

# TITLE NEWS

Vol. 4

DECEMBER, 1925

No. 11

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### Title Questions and the Court Answers

{Edited by McCune Gill, St. Louis

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A PUBLICATION ISSUED MONTHLY BY  
*The American Title Association*

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Hutchinson, Kansas.  
December 15, 1925.

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AND CHAIRMEN OF SECTIONS,  
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Fellow Titlemen:

The American People, this Public which constitutes the human part of our great country has come to accept certain things as a part of their life and existence.

One of them is advertising, and the Public looks to advertising to guide and direct it in many ways. So great has this become that people are willing and eager to pay the cost of advertising in order that they may become acquainted with things. Advertising is a forceful influence and a near guardian of the masses. This has reached such a point that advertising is not only used by the manufacturer and merchandiser as a means of disposing of products, but also by various agencies and interests to mould public sentiment in protecting and advancing their interests, or to sway the force of public opinion to aid in the accomplishment of their endeavors.

Advertising can be used to sell products, to win favor, to create the desired atmosphere for a business, an industry or a cause. It can be made constructive, helpful, a force upon which the very life of a thing or business exists.

But the truth is the American people depend upon advertising, -publicity- to tell them what to buy and almost how to think. A product or a cause or anything most that they have never heard of has little chance. It is the same as when a singer gives an audience an unfamiliar song. It will generally be accepted with due courtesy and worthy respect, but when he sings a song with which they are familiar, it is given a royal response and genuine applause.

Every big title company, every abstractor in any community could afford to advertise some for the general good it would do toward establishing the title business in the minds of the people - making them acquainted with us.

Advertising is an essential and an influence in every business. The title business cannot be an exception. We should study the subject and make use of its power.

Sincerely yours,

*Richard B. Hall*  
Executive Secretary.

RBH/g

# TITLE NEWS

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## Annual Mid-Winter Meeting of State and National Officials Will Be Held in Chicago, February 5th-6th

*All State Officials Urged to Attend This Important Business Session—Everyone Interested in Association Cordially Invited*

The Annual Mid-Winter Business Meeting and Joint Conference of State and National Officials and Committees will be held in the Sherman Hotel, Chicago, February 5th and 6th.

This is one of the busiest and most beneficial meetings of the organization, and this year's will be especially important. These joint sessions of the state and national officials have been held for two years now—this is the third—and in that time it is only natural to expect that each year has brought a development and greater importance in the worth and work of the mid-winter session.

These are the real business meetings of the national association. Here time is taken to transact business that cannot be handled at the conventions because of the pressure of other things at those sessions. The work of the organization since the last meeting (the recent convention) is reviewed and given greater impetus. Plans for the future are made, and the details of the convention worked out, program formed, etc. The attendance at these meetings has been surprising. Absentees from the officials of the national organization have been very few.

### Meeting With State Officials Real Event.

The first day's session, that of a joint meeting with the state officials is the thing of importance though. Vice President J. W. Woodford, the Chairman of the Executive Committee, who will preside at all the meetings, has sent letters to all state officials urging them to attend, and asking for suggested topics to be discussed at this

meeting, and also an expression of ideas for things to be presented for the association to do in its program of activities.

Many replies were received and of a very interesting nature. This meeting will be conducted a bit different than the other two, and worked out more on the lines of definite procedure arranged in advance. The questions and suggestions submitted are now being studied and will be presented and discussed at the Friday meeting.

Everyone there will have an opportunity of making suggestions, and telling how he thinks the national association can be of more assistance to the state organizations, how each can become more efficient and anything else he cares to present.

The officials of the national organization, too, have been studying and investigating and will present some real things for the consideration of the state officials.

There is certain to be a great deal come from this meeting. With this mutual exchange of ideas and giving of suggestions together with the representation that will be there to absorb and then make use of the things brought out, results are sure to be obtained. These meetings have always seen a representation of more than thirty different states. Each year has brought more attendants, and seen more states represented.

Not only have these meetings been attended by the officials of the state and national associations, but likewise by many friends and others interested in the Association. It has been surprising the number, too, who came just

because they could not and did not want to miss out on a title association meeting. They came to just be with the crowd.

There has also been quite a few of each of them who came for information, and avail themselves of the opportunity of discussing their business problems or learn details about some contemplated venture.

This meeting is a good place for such a thing. Here will be a large number of representative title men from all over the country and representing the different branches of the business.

The friends of the Association and others who might find it profitable to mingle with this crowd are cordially invited to attend.

### DO YOU WANT EXTRA COPIES OF "TITLE NEWS."

The Association will be glad to supply members with a bulk number of "Title News" each month, or to send it to the different officers or members of a company, or to the employes of offices.

An announcement of this was made some time ago, and several offices sent in names of their different officials, members of the firm, etc., and employes of their offices who might be interested and benefit by receiving it.

Others requested a certain number be sent in bulk to the office.

Members wishing to avail themselves of this should notify the Executive Secretary.

# Advertising Committee Making Exhaustive Survey on Title Advertising

*Collecting All Material and Data Available, and Will Make Report and Analysis of the Work*

If there has been one thing the Association has been called upon to give ideas, information and assistance on, it has been advertising. This has come from title insurance companies, and from abstracters, from those in the cities and those in the small towns and rural communities all over the country.

This is one great big subject, one in which some general rules and conditions prevail as in all things, but likewise one which requires special thought and study, and which will be found to rest on local conditions largely.

Advertising for title insurance companies, for abstracters, for the title business at all, is Specialty Advertising. It comes under the class of technical or special business with requirements all its own, and for different requirements for each circumstance in addition.

One of the big problems for those in any branch of the title business, abstractor or title insurance company is proper advertising and proper mediums.

One of the main reasons for the lack of understanding of the patrons of title offices about the product of the title man, and for the misunderstanding and ignorance of the general public and the layman towards the titleman and his business, has been because the title business has not been advertised.

Those in the title business want to advertise—must advertise. But they want to do it wisely, and do it well.

The average titleman finds it a real problem to know how, when and where to advertise.

The advertising agencies, the staffs of advertising men on newspapers and in specialty houses are even unfamiliar with the subject, and many times the titleman who wants to advertise can find no experienced and able assistance.

So persistent has been this demand upon the Association for help in advertising, that a Special Committee on Advertising was again appointed this year by President Fehrman and a special charge given them to perform and function for the good and benefit of the title business.

