures, Denver and Estes, 396; Yellowstone, 190; Seattle, 105.

A vote was therefore taken, upon motion, and Denver formally selected as the meeting place of the 1925 Convention.

Dates in Early September.

The dates were to be chosen and all things considered, the week of September 8th taken as best and selected accordingly. This will give Monday, the 7th, for the Executive Committee to meet the day in advance as usual, also permitting a Sunday for travel, the meeting can be held on the 8th, 9th, 10th and 11th, and everyone home on Saturday and Sunday following—a nice week's time well spent.

Other matters of business and routine were taken and considered, and the meeting duly adjourned, on Saturday, the 7th.

DISTRIBUTE COPIES OF DIRECTORY IN YOUR COUNTY.

There are many copies of the Directory on hand and the Association will furnish members with as many of them as wanted to distribute.

This would be a profitable thing for anyone to do—give them to your customers, the real estate men, lawyers, loan companies and others who patronize your office.

It is thought that there is an ample supply on hand, so no one need be backward about asking for as many as could be used.

If you want to distribute them in your town, and which it will pay you to do, write the Executive Secretary for the number of copies you can use.

They will be furnished without cost.

THOSE IN ATTENDANCE AT MID-WINTER MEETING.

Chicago, March 6-7, 1925.

ARKANSAS—

Geo. F. Buzbee, Benton, Secretary, Arkansas Land Title Association.

CALIFORNIA—

Donzel Stoney, San Francisco, President, Title Insurance Section, American Title Ass'n.

R. F. Chilcott, San Francisco.

COLORADO—

W. K. Jones, Denver.

H. Givens, Denver.

Golding Fairfield, Denver, President, Title Examiners Section, American Title Ass'n.

P. W. Allen, Greeley, Member Executive Committee, American Title Ass'n.

GEORGIA—

Wm. J. Davis, Atlanta, Vice President, Title Insurance Section, American Title Ass'n.

ILLINOIS—

J. M. Dall, Chicago.

Joseph P. Durkin, Peoria, Member Executive Committee, American Title Ass'n.

INDIANA—

Willis N. Coval, Indianapolis.

J. R. Morgan, Kokomo, Chairman, Committee on Abstractors Section.

IOWA—

S. E. Gilliland, Sioux City, President, Iowa Title Association.

John R. Loomis, Red Oak, Secretary, Iowa Title Association.

Jarvin R. Haynes, Des Moines.

KANSAS—

Fred T. Wilkin, Independence, President, Kansas Title Association.

Richard B. Hall, Hutchinson, Executive Secretary, American Title Ass'n.

KENTUCKY—

W. L. Rogers, Louisville.

LOUISIANA—

M. P. Bouslog, New Orleans, President, Louisiana Title Ass'n, Member Executive Committee and Committee on By-Laws, American Title Association.

MICHIGAN—

Geo. E. Wedthoff, Bay City, Member Executive Committee, American Title Ass'n.

Otto L. Godfrey, Muskegon, Secretary, Michigan Title Ass'n.

Geo. E. Luther, Jackson, Secretary, Title Examiners Section, American Title Ass'n.

Edward M. Lindow, Detroit.

Lawrence C. Diebel, Detroit.

MINNESOTA—

W. H. Pryor, Duluth.

NEBRASKA—

Henry J. Fehrman, Omaha, Vice President, American Title Ass'n.

NEW YORK—

Frederick P. Condit, New York City, President, American Title Ass'n.

Henry R. Chittick, New York City, Chairman, Committee on Legislation, American Title Ass'n.

NORTH DAKOTA—

A. W. Dennis, Grand Forks, President, North Dakota Title Ass'n.

A. J. Arnot, Bismarck, Secretary, North Dakota Title Ass'n.

OKLAHOMA—

Hugh C. Ricketts, Muskogee, Secretary, Oklahoma Title Ass'n.

Roy S. Johnson, Newkirk, Chairman, Membership & Extension Committee, American Title Ass'n.

J. W. Woodford, Tulsa, Treasurer, American Title Ass'n.

OHIO—

John R. Green, Painesville, Secretary, Ohio Title Ass'n.

Fred Hall, Cleveland.

J. L. Chapman, Cleveland.

W. E. Crittenden, Cleveland.

OREGON—

Walter N. Daly, Portland, Member Executive Committee, American Title Ass'n.

TENNESSEE—

J. M. Whitsett, Nashville, Member Executive Committee, American Title Ass'n.

J. R. West, Nashville.

TEXAS—

T. M. Scott, Paris.

Committee Recommends Formation of Abstractors Section

Report Favorable to Its Organization Made

The Special Committee on the Formation of an Abstractors Section, appointed at the New Orleans Convention to report at the Mid-Winter Business Meeting, made the recommendation that an Abstractors Section be formed, this to follow the general outlines of those of the Title Insurance and Examiners Sections already a part of the American Title Association and "be such that it shall function in perfect harmony with and under the general supervision of the national organization."

This report was based upon the investigation and information obtained by the Committee who had been working on it since the New Orleans Convention. A number of letters were sent out to various members whose principal business is the making of abstracts and the replies, coming from a widely distributed membership, were

almost without exception, unanimous and enthusiastic for the organization of the Abstractors Section.

This Committee was composed of J. R. Morgan, Kokomo, Indiana, Chairman; Lewis Fox, Fort Worth, Texas, and John R. Green, Painesville, Ohio.

The entire committee was present with the exception of Mr. Fox who could not attend due to many matters at home demanding his presence there at this particular time. He however sent a very lengthy and interesting letter for consideration, and also a suggested scheme of By-Laws.

Will Come Before Coming Convention.

The Report was accepted by the Executive Committee, the Special Committee given a vote of thanks for their splendid efforts and the matter referred to the Committee on Constitution and By-Laws, composed of M. P. Bouslog,

New Orleans, Chairman; E. C. Oggel, Seattle, Wash., Henry R. Chittick, New York, and C. E. Chappell, Charlotte, Mich.

This committee was instructed to prepare a change of the By-Laws and Constitution of the Association, providing for the formation of the section and the same will be voted on at the Denver Convention. Acceptance of this Committee's report and changes in constitution will legalize the Abstractors Section and action can then be undertaken to establish the same.

Action was further taken by the Executive Committee that this should be presented the first day of the Convention so that the new branch could organize, perfect its organization and then start its program for the coming year and take an active part in the Convention of this year.

Matter to be Advanced in Meantime.

In the interim between now and the coming convention, this matter will receive considerable attention from the Executive Committee and presented to

the membership so they may come to the convention well prepared to act on the matter.

An extra effort will be put forth to make this coming convention of interest to the abstracters. Mildred A. Vogel of El Paso, Texas, is the member of the Program Committee already appointed to handle their part of the Program for the convention and something interesting can be expected. She will be given every assistance possible in her work. Correspondence will be had with the abstracter members and they are asked to give it serious consideration.

The matter will come to a vote the first day of the convention, and will

undoubtedly receive unanimous favor. Officers of the Section can then be elected, and get into action at once for the work of the coming year and the next convention.

The organization of this Section has been under consideration for the past few years. The Executive Committee immediately grasped the opportunity of putting it before the members, it is now being so done, and will soon be another thing disposed of.

It is receiving every consideration from the officials of the organization and should receive the same from the members who after all are the ones for whom the move is advanced.

The work of the American Title Association has reached such an extent of activity and usefulness that it alone pays many times returns on all the dues anyone will pay for membership fees. Its routine work requires the entire time of the Executive Secretary and an office assistant. It issues a monthly publication, this "Title News"—that interesting, valuable and very representative publication of the business. Its Directory, Annual Proceedings of the Conventions, and the direct work it does of visible results in protecting and advancing the interests of those in the business are of inestimable value and of such an extent as to warrant the support and consideration of everyone.

It takes effort, personal sacrifice and time to keep any organization going; it takes an even greater amount of all of those things to make it progress.

The American Title Association must have the interest and support of its members, and especially of the State association officials, who in turn must have the support, too, of their members.

The state associations are the life of the national body—likewise the state associations are the life of the title business in their respective states.

This membership campaign will arouse interest in the organizations, will help them and likewise help the business.

Lets everyone, those working in the campaign, and every member at the present try to get some results and build up the organization.

If you know of some one who should belong to your state association and who does not, get him in. A little individual work is very effective.

The title business is growing in importance. That means the organizations are needed more and more, and that everyone who is in the business should be in the ranks. Not until then will it be possible to have better business conditions. It is your problem as well as those in charge of the work.

Membership Campaign to Begin in Few Weeks

Second Annual Drive for Members of State Associations—Success Will Depend on Activities and Cooperation of State Officials—President Condit Offers Cup

The 1925 Membership Campaign will be started within a few weeks. It will be of short duration, only about thirty days and then end. This is to take as little time as possible for those who do the work, and get it over with without dragging.

Roy S. Johnson, who directed the one of last year, will again be at the head of this year's, as Chairman of the Committee on Membership and Extension. The other members of the committee are the Presidents and Secretaries of the State Associations.

The success of it will depend entirely upon the activity of the State officials. They will carry on the work in their respective States, but will have every assistance and backing from the American Title Association.

The campaign of last year was a great success in many places. Some of the States doubled their memberships—others got a material increase. Some of the States, however, failed to make any effort and it is hoped that

everyone of them will this year.

Getting members is no small job—it takes some effort and work. One would think that every abstracter and title company would belong to the association—his State organization. Most of them who do not intend to—always have intended to—but just put the thing off when it is presented to them. Any effort though in any work always brings some results and so will this. A real strenuous attempt will bring gratifying results—so it is hoped all those whose job it is to carry it on will take an interest in the thing and put it over.

Everyone in the title business should belong to the organization. It is his duty even though he did not begin to get any returns from it. This is a day of organized effort—and every business, trade and profession must have its association to represent it in the life and order of the day.

The title associations need them as members, they need to be members.

Extra Copies of Directory Available

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FURNISHED TO MEMBERS WITHOUT COST

Recent Court Decisions on Title Matters

NOTICE—CORPORATIONS—KY.—A corporation is charged with notice of defects in title purchased by it, if the purchasing agent of the corporation knew of the defects, even though the officers of the corporation did not. (*Kentucky Coal Co. vs. Cline*, 265 S. W. 306).

ADVERSE POSSESSION—CUTTING TIMBER—KY.—Cutting timber on one of two occasions several years ago is not adverse possession. (*Napier vs. Combs*, 265 S. W. 313).

ADVERSE POSSESSION—PENDENCY OF SUIT—TEX.—The statute of limitations does not run in favor of an occupant of land during the time that he is suing some one else to perfect his title. (*Taylor vs. Belcher*, 265 S. W. 403).

HUSBAND AND WIFE, COMMUNITY PROPERTY—TEX.—Acquired by wife by adverse possession is community property, and can be disposed of by the husband alone. (*Odem vs. Leaky*, 264 S. W. 218).

ADVERSE POSSESSION—COLOR OF TITLE—TEX.—Possession of part of a tract gives possession to all of the tract as described in the deed or color of title. (*Temple Co. vs. McFarland*, 264 S. W. 298).

OIL AND GAS, COVENANTS RUNNING WITH LAND—TEX.—Oil and gas can be sold and are real property the same as irrigation water, and contracts or leases concerning the same run with the land and bind subsequent owners. (*American Ref. Co. vs. Tidal Oil Corp.*, 264 S. W. 335).

HUSBAND AND WIFE, MORTGAGES—TEX.—The husband can mortgage his separate property or the community property of himself and wife, without the joinder of the wife, except as to that part used as homestead. (*Dodson vs. Dickey*, 264 S. W. 586).

LEASES—RENEWAL OR EXTENSION—KY.—A privilege to renew a lease differs from a privilege to extend it, in that a notice from the lessee is necessary to renew but a mere holding over is all that is required to extend. (*Ingram vs. Lane*, 265 S. W. 434).

MINERALS—STATUTE OF FRAUDS—TEX.—A sale of minerals is a sale of an interest in real property and must be in writing under the Statute of Frauds. (*Witting vs. Towns*, 265 S. W. 410).

CHURCHES—CONSENT OF CONFERENCE—TEX.—Methodist Episcopal Church Property held by trustees cannot be sold without the consent of the Quarterly Conference and the District Superintendent and Pastor. (*Smallwood vs. Robinson*, 265 S. W. 441).

FORECLOSURE—CO.—TENANTS—ARK.—Title acquired under collusive foreclosure remains subject to the interests of co-tenants whose interests would be cut out by the sale. (*Grayson vs. Hughes*, 265 S. W. 836).

HOMESTEAD—EXECUTION—ARK.—A homestead is exempt from sale under execution even though the debtor was present at the sale and did not then claim his homestead exemption. (*McKee vs. Waters*, 265 S. W. 947).

STATUTE OF FRAUDS—ARK.—A verbal gift of land is valid if the purchaser takes possession and makes improvements, but this, does not apply to a gift from wife to husband where both continue to occupy the land. (*Lynn vs. Martin*, 265 S. W. 948).

NOTICE OF UNRECORDED MORTGAGES—ARK.—A deed made in consideration of a sum "to us paid and to be paid" followed by a deed in consideration of "assuming a mortgage" is notice of an unrecorded mortgage, or vendor's lien, and this is true even though the abstracter failed to note these recitals on the abstract. (*Union Bank vs. Simmons*, 265 S. W. 953).

HOMESTEAD—LIMITATION—TEX.—A widow has the right to occupy the homestead during her life, and the same cannot be partitioned, and limitation does not run

against the heirs during her life time, even though she stated and claimed that she owned the property outright. (*Crump vs. Address*, 265 S. W. 1074).

COMMUNITY—EASEMENT — HOMESTEAD—TEX.—The husband cannot create an easement over property that is a community homestead without the joinder of the wife. (*Denton vs. Sauls*, 265 S. W. 1091).

COVENANTS—KNOWLEDGE OF GRANTEE—KY.—A vendor is liable on a warranty that does not except a prior mortgage, even though the vendee knew of the mortgage. (*Bynum vs. Bailey*, 265 S. W. 1110).

BUILDING RESTRICTIONS—KY.—Restrictions are binding even though they appear in but one deed in the chain, and even though other lots of the original owner were sold by him unrestricted. (*Crutcher vs. Moffett*, 265 S. W. 6).

LEASE OPTION TO PURCHASE—KY.—An option to purchase contained in a lease is valid and based on a sufficient consideration. (*Nickels vs. Combs*, 266 S. W. 22).

EASEMENTS RIGHT OF WAY—KY.—A right of way can be created either from necessity or by use for many years. (*Morgan vs. Morgan*, 266 D. W. 35).

POWERS—WHATEVER REMAINS—KY.—Where a will gives land to the widow for life or widowhood, "and whatever property remains to be divided" between the heirs, there is no power of sale without order of court. (*Kincaid vs. Bell*, 266 S. W. 44).

HUSBAND AND WIFE—PROPERTY IN WIFE'S NAME—ARK.—Where a husband brings property and puts it in his wife's name, this is presumed to be a gift to the wife unless there is very strong proof to the contrary. (*Dillarc vs. Battle*, 266 S. W. 80).