Tom Dilworth of the Dilworth Abstract Co., Waco, Texas, was selected as Chairman. Tom was never known to do a thing half-way, and he is certainly not going to in this. He began work as soon as notified, called upon his committee members, Bill Pryor of the Pryor Abstract Co., Duluth, Minn., Arthur C. Longbrake of Real Estate Abstract Co., Toledo, O., Edwin H. Lindow, of the Union Title and Guaranty Co., Detroit, Mich., and Pearl Koontz Jeffrey, Columbus, Kansas, to assist in the task assigned them.

He got a hearty response and now all that is needed is cooperation from the members of the Association.

A letter will be sent to every member of the organization asking that specimens of all advertising used in the past and that are available be sent to the Chairman, Mr. Dilworth, that

samples of all gotten out during the coming year likewise be sent, that samples of all forms, covers, captions, blanks and all things used in the course of work be included, but even more important, that each one write to Mr. Dilworth, and tell him of their advertising experiences, their problems, and other things relative to advertising.

It is unnecessary to mention what a valuable thing a hearty response to this movement will bring. A vast quantity and variety of advertising matter would be assembled. Specimens of all kinds would be collected and the letters would give many expressions of ideas and experiences.

From the information and data thus obtained it is planned to make a study and analysis of them and give a detailed report on the results, together with ideas and recommendations if possible.

It is also planned to make an exhibit of this collected material at the Atlantic City Convention if it is practical. This in itself would be worth attending the convention to see.

Mr. Dilworth and the members of this committee are not only willing but have already given a great deal of time and consideration to this matter. It will necessitate a great deal more. It will particularly require a lot of time and attention from Mr. Dilworth, and the only satisfaction and recompense the Committee will get from it will be that of having rendered a service.

This will be measured and realized solely by the response given their efforts.

There has never been a thing that could apparently be of more value to the title business than to have a source of material and principals of advertising available.

There has never been such an attempt made before to gather and study this so the work of this Committee on Advertising can be anticipated.

## The "Service and Inquiry Bureau" Inaugurated

*Members of Association Requested to Use the Organization for Information and Assistance*

An announcement of the establishment of an active "Service and Inquiry Bureau" was sent out to the members a few days ago. This does not mean that the Association did not always render any and every service called upon in the past, but that it has established a definite system for any demand made upon it, and this formal announcement is made to urge the members of the organization to use it more in furnishing them data, information, and assistance in the problems, questions and details in the conduct of the business in any of its branches.

The reasons the Association is justified in making such an announcement

and establishing this bureau as a part of its organization, is because work has been carried on these past few years in an especial effort to collect data, have definite information at hand on any subject that might be asked for, and in addition, select men in the organization of special qualifications and talents and secure the benefits of their help and cooperation whenever necessary to call upon them.

Many have been the questions put to the Association in the past several years. Members and others have asked for information and assistance in a variety and amazing number of things. This was given as best could be, and

each thing done simply added more to the Association office's supply of information and material at hand.

Special work was done on certain other things, articles and briefs and data collected on others until at the present time the office of the Executive Secretary has available and of ready access, a store of information and material on most every subject pertaining to the title business.

It has been interesting to note the past few years the duplication of inquiries and requests, showing that the same things were problems in general. Special attention was of course given to such things, and a brief prepared or complete information about each of them secured, put in convenient form, and they have thus been put into many hands at various times.

In addition to this, special things were referred to those particularly competent and qualified to give ideas or advice upon them.

The personnel of the active workers, and those interested in the progress and activities of the organization has so increased in numbers during the past few years, that there is an unlimited supply of expert assistance and talent upon which to call for help and information.

You are therefore urged and requested to let the association help you in your work, in giving you information, ideas and data about anything in the conduct of your business, and call upon it for assistance in the solution of the problems that now or might in the future confront you.

Present these matters to the Executive Secretary. If he does not have the necessary information and matter in his office, he will refer your inquiry or request to someone who can render the service desired.

The membership and active personnel of the American Title Association represents the skill and talent of the title business, and provides an unlimited source of information and assistance for the industry.

There are many willing and anxious

to help the organization in its work, to be of use to it in its activities, and especially to be able to render a direct assistance to others in the business.

The brains and energy of the industry are included in this body. This bureau simply provides a tangible means of making them available.

Each request made will simply add more to its store already gathered, either in adding to that of some particular subject, or the beginning of data and information on some other. This exchange of ideas and information will create a source of supply the value of which cannot be estimated.

But the asking of it alone is not all that could be done to help. Everyday some place, in several places, problems and ideas are constantly being worked out and put into things of accomplishment.

Tell of them, the same as you might ask for assistance on others. You are likewise urged and requested to tell of the special and interesting things that happen to you, and your business in the course of its conduct. This particular thing that happens in your of-

fice, and which is met, or passed by you, might be to some others a problem tomorrow, and if you would "pass it on" to the clearing house of the business, then it could in turn be passed on again and again.

So do not be backward in calling upon the organization for help, and likewise write the Executive Secretary's Office of the interesting things that come to you in the course of your business activities.

The real purpose of a commercial association is, after all, to be of help and assistance to its members. When it does that to the utmost of its resources, and the members use it to the degree in which it is available to them, then the business will prosper more, and not need so much "protecting" by the Association.

It has been the hope of the officials of the American Title Association for years now to provide some visible and practical means of directly serving the individual members. It is now able to do so to the utmost of the demands that might be made, so it is hoped the titlemen of the country will avail themselves of its benefits.

## Convention to Be Held During One of America's Gala Events

### *Advancing Dates to Bring It In Pageant Week Adds to Drawing Power*

It was a masterpiece of arranging that the Special Convention Committee did when it succeeded in changing the dates of the 1926 Convention, moving the time up exactly one week. This brings it within the season at Atlantic City, and not only in the season, but within the greatest week of America's greatest resort, September 6 to 11.

It will be more desirable because earlier, because it is in the best time to visit the place by reason of the season, and probably best of all, because it will come in Pageant Week, where the visitors can see the players of America in America's playground, see the Beauty Parade, see some good looking miss picked from all the crowd of good looking misses and crowned "Miss America"—supposed to be the prettiest girl in the country.

But there is an added charm in visiting a resort in its high time, and everyone will now have a greater desire to go to Atlantic City. There will be bathing, the crowd, the spirit of this great place at its highest pitch. It will be great to be able to say that you have been to Atlantic City and during Pageant Week.

Each year it seems that the place of meeting of the Association holds some new and greater charm as a place to go. It is true this year especially. All of the others have been fine, but

there is a strong appeal to go east this time to invade a new territory, to see where America started, and especially to "take in" Atlantic City, get splinters in your toes from the Broadwalk and sand in your shoes from the beach.

The dates first fixed for the meeting were the week of the 14th because it was not thought possible to secure hotel accommodations for a convention in such a place during its greatest event.

A great deal of credit and commendation is therefore due our committee and also the management of the Ambassador Hotel. This is one of the place's finest hotels, and they certainly did the elegant thing in making accommodations possible for us. They have established rates as reasonable as the most reasonable ever paid by any convention crowd of our organization in any hotel, and assured us of every courtesy, service and requirement.

This hotel provides every facility for the successful conduct of a convention, and in addition all our convention visitors will be able to see all of the week's spectacle right from the hotel as it is located in the center of activities, and this will eliminate getting into the mob or having to purchase seats along the Broadwalk.

Everything is progressing nicely for the convention. The Special Committee composed of Wellington J. Sny-

der, Philadelphia, Chairman; S. H. Evans, New York; E. C. Wyckoff, New Jersey; and William Webb, Bridgeport, assisted by Fred Condit, and all the other New Yorkers, Pennsylvanians and members of the New Jersey Association, will see that it is some meeting.

And indications and advance enthusiasm point that there will be some crowd there to partake of it all.

### HAVE YOU READ THE PRINTED DENVER PROCEEDINGS?

Extra Copies Available.

Everyone should read the Report of the Denver Convention. There is more information, more suggestions and ideas about the title business in all of its branches and in general than ever assembled in one available medium before.

It will pay everyone to read every word of it. Each address given can easily be rated a "headliner." They all deal with pertinent topics and subjects, and were prepared by authorities. All the discussion simply emphasizes the same or brings out new points. Every Noon Day Conference was a "hot shot" on some vital subject of present concern.

After you read this book from cover to cover you will see why you were urged to do it, and realize what you would have missed had you not done so.

Anyone desiring extra copies for themselves or to give to others in their offices, or other titlemen can have them upon application to the Executive Secretary.

# Escrowing a Realty Deal

By IRA ABRAHAM

*Vice President and General Manager Oakland Title Insurance and Guaranty Company, Oakland, Calif.*

[Editor's Note: This is a series of articles prepared by Mr. Abraham at the suggestion of the Oakland Real Estate Board, which were later collected and printed in book form, because of the request for them. It attracted attention all over the country and was much in demand from Realtors and Tillemen.]

## Preliminary Considerations.

**I**T OCCURS to me that I shall, perhaps, approach the subject in a more helpful way if I preface my article with some observations and suggestions on the essentials that are many times overlooked by realtors in the preliminaries to the deal, or before the escrow is actually placed with the title insurance company. The delight of an escrow man is to have on the other side of the counter a realtor who knows his business—one, for example, who, if there are confidential matters relating to the transaction, will, in private, outline to the escrow man such matters in detail instead of trying to impart them in the presence of the parties to the deal by innuendo, "high-signs" and the like.

The realtor must realize that to be effective and successful he must be a skilful salesman with all that salesmanship implies—he must know about the thing he is selling—the value of the land—the value of the improvements—recent sales in the vicinity—projected developments which will enhance values. He must display familiarity with the neighborhood and particularly with the piece of property he is trying to sell. He should know what the encumbrances are, how long they are to run, whether there be one or more encumbrances, whether the notes secured are flat or installment notes, what the rate of interest is. He should know what the rentals are and how paid. He should know what the current tax rate is, both city and county—what taxes were paid on the property for the past or the current year, as the case may be; whether the tax included personal or not. He should be familiar with the methods of prorating of taxes, rents, interest, fire insurance, water rates, etc. He should know what fire insurance is carried on the property, what are the premiums, the term to run, and in what companies the insurance has been placed. He should know, at least in a preliminary way, something of the condition of the title—in whose name the property stands—whether it will be necessary for both husband and wife to sign the deed. The skilful realtor will plan the closing of the transaction. He will know how it is to be financed.

## How Is the Deal Financed?

The reef on which many realty transactions break is the financing. The most common form of preliminary blundering is through the failure of the realtor to investigate the nature of existing encumbrances before signing



IRA ABRAHAM,  
Oakland, Cal.

Author of this Two Article Series on "Escrows"—the second "Business Property Escrows" appearing in next months issue. Mr. Abraham is recognized as an authority on title matters and one of the leaders in the advancement of the title business.

up the purchaser. Three or four times a week our escrow men try to straighten out a transaction such as this: Buyer and seller are signed up to consummate a deal in which, for example, the cash consideration is \$2000.00, and the balance of \$4000.00 is to be paid in installments of \$50.00, or more, per month, including interest at 6 per cent per annum.

When the actual conditions of the financing are drawn out at the escrow counter, it is found that there are two existing encumbrances to be assumed by the purchaser: one a flat loan for \$2000.00, payable within one year and bearing 6 per cent interest, and the other an installment loan, payable in installments of \$40.00 per month, including interest at 6 per cent. It is, of course, true that the monthly payments and the interest total the same in each transaction, but the two transactions

are entirely different, and many buyers refuse to go through with the latter deal when they have signed up on the former. Some few buyers take the position of forcing the seller to specifically perform and go through with the deal as signed up. In any event there is embarrassment and misunderstanding all around and often mistrust of the realtor, who, innocently but carelessly, has placed buyer and seller in such a position. The buyer feels that the seller, or the realtor, is trying to put something over on him, while the seller either damns the realtor for his carelessness or reluctantly pays him his commission. The escrow man must be a tactful one if he can keep such a transaction from going to the scrap heap.