PARTITION DEEDS—TO WRONG PARTIES—TENN.—Partition deeds of property partly owned by wife, the deeds being to husband and wife, do not vest any title in the husband, but partition deeds to the husband and wife for life and then to their children do create remainders in the children. (*Jones vs. Jones*, 266 S. W. 110).

MORTGAGES—TWO FORECLOSURES—TEX.—Where mortgagee forecloses mortgage by suit, he cannot later foreclose by exercise of the power of sale in the mortgage. (*Holland vs. Brooks*, 266 D. W. 183).

NAMES—ASSUMED—TEX.—A real estate agent named Smith doing business under the trade name of "Jones Realty Company" cannot collect his commission under the Texas Statute. (*Loving vs. Place*, 266 S. W. 231).

ADVERSE POSSESSION—OF PART IN DEED—ARK.—Actual adverse possession of two lots, by a person claiming under a deed describing four lots gives good title to all four lots. (*Thornton vs. McDonald*, 266 S. W. 946).

LIMITATION—LIFE ESTATE—KY.—In some states limitation runs in favor of a grantee from a life tenant by a deed purporting to convey the entire title. (*Doss vs. Woodson*, 267 S. W. 106 Dec. 19, 1924).

WILLS—FEE SIMPLE—KY.—A devise by a testator to his wife, of all his property "to be devised by her as she may see proper," not followed by any remainders, vests a complete fee simple in her which is not cut down by the added power. (*Westerman vs. Rastettler*, 267 S. W. 180).

DESCRIPTION—MORE OR LESS—KY.—The words "more or less" do not cover a deficiency of ten per cent in the acreage. (*Barton vs. Jones*, 267 S. W. 214).

BROKERS—CONTRACT—ILL.—(*Peters vs. Windmiller*, 145 N. E. 599).

A contract giving a broker exclusive agency to sell real estate, does not authorize the broker to make a binding contract of sale of such real estate, unless it appears from the contract that it was clearly the intention to vest in the broker such powers.

WILLS—PROOF OF EXECUTION—ILL.—(*Thornton vs. Herndon et al*, 145 N. E. 603).

It is not necessary to valid execution of will that the testator sign personally or that the witness see his signature, if the testator acknowledges the same as his act and deed.

DEEDS—ILL.—(Easley et al vs. Little et al, 145 N. E. 625).

Where a deed was made by grantor to her grand-daughter reserving to said grantor a life estate, in consideration of love and affection, it was held that the consideration was a valuable one and that execution, acknowledgment and recording of the deed, was prima facie proof of the delivery of said deed.

MINERALS—SURFACE EASEMENT—KY.—A grantor reserving the minerals from a conveyance of land, also reserves by implication an easement over the surface so far as necessary to remove and transport the minerals and a right of way for railroad in a reasonable location. (Hemler vs. Kirk, 266 S. W. 355).

POWERS—SALE ON CREDIT—TEX.—A power to sell at any future time was held to give power to sell on credit and accept vendors lien notes. (Gray vs. McCurdy, 266 S. W. 396).

VENDOR AND PURCHASER—GOOD TITLE—ARK.—A contract of purchase calling for a "good" title will be enforced upon a showing of adverse possession against a break in the chain of title in 1870. (Meek vs. Green, 266 S. W. 451).

POSSESSION OF LAND—KY.—One in possession of land may retain and protect his possession against everyone else who cannot prove himself legally entitled thereto. (Leach vs. Taylor, 266 S. W. 894).

LEASE RENEWAL—KY.—A simple covenant to renew a lease means to renew—once only; but a covenant can be drawn so as to authorize perpetual renewals, and is valid. (Vokins vs. McGaughey, 266 S. W. 907).

DOWER—KY.—In Kentucky the husband now takes as dower a life estate in one-third of the land of which the wife was seized and possessed at her death whether children were born or not; prior to 1894 he took common law courtesy or a life estate in all the property of which she was seized at any time during the marriage if a child was born. (Decker vs. Decker, 265 S. W. 483).

LIFE ESTATES—IMPROVEMENTS—KY.—Where life tenant makes improvements on the land he cannot collect part of the cost from the remaindermen. (Decker vs. Decker, 265 S. W. 483). This harsh rule results in deterioration of the property and has been much modified in England and some of the States.

TRUSTS—SPENDTHRIFT—KY.—Property devised to a son in trust for himself "as a home and for support out of the rents and profits" and the balance in trust for his wife and children, cannot be levied on by the creditors of the son. (Shawler vs. Hart, 265 S. W. 485). This decision shows the necessity for statutes regulating spendthrift trusts.

PERPETUITIES—SCHOOL LOT—KY.—Where a tract of one acre is given for a school provided that when abandoned as a school it should revert to the person then owning the abutting land, the reversionary clause was held void as a restraint on alienation perpetuity. (Duncon vs. Webster, 265 S. W. 489). This seems to be a very extreme application of the statute against perpetuities.

DEEDS DESCRIPTION—KY.—Natural objects, as trees, will prevail over courses and distances in a description. (Atkinson vs. Murphy, 265 S. W. 506).

NOTICE—DATE OF CLOSING—KY.—Where the title is examined at 9 a. m. and an adverse bond for deed is recorded at 10 a. m. and the first deal closed at 12 m. without knowledge of the bond, the purchaser takes subject to the bond. (Eversole vs. Huff, 265 S. W. 797).

WILLS—REMAINDERS—KY.—A devise to a son for life with remainder to his children or descendants (be there having none) is a contingent remainder, and if no further disposition be made and the son never has any children, he will take the fee simple if he is the sole heir of testator. (Bourbon vs. Miller, 265 S. W. 791).

MORTGAGES—FORECLOSURE—TEX.—In Texas a mortgage cannot be foreclosed after four years from the date of maturity if the owner of the land objects. (Bank vs. Lane, 265 S. W. 763).

DEEDS—ESTATE TAIL—TEX.—A deed to a person "and the heirs of his body" creates a fee simple in Texas. (Williamson vs. Dowan, 265 S. W. 745).

MINERALS—LIMESTONE—TENN.—A reservation of "all mines and minerals" does not include a limestone bluff on the land. (Campbell vs. Iron Co., 265 S. W. 674).

ADMINISTRATION—HOMESTEAD—ARK.—In Arkansas the Probate Court can decree land of small value to be the absolute property of the widows, but this cannot be done as to the homestead property. (Mason vs. Graves, 265 S. W. 667).

PARTY WALLS—MORTGAGES—ARK.—A mortgagee is not bound by unrecorded agreement of owner to pay half of cost of party wall, unless mortgagee or his agent had knowledge thereof. (Bank vs. Meriwethee, 265 S. W. 643).

FIXTURES—FILLING STATION—ARK.—Tank and pump in the street pass as fixtures with a deed conveying the lot. (Dent vs. Bowers, 265 S. W. 636).

LIMITATIONS HOMESTEAD—KY.—An owner of a homestead in Kentucky died intestate leaving a widow and several children some of whom were minors and others married woman. The widow by her sole deed attempted to convey the property, held that the deed passed nothing but that the statutes of limitation commenced to run at that time and all of the heirs, whether under disability or not, are barred. (Settle vs. Simpson, 264 S. W. 1092).

HOMESTEAD—LIFE ESTATE—KY.—A life estate is exempt from execution if it is the homestead. (Wilson vs. Devasher, 264 S. W. 1092).

TAXATION—DOUBLE ASSESSMENT—KY.—Where land is assessed twice, and one of the bills property assessed paid, a sale under the other is void, and the purchaser is not entitled to be reimbursed for his bid. (Mullins vs. Rader).