Another fruitful source of trouble in the financing phase of the transaction is the common practice of many realtors to refer to all encumbrances in their sales contracts as mortgages. Most realtors, of course, know that there is a wide difference between a mortgage and a trust deed, yet they often sign up a buyer for a deal in which he is to assume a mortgage, when in fact the encumbrance to be assumed is a trust deed. An eager buyer may often be persuaded to go through with the latter deal, but he many often refuse to go, or else use his concession, if he does go through, to trade against a change of terms of the deal—to the discomfort of the seller, who, properly enough, holds his agent responsible. Where the form of the loan to be assumed cannot be readily ascertained by the realtor, the safer reference in his sales contract is the general term "encumbrance," which includes in its meaning both mortgage and trust deed.

A careful buyer will always call for copies of the encumbrances he is to assume or, at least, for copies of the notes which the encumbrances were given to secure. Together with these copies, he is, of course, entitled to have a statement from the holder of the loans of their condition—whether any further advances have been made and to what date the interest has been paid. The realtor whose deal moves smoothly to its closing will secure these essentials promptly and deposit them in the escrow in advance of the closing of the transaction.

## Importance of Descriptions.

Too much importance cannot be placed upon the realtor's insistence that the seller furnish him with an accurate and sufficient description of the property to be sold.

Slovenliness and carelessness in this phase of the sales contract often results in a world of embarrassment for all parties to the transaction, not even excepting the title-man.

Description by house number, while sufficient, is dangerous for the reason that, in case of a dispute as to representations of the seller or the realtor, as to the size or the area of the property to be sold, recourse must be had to parol evidence, which evi-

dence, in a realty transaction, is given little weight or value.

The writer of this article is of the belief that most of the bitterest disputes and misunderstandings in realty deals that have come to his attention, have had their inception in the faulty and inaccurate descriptions of the properties in the preliminaries of the deal. It should be easy to secure a proper description of the property. If the seller cannot readily procure his title deed or title policy for use of the realtor, the title companies are generally, on short notice, willing to supply their regular clients, if not with a full legal description, with at least such a description as will protect all parties in the preliminaries of the deal. If the exact size of the lot is not known and cannot be readily ascertained, it will best be described as, for example, a lot "having a frontage of not less than forty feet," rather than (as is usually done), a lot having a frontage of "forty feet more or less." The former phrase binds the seller to deliver a definite frontage, the latter merely such as the seller actually has, leaving open the question of representation or misrepresentation by the seller or realtor of the frontage of the lot. Acreage should, if the area is at all sizable, be sold as, for example, "one hundred acres more or less" and at so much per acre. Industrial properties are generally dealt with on the basis of the square foot, or square yard and a sales contract very properly may describe such property as, for example, "one hundred and forty thousand square feet" and at so much per square foot.

I would be remiss in my duty in writing this article if I should fail to call the realtor's attention to the invaluable services which competent and careful surveyors can render him in safeguarding the phase of the transaction with which this article deals; that is to say, the description. For some reason, neither buyer nor seller avails himself of this very important service as often as he should. No transaction of any magnitude should be signed up by a seller or his agent unless the seller is sure he can deliver not only the paper title, but the actual physical property as measured on the ground. The title-man cannot protect the seller or buyer in this particular, unless the survey of a competent surveyor is produced for the guidance of all parties including the title man. Such a survey should, if it purports to be a survey of real value, show the position of all improvements located on the property and should show all encroachments, if any, and the extent of each.

#### Can the Seller Sell and the Buyer Buy?

It is quite as important for the realtor to know all he can about his principal as it is for him to know the nature and conditions of the deal.

We often find persons with little or no authority from the actual owner of the property purporting to act for the owner. Such persons, generally in per-

fectly good faith, attempt to bind the owner by signing up a deal with a realtor when their actual authority may be limited to the payment of taxes, the care of the property or, most often, a verbal roving commission from the owner "to sell the property if you can find a buyer." Such an authorization is, of course, of little value, for it is never in writing and so is in no wise binding on the owner. The realtor, before presenting a buyer to anyone other than the actual owner of the property, should not only thoroughly satisfy himself of the responsibility of such person, but should ask him to exhibit his written authority to act for the real owner. If such authority cannot be produced, written confirmation from the actual owner should be sought by the realtor. The writer of this article has seen at least three cases where the real owner and the prospective buyer got together and effected the deal ignoring both the purported agent for the owner and the realtor. Another phase of the same question of insufficient authority is often encountered by the realtor where persons attempt to act under written power-of-attorney from the owner. About half of such powers-of-attorney are not general enough to bind the owner, or if general enough, are too indefinite as to terms.

Still another example of the same matter is the case where the husband signs up for a deal when the actual owner of the property is the wife, or the wife signs up when the actual owner is the husband, or again, when the property is homesteaded and neither can bind the property without the signature of the other. The careful realtor will use every effort to get both spouses to sign the contract of sale wherever it is at all possible.

Sometimes the owner of an undivided interest in the property or the owner of a life estate only, or a remainder-man attempts to bind his co-owner by signing a contract of sale, or again, an administrator of an estate, or a guardian of a minor or of an incompetent, acting without court order, purports to enter into a sales contract to sell property when, of course, his authority is very strictly limited to only such matters to bind the estate of the decedent, the ward or the minor, as are specially conferred on him by the court.

Persons purporting to act as representatives of a corporation owner of property sometimes exceed their authority in the same manner as above described. The realtor must guard against such contingencies by judicious inquiry and investigation of the actual authority and power to bind the corporation by a person representing himself as clothed with such authority or power. The writer could cite a score of local cases where a corporate owner of realty has flatly repudiated representations made by persons purporting to bind the corporation in sales contracts of real estate.

From the foregoing it should be ob-

vious that the realtor must be as sure that he has a seller ready, willing and able to sell, as he is that he has a buyer ready, willing and able to buy. Unless he has both such a seller and such a buyer he has not yet made his deal.

#### Restrictive Provisions and Rights of Way.

While it is not to be expected that a realtor shall know fully the nature and conditions of the restrictions imposed upon the various subdivisions by tract owners, it is a careful realtor who takes the trouble to investigate such matters so that he may meet and answer the prospective purchaser's questions or objections. Most restrictions that are placed by subdividers upon such properties are for the benefit of the properties and may be used by the realtor, if he understands them, as talking points in the sale of the property.

If, however, as sometimes happens, the realtor is unable to explain to the buyer the purpose or the benefit of the less obvious restrictions, the sale is lost on points which would have been used by a better informed and more skilful realtor as selling points.

What is said here of restrictions applies with equal force to reservations, rights of way, and zoning ordinances.

Time and again transactions are upset in the preliminaries because such matters have not been anticipated by the realtor.

A most skilful turning of a seeming obstacle of the sort above referred to to a matter of advantage in the deal was observed by the writer some years ago when a large and important parcel of acreage was lost to a purchaser because the title examination developed a vague and uncertain right of way. The attorney for the prospective purchaser advised his client to turn the deal down while the realtor sat helplessly by and saw a big commission fade into thin air.

Another realtor who had carefully considered the right of way feature of the deal picked up the transaction, adjusted the uncertainty with the party owning the right of way to the mutual advantage of the seller and the owner of the right of way, and put the deal through. The realtor made a splendid commission and the buyer in six months turned a \$50,000.00 profit.

A great source of trouble, we find, in the closing of a deal through escrow is in the misunderstanding of the rights of the respective parties in community rights of way, community walks and the like. The realtor should make actual inquiry on the ground so far as he is able, to get the nature of the alleged tenure of said rights of way.

It seems to be a human trait that the owner of property resents the sale or transfer of the property adjacent to him. He is always fearful of less favorable conditions or a less agreeable neighbor. For that reason the realtor can rarely count upon much help from the owner of the property adjoining the property to be sold. It is for that

reason that, where there is any possibility of encroachment, joint or community rights that these matters should be carefully gone into before the deal goes forward too far, in order that such matters may be adjusted before they become actual issues.

Many buyers are often scared off by the facts of sewer reserves or electric transmission or other reserves going through or over the lot. The skillful realtor should have the knowledge to give legitimate explanations and justifications for such reserves for they all work to the benefit and the preservation of the streets on which the property faces and the advantage of having the front of the property free from unsightly power poles and the like.

Zoning ordinances are the cause of many upset deals. The realtor who knows his business should understand the zone in which the property lies, otherwise he may find his work on the deal has gone to naught.

#### Well-drawn Sales Agreements.

The preceding articles in this series have dealt with matters which, strictly speaking, concern the escrow only in the sense that the realtor who is familiar with such matters can place the escrow with intelligence and with credit to himself as a man knowing his business, while the realtor who is unfamiliar with these matters, blunders and stumbles through the escrow to the embarrassment of himself and his seller and to the discomfort of the buyer and the escrow man, and many times to the loss of the sale.

When it is considered that the preliminary sales agreement is the basis of the whole deal so far, at least, as the realtor is concerned, the importance of the most careful attention to the details of the preliminaries is, of course, apparent. It is the purpose of the writer of these articles to impress at this time, with such emphasis as he can, the necessity of a carefully drawn sales agreement. The realtor must realize that his sale is made or lost on the sales agreement. It is, in fact, the contract between the buyer and seller—"the meeting of the minds." If the contract is poorly drawn, if the mind of the buyer does not meet with the mind of the seller on any point in the sales agreement, there is no contract—probably no sale—and no commission for the realtor.

It has many times been the sad duty of the writer to inform a realtor who submitted to him for comment an ineffectual sales agreement, that neither buyer nor seller could be forced to go through with the deal and that, unless both could be signed up on a new agreement, he might as well count his time and his commission lost. If the realtor is unable to put into writing in clear and intelligible language the terms and conditions of the transaction, he had better employ someone to draw the sales agreement for him, for he is sure to come to grief. When the transaction has progressed as far as

the escrow counter, it is generally too late to give "first aid" to an ineffectual sales agreement, and, while the titleman is accustomed to give freely of sympathy and of condolences to realtors whose deals upset, like them, he can make money out of those transactions only that go through.

If these introductory articles shall in some fashion assist the realtor in the drawing of the preliminary sales agreement and shall in some fashion orient him to the proper preparation of his papers and his deal before the transaction is placed in escrow, the writer will not have failed in his purpose.

#### Binding Escrows and Mere Deposits.

The term "escrow" is used in a loose and general sense to designate almost any kind of a deposit of funds or papers with a disinterested party subject to the fulfillment of certain conditions or the happening of a certain event or events. This loose use of the word has been fraught with much danger both to the principals and to the realtor; for the loose use of the word has led to loose and uncertain methods of handling the transaction in escrow, to loosely and poorly drawn instructions and illy considered terms, conditions and instructions imposed upon the escrowee.

We must strictly bear in mind the essential differences between a simple deposit in escrow and a valid and binding escrow agreement or contract. In the former case, the escrowee is a mere depository or agent pending the negotiations and his acts are subject to the general rules or laws of agency. That is to say, the authority conferred on such an escrowee may be revoked by either party to the transaction, the papers or the funds may be withdrawn; any of the terms may be modified or canceled without the consent of the other party. The death of either principal to the transaction will terminate such an escrow.

On the other hand, a true and binding escrow has the full force and effect of a contract; it is, in fact, a contract, for the minds of all the parties to the escrow must have met and the deal must be entirely consummated and completed, except for the performance of the condition or conditions upon which the papers are to pass. When the principals have entered into such an escrow, neither, without the consent of the other, can revoke the authority conferred on the escrowee. Neither can withdraw his papers or his funds; neither can modify or cancel without the consent of the other any of the terms or conditions of the escrow or in any fashion whatsoever change the instructions given to the escrowee. The death of either party to such an escrow will in no wise suspend the closing of the transaction.

#### Verbal Instructions—Why Deals Upset.

A true and binding escrow agreement is a special kind of contract in

that it must be in writing. In this particular, it is like other agreements affecting real estate.

You will recall that the requirement that any contract affecting real estate shall be in writing goes back for its origin to the old English "Statute of Frauds," which provided that no conveyance of an interest in real property, except a leasehold for less than a year should be made except by an instrument in writing. This requirement has been carried into our statutes and the realtor cannot be too often warned against leaving any phase of his dealers verbal understanding.

While most title insurance companies prefer that all escrow instructions and directions be given on the forms and blanks prepared by and furnished by the companies to secure uniformity and definiteness, nevertheless the careful and discreet realtor should, for the sake of clarifying the transaction in his own mind, write out the details of the deal and his tentative instructions.

Realtors are in the habit of making a distinction between the salesman and the closing man. The writer, after many years' contact with real estate agents of varying degrees of ability, is of the firm opinion that, unless a man is a good closing man as well as a salesman he is rarely uniformly successful in his business. Any realtor who, through his salesmanship, can sell a piece of property, should be able to close the transaction. If he can't, I should say he has yet to learn an important phase of his business. Without prejudice or implication for suggesting the analogy, I should say that a fisherman who needs someone else to use the landing net is no fisherman.