HUSBAND AND WIFE—COMMUNITY—TEX.—A deed by the wife (as administratrix of the husband's estate to pay debts) conveys not only his interest in the community but hers also. (Moore vs. Wooten, 265 S. W. 210).

HOMESTEAD—MORTGAGES—TEX.—In Texas a mortgage on the homestead property is void if occupied as such even though both husband and wife join in the mortgage and declare therein that it is not their homestead, but such a mortgage is valid if they do not occupy the property, even though it is their homestead. (Llewellyn vs. Bank, 265 S. W. 222).

HUSBAND & WIFE—POST NUPTIAL CONTRACT—KY.—A post nuptial or separation contract fixing property rights of husband and wife becomes void upon reconciliation. (Cole vs. Waldrop, 265 S. W. 274).

TRUST—PRECATORY—MO.—A will giving the widow power to "provide for the children at her pleasure" does not create any interest in the children as it is permissive and not precatory. (Fries vs. Fries, 267 S. W. 116).

POWERS—LIMITING FEE—MO.—A devise of all property not followed by any remainders, is not cut down to a life estate merely because the devise is followed by powers to sell or devise. (Fries vs. Fries, 267 S. W. 116).

ADVERSE POSSESSION—GA.—Possession under a duly recorded deed will be construed to extend to all the contiguous property embraced therein, but actual possession of parts of whole lots does not extend to fractional lots included in same instrument but described separately. Defendant held not entitled to prescribe under deed executed less than seven years before suit pursuant to seven-year period. (Tucker et al v. Wimpey et al, 124 S. E. 692).

BOUNDARIES—W. VA.—Equity will not entertain a suit to remove cloud upon title to real estate, if the sole matter in dispute is the location of boundary lines, or to rejoin an alleged trespass on the disputed land, in the absence of an averment that an action at law is pending or is about to be brought to determine the title. (McDonald et al v. Boggs et al, 124 S. E. 680).

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The Hall Abstract Company

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Title Examiners Section.

Golding Fairfield, President, Denver, Colo.
Title Guaranty Co.

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APRIL, 1925.

Editorial Entries

Things that just "grow up" are never as beautiful, admirable, efficient or profitable as those that have been guided, cultivated or given attention. This is true whether it be plants, children—human beings, or vocations.

There has to be a guidance—a standard, something or someone to direct and foster. Trees have to be pruned, grafted and cared for. Children must be given attention and care and it is the same with a business. It cannot be allowed to drift. This same rule applies to a trade, business or profession as a whole the same as to one individual enterprise.

And a single business demands the energy and attention of one or a group to develop it and make it prosper. The advancement of it as a whole requires the same. As it is an effort for civilization, its institutions and humans themselves to keep even and not go backward, so is it a battle and effort to advance.

Society has instituted various agencies and institutions to foster progress in civilization, and business

has done likewise by its commercial organizations.

These organizations require first and primarily that those in them unselfishly give of their time and endeavors, make personal effort and sacrifice in the work. Usually a limited group do the work and direct the activities for a time—then they are succeeded by others so in the end many have taken part.

Some of these organizations are in themselves wholly a national organization. Others are composed of smaller units like state or local district or other defined groups who make up units composing the larger and nationwide body.

Such is the scheme of the American Title Association—the organization nationally representing the title interests, and business—the abstracters, title companies and title examiners.

It has often been said that the state associations are the strength and body of the American Association, and this is true. But likewise the state associations are the strength and body of the business in their locality.

Point out a state where the abstract or title business is suffering from unsatisfactory conditions, troubles, low ethics, legislative handicaps and any other troubles, and it will be found that there is no active state title organization.

Pick the states where the abstracters are making money, where business conditions are satisfactory, and one will find a strong, active and functioning state association. This rule can be substantiated without exception.

It is apparent those in the business cannot or at least have not realized this enough, else more attention and support would be given the state organizations. Many belonging to them have never attended a state or national convention, though the meeting might be held sometime in their adjoining county.

It is regrettable to think that any man will not give one or two days a year to meeting with his fellow business men in a mutual affair for the discussion of their business.

These state associations are important. They do a good work at their worst. They would do a wonderful one did they have the whole support of those in the business.

Two or three men are elected as officials for a year. They try—they do their best. They are given a fair amount of support in some cases—fine encouragement in others—and none in a few. And yet they must keep the organization going that gives protection, gains prestige and demands recognition of that business.

The existence of these organizations is like a police force—they are the means of creating and keeping a certain atmosphere of authority—take them away and see the rack and decay that would follow the same as though the police force were withdrawn. As

long as it is there—order and respect is maintained. Remove it and riots would follow.

But the point is these organizations should not just exist. They should function and do a work. Those in charge—the elected officials should feel the responsibility and confidence placed in them by their being chosen to fill their places.

Those who choose them should help and support them. They should pay their dues promptly when called upon for them—and not make it necessary to send several reminders—and then maybe be dropped for non-payment even though they never intended to drop out. They should help in getting their competitors and neighbors in joining the organization. They should help in the program of the state conventions—and **FIRST OF ALL, SHOULD ATTEND THEM.**

Half of those in a business probably belong. A fourth of them say, attend the state conventions. That means but one-eighth of those in the business get to the meetings. That is deplorable.

So as the American Title Association is the nation-wide and recognized representative of the title business, and the state associations are its life and force, and as the individual member is the life and force of the state associations, it revolves back to the point that after all it is the membership that makes it.

Are you doing your part in the full degree—or even a part of it?

It has been said that five per cent of the people of the country—or a town—or of an organization furnish the energy and push to keep them going in order that the other ninety-five per cent may benefit and prosper.

Where are you—in the five or ninety-five per cent?

The title business as much if not more than any other needs fostering—directing and protection. It has gone through a strenuous period of advancement and increased responsibility, during the past few years. It will be even more so these next few.

It demands the attention of thought of everyone in it. These, expressed and carried out through the state and national associations will be resultant of a great amount of profitable good.

A zebra might be said to be a sport model mule.

Alice: "He didn't have the face to kiss me."

Betty: "I suppose you didn't have the cheek to tempt him."

Most fellows nowadays burn their midnight oil in a Ford.

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."

Of What Use and Importance Will the Abstractors Section Be?

The sentiment for the formation of the Abstractors Section was not an accident nor brought about by anything but thoughtful consideration. It simply bespeaks of a change of conditions—of the mark of progress and the evolution of things. It is a recent agitation—the past few years in fact bringing it out. A consideration of the cause, the events leading to its determination and what it will bring is therefore interesting and in order.

When the American Association of Title Men was formed in 1907 it was the idea and conception of the abstractors of the United States, and the initiative taken by W. W. Skinner, of Chipewaw Falls, Wis.

At that time the evidencing of titles was done almost exclusively by abstracts and there were only abstractors. They formed the organization, fought and put it into successful existence and were the whole organization for a time, in fact a number of years.

And then title insurance began to grow and become a part of the title business. Matters especially pertaining to it came up and the Title Insurance Section was formed so that they could be mutually considered and cared for.

Then the Title Examiners came into prominence and were playing such an important part in the title business that they began to join the association, many of those already members began to specialize in title examinations and for the same reasons the Examiners Section was formed.

Through all this the basis of the organization was the original group—the abstractors. They were considered to be included in the organization as a whole—and were. The other two were likewise included in the general organization—but had section organization to consider their peculiar problems and matters.

For a long time this system continued and was well thought of. And then the organization began to grow in force and effect as well as numbers. A most practical scheme of maintenance and management was outlined at Nashville in 1919. More work was being done—the activities of the Association increased and have been ever since. The officials were more busy and many matters were arising each year. Their work was growing—the work of the sections already organized increased each year. The abstractors were watching their activities and means of carrying them on and the idea immediately flashed over them, if good for them, why not for us. Many thought their interests could be better cared for and more interest aroused if a separate section existed for them too.