The outstanding reason why many realtors sidestep the closing man's work is that they are impatient of the details of the deal.

It is, however, his attention to these details which makes the successful realtor. Here the services of an intelligent escrow man can be of great value but only if and when the realtor himself knows, with some degree of perspicacity, the angles and the details of his deal. The realtor must appreciate the fact that the escrow man has not been a party to or present at the negotiations between the agent and the seller, or at the negotiations between the agent and the buyer and, unless he be the seventh son of a seventh son, a soothsayer or a clairvoyant, he cannot know the details of the realtor's transaction unless they are imparted to him.

Verbal instructions, even to minor phases of the escrow, are always unsatisfactory and no self-respecting escrow man will accept such instructions. He should demand, in every case, written instructions from each party to the deal and written instructions again if any phase of the transaction is to be changed or modified. If the realtor is unable to frame his own instructions, he should be able to furnish a draft of them for the guidance of the escrow man.



### A True Escrow Is a Contract.

We have just held that true and binding escrow agreement is, in fact, a contract. What is meant by a contract? Anson defines a contract as "An agreement enforceable at law, made between two or more persons, by which rights are acquired by one or more to acts or forbearances on the part of the other or others." The various text writers on contracts in their analyses of the essentials of a simple contract, generally state that the following elements are necessary in any valid contract.

First: There must be a person or persons able to contract and a person or persons able to be contracted with. Persons may be natural or artificial (corporation). Minors, incompetents and persons disqualified by law cannot contract.

Second: There must be something to be contracted for. Persons cannot make contracts about non-existent, uncertain or indefinite matters or abstractions.

Third: There must be a good and sufficient consideration moving the parties to the contract; that is to say, "quid pro quo"—something for something. An agreement which purports to bind one party to deliver something of value to the other without an adequate consideration therefor cannot be enforced.

Fourth: There must be clear and explicit language to express the terms of the contract.

Fifth: There must be a "meeting of the minds" of the contracting parties; that is to say, both parties to the contract must assent or agree to the making of the contract, to its terms and to the consideration.

If any of the above elements is lacking, there is no contract, and by the same token, if the escrow agreement fails in any of these essentials it is not a valid and binding escrow. The successful realtor will carefully check his deal, as it goes into the hands of the escrowee, against each of the tests for a valid contract indicated above.

If the deal does not measure up to all of these essentials, it is not yet ready for the escrow man and this should be a clear warning to the realtor that he has some more work to do before he can be certain that his deal is actually made beyond the peradventure of an upset.

### "Tying-in" the Escrow.

There must be more than one party to the escrow. That is to say, the mere deposit with the scrowee of papers or funds by one of the parties, or his agent, does not make an escrow. Until the contracting parties have all entered in the escrow agreement with their respective deposits of papers or funds, the one who has come in may revoke the instructions which he has given the escrowee and withdraw his deposit. The scrowee will be bound to respect such a revocation and surrender the papers or funds. Such a deposit by one of the parties only is to be re-

garded merely as an offer to enter into an escrow agreement, and, following the laws of contract, may be revoked before acceptance. It is the acceptance of the offer, evidenced by the other party or parties coming into the escrow, that makes the scrow agreement, or, as we are accustomed to say, "ties-in" the escrow. No legal rights are created, so far as the escrow agreement is affected, until the offer is accepted and accepted in the exact and identical terms with the offer.

When so accepted, the escrow agreement becomes irrevocable except by the consent of all the parties to the agreement. Neither can withdraw his funds or papers, or modify or change his instructions without the consent of the other and the escrowee will answer in damages if he permits either to so withdraw or change any condition of the escrow agreement.

It should be apparent to the realtor, from the foregoing considerations, that the safety of his deal lies in bringing into the escrow, with the least possible delay, all the parties to the transaction; that each party, as he escrows papers or funds, does so with a clear understanding of the transaction so far as it affects him. The realtor sometimes finds fault with the escrow-man when the latter has been forced, by one of the parties, to surrender the funds or papers deposited with him, either on the ground that the other party has not come into the escrow or because the escrow agreement is ineffectual. While a tactful escrow-man, in the interest of good business, does not surrender the deposits so made until he has used every effort to get the parties together, the realtor must bear in mind that, in the face of a peremptory demand, under the circumstances outlined, the escrow-man is bound to permit the withdrawal.

### Is the Realtor a Party to the Escrow?

We have shown that there can be no actual binding escrow unless there be more than one party to the transaction. There must be a person or persons able to contract and a person or persons able to be contracted with.

The realtor might quite pertinently inquire at this point, whether the agent is a necessary party to the escrow. The answer is, that very rarely is the agent a necessary party to the scrow. As a matter of fact, unless the realtor's agency is coupled with a definite and ascertainable interest in the property conveyed or the funds escrowed, either principal in the scrow may revoke or cancel the escrow, with the consent of the other, to the prejudice of the agent. Very often the realtor does not appreciate how slight is his control over an escrow and assumes that because both parties are in, the deal in escrow cannot be upset without his consent.

How, then, shall the realtor protect himself against the contingency of an upset escrow? His first line of defense and his most certain protection is, of

course, in the strength and validity of the sales agreement which he has had both parties sign and which must, in most certain terms, bind the parties to the deal—bind the buyer to buy and the seller to sell—and bind the party who is to pay him his commission to pay it when earned. The realtor's second line of defense is in the size of the initial deposit. It is not often that, when substantial deposits have been made, either party to the deal will, without the maturest deliberation, withdraw from the transaction.

The realtor should see to it that the escrow instructions from the party paying the commission, specify that the commission, or the unpaid portion of it, be deducted from the purchase price and paid to the agent on the closing of the deal as his commission for effecting the sale. The escrowee cannot, without such instructions, protect the realtor in his commission, and it is not fair to the escrowee to expect this of him.

Our escrow-men are instructed to ask the principals how the commission is to be paid, but, unless the realtor is present to speak for himself when the instructions are placed we are bound to close on the instructions given by the principals and the statement as often made by the seller that the agent's commission will be paid outside the escrow.

Net contracts are handled through an escrow on a somewhat different plan. The most satisfactory method of carrying such a sales contract through escrow is by way of a conveyance to the agent or his nominee with another deed from the agent or his nominee to the actual purchaser. When this method is not feasible, the realtor should, for everyone's protection, see that the seller's instructions definitely provide that all sums over and above the net price received by the escrowee shall be paid to the agent or his order.—Copyrighted, 1924 by Oakland Title Insurance & Guaranty Co., Oakland, California.

Another article on escrows by Mr. Abraham will appear next month, entitled "Business Property Escrows."

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# The Country Abstracter

By W. L. Rogers

*General Attorney, Federal Land Bank, Louisville, Ky., and Vice President, Title Examiners Section, The American Title Association*

What kind of a fellow is this country abstracter? He is usually a plodder, for no other temperament could stand the constant attention to details which is a necessary attribute to success in his calling. He is usually modest, unassuming and not given to pyrotechnics, and you seldom see his name in the roster of luncheon clubs and rarely, if ever, does he seek public office. He is always a good citizen, always on the right side of any movement for the good of the people generally, and he is always dependable. He is very often a lawyer who has discovered that in order to succeed he must win his cases, no matter how, just so he wins, and that is so foreign to his nature that he cannot bring himself to accept success at such a price, consequently he drifts to real estate law, settlements of estates, abstracting, etc., for in such work he finds he can employ his best efforts and still retain his self respect.

Go to the court house in any county in the state and you will usually find a fellow pulling down and putting back in place volume after volume of musty records, taking from each some notations; pouring over index books, going through files, copying plats, consulting the tax records, delving into every kind of accumulated records that pile up in court houses. He does not waste much time in visiting with the official or others but seems to be intent on one subject only, and that is to find something he is looking for. He often becomes so engrossed with his search that he takes no note of the lapse of time. Noon comes but he does not know it. The official and his clerks lock up the office with the digger left hard at work, well knowing everything will be safe with him. An hour and a half goes by and the official returns finding the grubber still hard at work. This attracts his attention and he suddenly realizes that something is not exactly as it should be with his stomach. Having made this discovery he chases out to a lunch counter and has a cup of coffee and a sandwich and in a few minutes he is back and at it again as hard as ever. When five o'clock comes the official finally drives him out of the office, and for the first time that day he realizes what time it is and goes to his office and throws the piles of paper notes, which he has been making all day, on his desk and without taking time to look at his mail, goes out and crawls in his flivver and drives home. When he enters the house his wife gives him a long, searching look and begins: "Joe, you are a sight! Why do you persist in making an exhibition of yourself on the public streets? Go and look in the mirror, and for good-

ness sake get your shoes shined and your suit pressed and put on some clean linen." Being thus suddenly brought to earth Joe starts to do what friend wife suggests, and one glance in the mirror convinces him that there is some real grounds for her remarks. His face is smeared with streaks of dirt. His hands are grimy. His linen has the appearance of having never known a laundry, and his clothes of being a stranger to the dry cleaner and presser.

He makes his toilet, changes clothes and goes down to supper (not dinner) for in his town that meal is eaten at noon) and really feels good for the first time since breakfast. Friend wife remarks, "Now you look like a man in your position ought to look, and for heaven's sake try and keep yourself looking that way."

Now you need not be told who that fellow is, for you all recognize him at once as the country abstracter, the man who loves truth and hates falsehood and sham; the man who loves work for work's sake; the man who seldom dares dream of wealth, but who is happy in the possession of a clear conscience, a splendid wife, some healthy children, a comfortable home and income enough to maintain his family in comfortable circumstances.

The chances are this same fellow has never learned the graceful art of spreading pure bunk and of worming his way into select organizations. No one ever thought to propose him as a member, for he does not court notoriety and is never seen leading a procession or shooting off fireworks, either actual or symbolic. The only people who search him out are the church, the Sunday school and the Masonic Lodge. Yet all the time he is a real for-sure man, a dyed-in-the-wool patriot, a model citizen, a kind father and a loving husband, and such a man as makes up the real bone and sinew of every community.

Don't get the impression from the picture I have just drawn that this country abstracter habitually has a dirty face, grimy hands, soiled linens and unpressed clothes. He gets in that condition only on occasion when he is trying to unravel an exceedingly hard title, when he is apt to forget everything except the particular case upon which he is working at the time. His office is neat and clean and his notes are so arranged that he can give you the main facts connected with any tract of land in his county in a few minutes, and if you need an abstract he will make one for you that will be as neat and clean as if it had just left the printing press.

He can do more than make an abstract. He can draft your deed, your mortgage, your will. He can render a good opinion on your title. He can administer your estate, carry to completion your real estate deals. In fact, there are very few things pertaining to titles that he cannot do just as well, and sometimes better, than others who sometimes look upon him in condescension. This country abstracter is a real factor in the county. Go ask the local banker what he thinks of him. He will tell you that Joe is absolutely honest, trustworthy and reliable and that you can safely entrust your business in his hands. Any reputable business man in his town and hundreds of farmers will tell you the same.

This country abstracter or abstract company is an important and necessary stone in the business foundation of the community. Just as important as the bank, the grain elevator, the hardware store, the farmer, mechanic, etc. He is a necessity and cannot be dispensed with. His products are in constant demand and will always continue to be in demand, for business could not be transacted successfully without his products.

Is the country abstracter securing the recognition he deserves? Does he occupy in the estimation of the people the position he is entitled to occupy? In some places he does, but in others he does not. Some communities have had the good sense to accord to him his rightful position in the scheme of things, and are proud to recognize him as one of the leaders in things worth while, but others have not. Even at the best he is still below where he belongs, but his progress is ever upward. Sometimes he himself is to blame by failing to take advantage of circumstances that present themselves; by ceasing to be a student; by failing to interest himself in his state association and by losing touch with others in his line. Generally, however, he is wide awake and quick to take advantage of circumstances which make for advancement. In the abstract business, as in all other professions and callings, you will find really great men straining in the straight jacket of poverty, disagreeable men privately, wriggling in the dust and unable to rise, unknown and whose gifts are unsuspected, requiring only recognition to sweeten their bitter, disappointed lives and start them on a successful and charitable career. Such men become bitter until the laurel of recognition is placed upon their brows. I do not know whether there are such men in the abstract business in this state or not, but I am convinced that there are many whose real ability has not been recognized. It is my purpose in this talk to try and point out at least one way in which recognition of his talents may be brought about.