Then there is a bit of human nature, "What's in a Name" and a psychological element in it the same

as everything else—for despite the fact that the basis of the organization is the abstractors, that they are the foundation of it the same as of the title business in any of its branches, and that they started this thing anyhow, there was nothing distinctive about it for them—the Examiners and Title Insurance folks had their "signs" out.

So here it is now—the thing has been started—put forward for adoption and all it awaits is the convention action in a few months. There is no doubt that it will be adopted almost unanimously. The sentiment for its recommendation was almost unanimous although some wondered why an Abstractors Section was necessary when it was an organization of abstractors, founded by them and all, and even most of those in the title insurance business make and issue abstracts as well. But it will undoubtedly be approved and next year see an organization with a central executive body to handle and direct the affairs and welfare of the thing as a general organization, with the able and effective assistance of sectional organizations to care for the details of their respective interests.

What Good Will Come From It?

One will naturally surmise a bit as to what effect this will have, not only for the association as a whole, but for the interests of the abstractors. It should bring much good and productive results to both.

In the first place it will resolve the officials of the general organization into a more effective working body to transact the ever-accumulating affairs of business arising from the general work. As things arise that demand serious and special attention pertaining only to one branch, they can be referred to and given to the section to which they belong for consideration. This will stimulate and arouse more interest in every way, for each group will then be a functioning body for its own problems and questions—and with the backing and support of the general organization, bring results quickly and effectively.

Each section could take a stand and adopt policies, work out problems and handle things of its own sphere and there would be no confusing of the motive or the influence back of it—it could not be said that one interest or group domineered or influenced the other.

It will give the abstractor a feeling of more direct attention. Each section will prepare its own part of the program—and have no one but themselves to blame if it does not suit them.

Up to Abstractors Themselves to Get Most Good From It.

This is the abstractors chance. Here

they have the entire resources and backing of a strong, respected and well entrenched national organization. They can work through their section for particular and pertinent results—and direct the work themselves—have the major voice in it.

Another member of the Executive Committee will be made by this move—for the President or Chairman of this section will have a place thereon as the others do now. This will give them a special seat around the table of the "mighty."

This is a thing born out of the desires of the abstractors themselves, and it is up to them to look after it and make the most of their opportunity. The abstractors have not grown with the association as have the others. They have not taken advantage of the opportunities and work offered by the Association—neither the national or their respective state organizations. Their problems today are the same as 20 years ago because they have not made any organized or concentrated attempt and effort to overcome them. They need to solve them—the abstract business has a wonderful future—it has gone through a stage of much advancement these past few years—and will even more so in the coming ones.

This provides the machinery, and if used, every abstractor in the country can expect and count on feeling the results.

The mere formation and existence—the hanging out of their sign by means of this section should have a wholesome effect on them—on the business.

It should bring about a greater interest and realization of the value of the existence of the American Title Association which will also be the means of creating a more intensive interest in the state associations.

The American Title Association always has been an abstractors association more than any other. It always will be the greatest influence in the world for the protection and advancement of the abstract business. But the gauge of it will be registered by the amount of interest and activity given by the abstractors themselves.

Convention City Propitious for Good Start.

The selection of Denver as the 1925 Convention City where this matter will be finally approved and started is another thing in its favor and that will give it the right kind of spirit and start. There should be more strictly abstractors at this convention than in any for a long time. There is an incentive to visit Denver—for the trip alone. It affords a time-saving and economical trip—and in addition is in the heart of the "abstractors world"—the great middle western section of the United States. Then, too, it is in the center of the new country—where the abstract business as well as every other business is but a few years old. No convention has been held in that locality before

and it presents the opportunity of attending to a section never before having had it.

This is a thing directly pertaining to and affecting every abstractor in the association. He should therefore plan right now on attending—should be there without fail and take a part in not only the formation of this section—but the other things that he will do at the same time—support and give consideration to the national organization fighting the battles and advancing the interests of the business from which he

gets his bread and butter, and buys shoes for the family.

Every abstractor—every one in the title business, abstractor, title insurance or examiner, owes much to the American Title Association and what it has done. He will owe more in the future as each year goes by, for it does more each year for him.

It seems as though this move is one of advancement—that will make for a better running organization—and should be productive of every favorable result.

Title Insurance

By Horace Anderson, secretary Title Guarantee and Trust Company, New York.

(Note: This article is valuable because of its form and elementary treatise of the subject. It was prepared for the courses in real estate practice of the New York Real Estate Board and Y. M. C. A. School.)

Title Insurance companies are the outgrowth of the difficulties connected with the transfer of real estate especially in large cities where the records of real estate transfers have become very voluminous and where the actual searching of the records is difficult.

When you sell property to me, you give me a deed—not the old deed you received when you bought the property—but a new one which mentions your name as seller or grantor and my name as the buyer or grantee. It contains a description of the property and, as a rule, various promises or covenants in which you guarantee that my ownership will be free of claims from other people. This deed is usually recorded in the Register's office or the County Clerk's office or the Recorder's office, as is provided by the state in which the property is located. Your name and my name are indexed in different indexes. Yours is put among the sellers or grantors and mine among the buyers or grantees. The deed is copied in the record books and the original is returned to me as evidence that I am the owner of the property. If any new mortgages are made, they are recorded and indexed in the same way. When I come to sell my property to some one else I, in turn have my lawyer and make out a new deed to him and this is recorded and indexed again, this time my name appearing among the sellers and his among the buyers.

It is the duty of the lawyer of the man who buys to examine the title and make sure I really own the property before he allows his client to part with his money. My lawyer did this when I purchased but it is generally done all over again and by a different lawyer. You ask why not the same lawyer. In the first place, it seldom happens that buyer and seller have the same attorney and each wants his own. Then, too, it is not good policy to have two people whose interests may be adverse to have the same lawyer. If he discovers any troubles on the second examination which he overlooked on the first, it will be very embarrassing to

him to explain his errors to the first client. With Title companies which must guarantee their work, it is different. To examine a title, if he has no abstract and there is no Title or Abstract company, the lawyer consults the indexes and then finds that you have sold the property to me and that someone else sold it to you and so on back, he digs out the chain, tracing one step after the other, examining each deed and each will to see if it was legally and correctly drawn.

In communities where there have been few transfers, this may be easy work but in large cities where real estate has been transferred for many years, and the records cover thousands of volumes, tracing the indexes is not only tedious work but is dangerous and difficult. The man who searches a title must make sure that before you sold the property to me, you did not sell it to somebody else and give him a deed before you gave me one. He must make sure that if you had a wife, she joined in the deed. He must make sure that if you got the property under the will of your father or someone else, that the will did not forbid the sale of the property or did not attach certain conditions to this sale. He must make sure there are no judgments against you or against the people from whom you got your title at any time within the last 10 years. These judgments are recorded in alphabetical indexes and if the man who sold to you was named John Smith, Louis Levy or Isaac Cohen there are apt to be in a large city thousands of judgments against these names. None of them may affect the man who sold to you but this is what the seller's attorney is under obligations to verify. All names look alike on the judgment index. He must examine the court records of each of these judgments and satisfy himself they are against other men than those in your chain of title.

Legal questions as to whether deeds are good or whether foreclosure or partition suits were properly conducted or whether wills were properly drawn,

all may come up making the work of the examination of a title a difficult and an intricate one, requiring the services of a good attorney.

It was on account of difficulties like this that title companies and abstract companies have been organized in many places. To reduce searching difficulties to a minimum, these companies usually arrange all of the recorded instruments in a county on a locality basis. When our company was organized, our first work was to abstract every one of the deeds, mortgages etc. in New York and Brooklyn—2,000,000 instruments perhaps. We sorted these out on a map of the city so that we had in separate piles all of the instruments affecting each piece of property. This obviated the necessity of examining name indexes to make up a chain of title and consequently did away with the difficulties resulting from the same and similar names. It also developed every case of doubt chain of title where one man had sold to two people and each again had been continued without the knowledge of the other, chiefly cases of vacant property. Instead of working for weeks or months to dig out a chain of title back to the beginning, we had ready for almost instant use the complete list of instruments for each title in our locality and one that we know was free from errors.

With such index in our possession the dangers of insuring titles were very much reduced because we were free from the risks that go with imperfect searches. It is necessary for a Title Insurance company to have a good law department and to know thoroughly all of the pitfalls in connection with title examination.

At first, the Title companies knew no more about title examination than did the ordinary real estate lawyers but as the years went by, most lawyers quit examining titles and turned this class of business over to the title companies. As a result, the Title companies become more expert and the lawyers less expert until today, the best real estate law talent is in the employ of the title companies. For their own protection, the Title companies naturally wish to get the very best title examination possible so that they can discover any errors that may exist. Both the Title companies and the general public know however that there are many difficulties in connection with titles which no amount of title examination will discover. Men with two wives, children born after a will is made—forged deeds and satisfaction pieces. They also know that years of experience and access to a most complete set of records give the Title company men peculiar opportunity to find out all that can be found out about a title and that a large capital and surplus will protect the client against the undiscoverable troubles. There are many things that go to make titles bad. The following list contains a few of the more common troubles.

1. Errors in description that leave gaps in their property.

2. Buildings that enroach on our property or buildings of ours that enroach on other people's property.

3. Mortgages that have been incorrectly foreclosed, leaving outstanding rights in other people.

4. Taxes that were not turned up on searches or where the receivers have stolen the money instead of turning it in.

5. Judgments that have been omitted from searches or where the parties have been wrongly identified.

6. Unexpected widows and their dower claims.

7. Parties in possession claiming title but without recorded deeds.

8. Wrong legal construction of wills.

9. Money loaned to false owners on forged mortgages.

10. Property discovered to be subject to mortgages because they were satisfied by forced satisfaction pieces.

11. Outstanding interests continuing to be outstanding because they were cleaned up by forged deeds.

I could go on and name many more of the things that make titles bad but I have found that these recitals usually interest the lawyer and the theoretical student rather than the actual buyer. I have found there is one argument for title insurance which always appeals to the practical man. When I say to a prospective purchaser that after we get through examining your title and have issued your policy you are guaranteed, a look of intelligence comes over his face and he tells us to go ahead with the business. After all, the whole story is included in this one word—"guarantee." It means just what it says, viz., that if there was anything wrong with your title at the time you bought, whether it is a discoverable or undiscoverable difficulty, then it is our duty to take care of it for you unless we discovered it at the time and told you about it and you decided to take title subject to it and take the risk yourself.

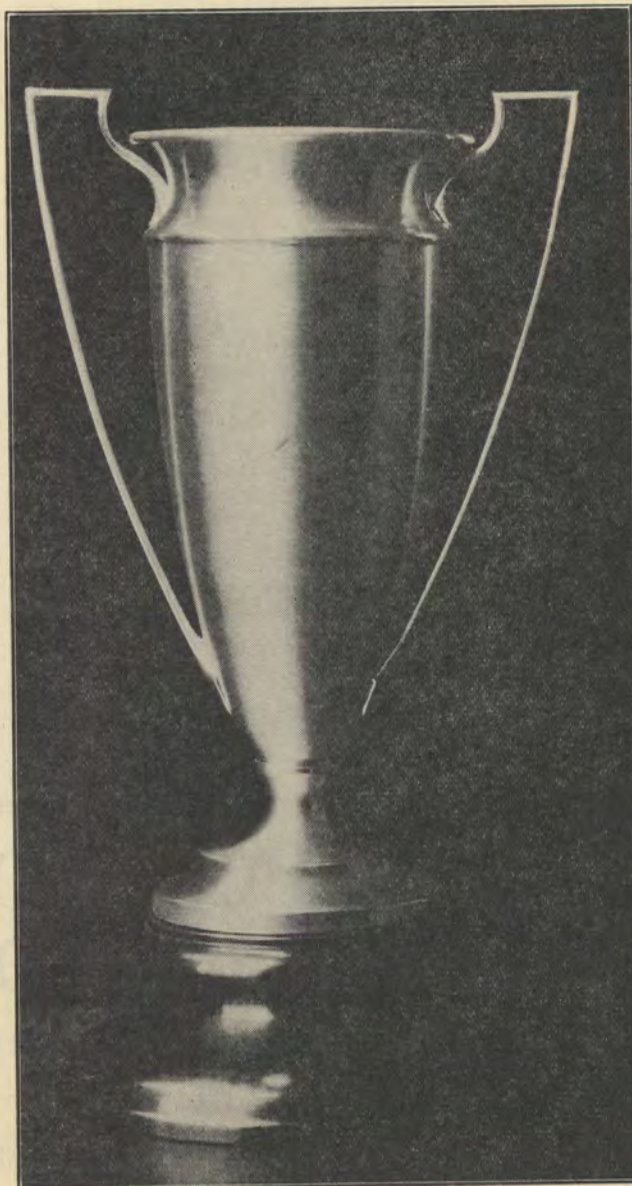
Most Title companies have added the lending of money to their business of title examination and issue a policy of title insurance to the lender who buys the mortgage from them. In the larger cities title insurance has been quite profitable and the companies have prospered. In the small cities it has usually been combined with an abstract business or with a trust company business and as a rule has not been a large money maker. The success of the larger companies in New York has drawn a number of companies into the business throughout the country but with only indifferent success. The rates charged by the New York companies have been reasonable and their treatment of their losses as a rule has been generous. As a result, they have made many friends and title insurance in New York and vicinity is very popular. In fact it may be said that the battle of title insurance is won there

and there is very little title examination done except through the title companies.

Efforts have been made to have the state go into the Title Insurance business but the Title companies do it so well that the so-called Torrens System has met with very little success in New York or in fact in any part of the country. It is a very much misunderstood system. In a new country where the titles come directly from the Government and where most titles are good anyhow, some such state system of registration has been found useful but in old communities where real estate has changed hands during a period of three or four hundred years, there is nothing so successful or pleasing to the average purchaser as a policy of title insurance.

The Torrens System is not supposed to be a system which guarantees the title. It is supposed to make the title good by a decree of the court and then anyone whose rights are cut off has access to a Guarantee Fund, if there is such a fund, to make good what he has lost. In New York, the Guarantee Fund is to be built up from the rather small payments made by the few people who have had their titles registered but it is so small it amounts to nothing in the way of a guarantee—only a few dollars in fact.

The effort has been made to have the state supply the guarantee but up to date, the average taxpayer has been wise enough to see the unfairness of asking him to supply the money to guarantee the title of property that is being bought by some other man.



Cup given by President Condit to be awarded to State Association making most gain in membership
1925 MEMBERSHIP CAMPAIGN.

Cleveland Bar Association Institutes Land Law Reform

Chas. C. White, Member of Committee

The following laws with reference to real estate titles have been recommended by the Cleveland Bar Association, and will be introduced at the present session of the Ohio General Assembly.

A law providing that defectively executed deeds that have been, or shall hereafter be, on record for 21 years, shall be as good and valid as if properly executed.

A law providing that defective releases, satisfactions and cancelations of mortgages, which have been on record for 21 years, shall be as good and valid as if executed with the proper formalities.

A law providing that a power of attorney for the transfer of land shall be good if recorded prior to the recording of the deed executed under the power. The present statute requires the power of attorney to be recorded prior to the execution of the deed, and is the cause of endless title troubles.

A law making it definite and certain that Criminal Bonds in the Cleveland Municipal Court shall be a lien only from the time of their recording with the County Recorder.

A law providing that the word "heirs" is not essential in a deed in order to convey a fee simple title. This law has been passed in every state in the union except eight.

A law providing that when a deed is recorded to "John Smith, Trustee," and there is nothing of record showing the nature of the trust (if any) a deed from "John Smith, Trustee" will convey good title to the purchaser for value, free from the claims of any claimant under the trust not shown of record.

A law removing the possibility of "secret liens" now possible under certain sections of our probate law.

Under the present state of the law a lien may be acquired in probate court against the property of John Smith, Administrator of John Jones, and yet there is no method of discovering this lien by the indexes of the probate court.

A law providing that mortgages shall cease to be liens 21 years after the maturity of the debt described therein, unless the mortgage be re-filed for record, or unless there be filed for record some instrument extending the time of payment.

A law authorizing the recording of waivers of priorities of mortgages. This law is intended to legalize a custom which is quite general in Cuyahoga County.

A law providing a definite statute of limitations as to claims against decedents' estates. The law is so framed as to apply both to administered and unadministered estates. Any lawyer knows that it is almost impossible in Ohio to tell when real estate of a deceased person is free from the possible claims of creditors.

In the case of *Faran vs. Robinson*, 17 O. S. 242, the lands of a decedent were sold to pay a claim against his estate 16 years after the administrator had filed his final account showing the estate apparently solvent.

A law providing that Corporation Franchise Fees shall not be a lien on real estate as against purchasers for value, unless some notice be filed in the county where the land is situated. This law is for the purpose of doing away with the duty of searching the records in Columbus as to taxes affecting land in Cuyhoga County.

A law protecting the purchaser for value of all the assets of a corporation.

Under the present state of the law the purchaser must know at his peril whether the property he is buying from a corporation constitutes all the assets of the corporation. This throws an impossible burden upon the purchaser.

A law providing that the lien of judgment shall date from rendition and shall not date back to the first day of the term. This law takes care of the bothersome matter of "pending suits." Ohio is one of four states which allow judgments to date back.

A law removing the "saving clause" in favor of minors, idiots, insane, etc., from the various statutes of limitation and other statutes. The object of this law is to remove the doubt which often exists about titles by reason of the possible rights of persons under disability to assert stale claims after long possession by purchaser for value. For instance 21 years adverse possession is supposed to give title in Ohio. But if the person against whom title is claimed, be insane, it might under our present law be possible to occupy land adversely for 50 years and still not have good title by adverse possession.

A law revising the "widow's election" law so as to provide that if a widow, or widower, fails to elect under the will, she (or he) shall be presumed to take under the will, instead of under the law. This will make the presumption tally with the facts and will remove the doubt which now arises in titles which come through wills.

Under the present law John Smith, (for instance wills all his property to his wife Jane Smith, who actually goes into possession intending to take under the will. She neglects, however, to make her election in probate court. Under these circumstances there is always a doubt as to whether the property belongs to the widow or to the heirs of John Smith.

**PAY YOUR
State Association Dues Promptly
When called upon for them**

**It will help your State Secretary in his work
It will benefit the Association
You will profit thereby**

Dates of 1925 Convention Most Convenient and Desirable Time Possible

Weather at Best, Tourist Rush Over, Chance to Visit Other Places Before Attend Convention, Then Home

The dates of the 1925 Convention to be held in Denver will be September 8th, 9th, 10th and 11th. This is right after the tourist season is broken and hotel and other accommodations available and yet everything as active and in vogue as earlier when the season is on.

September and October are the two finest months in Colorado—when it is just the right temperature, the air is more "mountainy" and there is more color to the mountains and scenery than any other time.

Many will also want to attend and visit other points—and this will permit them to do this in advance of the meeting and then stop in Denver on the way home. Those who want to go to Yellowstone and the Coast, Glacier National Park or any other summer place can do so by spending the time immediately prior to the meeting, and then getting routed home with a stop-over at Denver and attend the meeting.

All such information can be obtained

from your local railroad agent, although full particulars will be sent out to the membership as well as be printed in the "News."

The Summer Tourist Rates, the lowest ever offered, will be in effect and any variety of routes to and from, with all stop-over privileges can be arranged so that one can visit any of the interesting Western points the week or two weeks before, go to the Pacific Coast or the Great Northwest, and return home via Denver, stopping over for the meeting, then home.

This time may be considered a little late by some, but it is the best for local entertainment engagements, and also for hotel accommodations for the visitors. It is almost impossible to secure hotel accommodations, Pullman reservations, etc., in the mountain states during the tourist season.

Denver offers every advantage and inducement in the world. There should be the largest crowd ever in the history of the association's meetings, and indications point there will be.

North Dakota Association Breaks Legislative "Jinx"

Goes Before Legislature and Puts Through Measure Raising Statutory Fees

The North Dakota Legislature listened to the abstracters of the State and passed a bill raising their fees, and providing other measures advocated by them. Thus for once was a bill advocated and presented by the abstracters for and on their behalf and benefits successfully enacted. This destroys the "jinx" that the abstracters cannot introduce and secure beneficial legislation, despite the fact that they are the only known trade in business in existence that could not (even the hod-carriers, street sweepers and everyone else could, however), and in addition shatters the years-old accepted belief that if we never stir up a legislature and try to get any laws ourselves, we will never have any passed against us.

The bill not only repealed the old statute regulating fees, but exactly doubled them over what they had been.

Other features of the bill provide for the creation of a Board of Examiners, the Licensing of Abstracters, a License Fee, and a Bonding clause. The bill also provides for a requirement that any person, firm or corporation must have a set of books or records to engage in the business, but this was already a part of the old law.

The abstracters of North Dakota are to be congratulated on securing legislation of their own making. This bill repeals all the old laws that had been on the books for years and became antiquated, and provides in their stead

things adequate to present-day needs.

The President of the association, A. W. Dennis of Grand Forks, and the Secretary, A. J. Arnot of Bismarck, sponsored the bill. Mr. Arnot deserves a great deal of credit for staying on the job with the lawmakers and putting it through.

The full text of the bill is as follows, which was signed by the Governor and became a law on March 1st:

HOUSE BILL No. 96

Introduced by Mr. Morton.

A BILL

A Bill for an Act Relating to Abstracting, Providing for the Licensing and Bonding of Such Abstracters, and the Examination and Registration Thereof and to Repeal Sections 3090, 3091, 3092, 3093, 3094, 3095, 3097 and 3098 Compiled Laws of 1913 and All Acts and Parts of Acts in Conflict Herewith.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Abstract Records Required.) Any person, firm or corporation desiring to engage in or continue the business of making and compiling abstracts of title to real estate within the State of North Dakota, shall have for use in such business a complete set of abstract books or records of all instruments of record in the office of the Register of Deeds in and for the County in which such person, firm or

corporation has his place of business, or shall have been in good faith engaged in the preparation for not less than three months of such books or records, and shall first obtain a Certificate of Registration and file the bond required in this article, save as may be hereinafter expressly provided.

Sec. 2. Board of Examiners.) There is hereby created a Board of Examiners to be known as the Abstracters Board of Examiners, carry out the purposes and enforce the provisions of this article; said Board shall consist of three members to be appointed by the Governor of the State of North Dakota, one of whom shall be an abstracter, recommended by the North Dakota Title Association, such recommendation to be made within ten days after this law takes effect; the first members of said Board shall be appointed; one for two years, one for four years and the other for six years, and thereafter appointments shall be made for the term of six years; each member of said Board shall qualify by taking the oath provided by law for public officers; vacancies on said Board caused by death, resignation or otherwise shall be filled by appointment by the Governor.

Sec. 3. Organization of Board.) Said Board shall organize by the election of a President, and Secretary-Treasurer; the Secretary-Treasurer shall not be a member of said Board but shall be a practical abstracter engaged in that business; the Board shall have a Seal, and the President and Secretary-Treasurer shall have power to administer oaths; said Board shall make such rules and regulations as shall be necessary to carry out the purposes of this act; each member of said Board shall receive a compensation of Five Dollars per day for actual services and 10 cents per mile for each mile actually traveled in attending the meetings of said Board and the sum of Five Dollars per day for expenses while absent from home upon business connected with the Board, which amount shall be paid upon verified vouchers, after allowance by said Board, out of any moneys in the hands of the Treasurer of said Board, provided that no part thereof shall in any event be paid out of the State Treasury.

Sec. 4. Reports of Board.) Said Board shall make a biennial report to the Governor, which report shall contain a full statement of its receipts and disbursements for the preceding biennial term; also a full statement of its doings and proceedings and such recommendations as to it may seem proper for the better carrying out of the intents and purposes of this act, which said report shall not be printed except at the expense of the fund herein provided for. Any moneys in the hands of the Treasurer of said Board at the time of making such report shall be kept by him for the future maintenance and operation of the Board,

or turned over to his successor, to be disbursed on warrants signed by the President and the Secretary of the Board.

Sec. 5. Certificate of Registration.) Any person, firm or corporation desiring to obtain a certificate of registration under this article shall make application to said Board therefor and shall pay to the Treasurer of said Board, an examination fee of \$25.00; such application be upon a form to be prepared by said Board and to contain such information as may be desired by it; thereupon said Board shall fix a date and place for the examination of such applicant, of which notice shall be given to the applicant by mail, who shall present himself at such meeting; whereupon said Board shall proceed to examine such applicant or applicants under such rules and regulations as may be by said Board prescribed; if the application is made by a firm or corporation, one of the members or managing officials thereof shall take such examination; provided, however, that every person, firm or corporation who is, upon the date this law goes into effect, engaged in the occupation or profession of an abstractor of title and who shall, within thirty days after this law takes effect, file with the Secretary of said Board, an affidavit setting forth his name, residence and length of time during which and the place where he has practiced such occupation or profession and that he has a complete set of abstract books or records of all instruments of record in the office of the Register of Deeds in and for the County in which his office or place of business is maintained or that in good faith he had been engaged, prior to the time this law took effect, in the preparation of such books or records for not less than three months, and shall pay the registration fee hereinafter provided, then such Board shall make an order that, upon compliance with the other provisions of this law, a certificate of registration shall be issued to such applicant without further examination, and no examination fee shall be required.

Sec. 6. Records of Board.) Said Board shall keep a register wherein it shall enter the name of all applicants for registration with their place of residence and such other information as may be deemed appropriate, including the action taken by said Board thereon, and the date upon which the certificate of registration was issued, if one is issued; certificates of registration shall be issued upon payment of \$25.00 fee and shall be valid for five years from the date thereof but shall be renewed by said Board upon application within thirty days prior to the expiration thereof upon a payment of \$25.00 to the Treasurer of said Board, which application shall be accompanied by an affidavit that the applicant has for use in his, its or their business, a complete set of abstract books or record of all instruments of record in the

office of the Register of Deeds in and for the County in which said applicant has his office or place of business, or that he has such set of abstract books or records in process of completion for at least three months before such application is made.

Sec. 7. Bonds Required.) Before a certificate of registration shall be issued the applicant shall file with the Board a bond to be approved by it, running to The State of North Dakota, in the penal sum of at least Ten Thousand Dollars, and in counties having a population of over ten thousand, the penal sum of Ten Thousand Dollars shall be required for each ten thousand inhabitants, or major part of that number residing within the county where the applicant has his office, as shown by the official Federal or State census last taken prior to the filing of such bond; provided, that a bond in excess of the penal sum of Twenty-five Thousand Dollars shall not be required; such bond shall be conditioned for the payment by such abstractor of any and all damages that may be sustained by or accrue to any person by reason or on account of any error deficiency or mistake in any abstract or certificate of title or continuation thereof made and issued by such person, firm or corporation, provided, that if a personal bond is given there shall be at least three sureties, none of whom shall be officers or stockholders or interested in such business, and each of whom shall justify for the full amount of the bond, and which bond shall be by said Board filed in the office of the County Auditor of the County in which said applicant has his place of business; provided, that the sureties on such bonds shall rejustify at the end of each five year period, at least, and whenever required by said Board.

Sec. 8. Certificate of Authority.) A certificate issued by said Board under the provisions hereof, shall, among other things, recite that such bond has been duly filed and approved, and such certificate shall authorize the person, firm or corporation named in it, to engage in and carry on the business of an abstractor of real estate titles in the County of the State of North Dakota in which said person, firm or corporation has his place of business, and for that purpose to have access to any of the offices of any of said counties or of the State, and to make such memoranda or notation from the records thereof as may be necessary for the purpose of making such abstracts, such access to be during the ordinary office hours; and it shall be the duty of any person, firm or corporation holding such certificates, to furnish or continue an abstract of the title to any tract of land in such County, when requested to do so, on payment of the fees hereinafter provided.

Sec. 9. Fees.) For making and certifying to abstracts under the provisions of this article, a reasonable fee shall be allowed, and in no case shall

such fee exceed the following: For the first entry on any one abstract, or continuation thereof, One Dollar; for each subsequent entry, Fifty Cents; for a complete certificate covering the records of the several county offices, Two Dollars, and for each name searched for judgment and Personal Property Taxes, Twenty-five Cents; for all miscellaneous instruments, Fifty Cents for the first one Hundred Words, and Fifteen Cents for each additional hundred words or fractional part thereof.

Sec. 10. Regulation and Appeal.) The Board may at any time, require any person, firm or corporation, holding a certificate under the provisions hereof, upon thirty days notice, to furnish such additional bonds as to the Board seems proper and to show cause why any bonds should not be held and declared insufficient and invalid or such certificate should not be recalled and annulled, provided, however, that no certificate shall be recalled or annulled save for a violation of the provisions of this Act or upon conviction of the holder of such certificate of crime under the laws of the State of North Dakota or unless the Board shall find such holder to be guilty of habitual carelessness or inattention to business or intoxicated or the use of drugs to such an extent as to incapacitate him for business, or of fraudulent practices; if the certificate be held by a firm or corporation, then the provisions hereof shall be applicable to the managing members, or officers thereof; upon the cancellation of any certificate the holder thereof may have an appeal to the District Court from the decision of the Board. Such appeal to be taken within thirty days by the service of a Notice of Appeal with a bond in the sum of \$250.00 upon the Secretary of the Board, such appeal to come on for hearing before the District Court of the County in which such certificate holder shall have his place of business at the next regular term of said Court.

Sec. 11. Seal.) Any person, firm or corporation furnishing abstracts of title to real property under the provisions hereof shall first provide a seal, which seal shall have stamped thereon the name and location of such firm, person or corporation, and shall deposit with the Secretary of said Board an impression of such seal before the certificate of registration shall issue, which seal shall be affixed to every abstract or certificate of title issued by such person, firm or corporation.

Sec. 12. Penalty.) Any person, firm or corporation making, compiling or certifying to abstracts of title to real property in this state, without having complied with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding One Hundred Dollars nor less than Twenty-five Dollars for each offense.