Even though at his best the country abstracter is still quite a distance from where he belongs, he will attain his rightful position eventually. At pres-

ent he is usually satisfied with making abstracts of title. That is not enough. There is other business which is rightfully his, and for which he should stand upon his feet and fight. That other business is:

2. He should be an examiner and be able to render a sound opinion on any title. This is by far the most important, except that of being a first class abstractor.

3. He should be equipped to render escrow service, by which I mean to carry to completion contracts for sale or transfer of real estate.

4. He should be ready to guarantee titles.

5. He should be in a position to finance real estate transactions.

Of the five enumerated services which he should render, he is actually rendering but one, and that is the first on the list, making abstracts; the second, rendering opinions on titles, he is usually able to perform if desired, but he is seldom asked. The third, escrow service he can easily render, but he must educate his clientele to see the advantage of using his service. The fourth, that of guaranteeing titles, he cannot now do business of inability to form satisfactory connections, but that defect will soon be remedied. The fifth, that of financing real estate deals will follow the fourth.

The second service, that of rendering a sound opinion on a title, is the high hurdle to make. Once he is able to get over that barrier, all the rest will follow as a natural consequence. Can he render a sound opinion on a title? I believe he can. After he has labored over a title for days and sometimes weeks, there is not a man on earth as familiar with that title as the abstractor. He knows it by heart. He can almost repeat it without looking at the abstract and no one will ever be so familiar with that title again as he. It only remains for him to have a working knowledge of the law, which he usually has (and quite generally he has a very comprehensive knowledge of the law), to enable him then and there to pass an opinion on that title that will be as nearly correct as that of most pretended examiners. I am fully convinced that there is in each and every county in the state, one or more abstractor who is abundantly able not only to find the record evidence, but to abstract it and render a good, safe opinion on the title thus shown. I not only believe this, but am prepared to act upon my belief, and am actually acting upon it now and expect to continue to do so until there will not be a county in the state in which some abstractor is not examining titles and rendering opinions thereon for the institution which I represent, and whose opinion will be guaranteed. Why am I doing this? First, because I want our titles guaranteed; second, because of my implicit faith in the country abstractor. Do you believe my confi-



W. L. ROGERS,  
Louisville, Ky.

A Titleman in every meaning of the word—who has had a wonderful experience with every method of title evidence, and who can vividly put his observations and ideas in words and print.

One of the title industry's staunch friends and supporters.

dence in him will be misplaced? Do you believe that he will treat with indifference this mark of confidence? I do not. I am convinced that he will fully appreciate the responsibility and the prestige it will give him. It will not injure him to be advertised as an examiner for The Federal Land Bank, but once he becomes firmly established in that role others will demand of him similar service, and in time he will come to be recognized not only as a good abstractor but as an authority on land titles. When that time comes his abstracts will not be carried to some one else for an opinion on the title, but his own opinion will be accepted and this will bring to his office the escrow work, where it rightly belongs. Realtors will soon learn that the best place to close their deals is at his office and when that time comes he will begin to reap the harvest which has been so long maturing. All this is now being done in cities. Why not in the country? It can be done and will be done by the country abstractor. The opportunity given to you by The Federal Land Bank is the wedge that will open up new fields, and so long as I am at the head of the legal department of that institution the country abstractor can rest assured that there is at least one strong institution deeply interested

in his work and ready at all times to put its shoulder to the wheel to help him reach his goal. As a matter of course he must be qualified to do the things necessary to be done. If he is not so qualified he must get busy and equip himself, or he will possibly miss the opportunities the near future will present.

There is one fly in the ointment, however, and that is that I have never been able to sell my idea to any title insurance company. These companies are owned by men who know nothing at all about the country abstractor and who care less, and, strange to say, they all have title officers who insist that the country abstractor is not a safe examiner, and that his opinions on titles cannot be trusted. That is true of many, but certainly not true of all. This attitude has compelled us to go to New York and Baltimore to get the opinion of the local abstractor guaranteed, when we much prefer to patronize home title companies. I am convinced that if these title companies and their title officers know you and your work as we do, that they would be ready to do what the eastern companies are doing at an unprecedented profit. These title men assume to prejudge you without even a chance for you to be heard. They have never had the opportunity to know you and your work, neither do they take the trouble to try to learn about you, but assume to judge you without any knowledge, or at most, a limited knowledge of your ability.

Rural title insurance is here, and will remain. It is now in its extreme infancy, but it will grow and become a powerful child. It will come through the country abstractor, for it can be brought to full flower through no other agency. The country abstractor, and he alone, can bring about the guaranteeing of rural titles generally and he will accomplish that feat by making of himself a skilled examiner. After he has established a reputation for safe and sane examination of titles, his opinions will be guaranteed, and title companies will contest for the privilege of underwriting his opinions. Those who now scoff at your ability to judge titles will solicit the privilege of guaranteeing your opinions.

If you are not now a safe and sane examiner, then by all means equip yourself to be one and climb up and occupy the position you deserve, and that is to be known not only as the best abstractor in your county, but what is more important, the recognized authority on land titles in your county. You can do it.

The gospel I am preaching is not new. It is the foundation upon which Donzel Stoney and R. F. Chilcott of San Francisco have builded such a splendid structure in California, and it is the only foundation on which statewide title insurance can be built. That gospel when reduced to its simplest term is "faith in the country abstractor."

## LAW QUESTIONS AND THE COURTS' ANSWERS

Compiled From Recent Court Decisions By McCUNE GILL  
Vice Pres. & Atty. Title Guaranty Trust Co., St. Louis, Mo.

16. A commission was paid to the son of the general counsel of an insurance company making a mortgage loan; is this usury?

Not usury, in absence of proof that son turned money over to father or company. *Gerasimas v Company*, 204 N W 705 (Mich.)

17. A Deed was executed to grantees with provision for remainders only upon failure of issue, and subject to charges in favor of other persons, and the grantor reserved a life estate. Is there any objection to such a deed?

The deed is void, because testamentary in character, *Ammon v Ammon* 237 Pac. 926 (Kansas).

18. Where guardianship proceedings recite in some places that minor owned a 1-3 interest and in others that he owned a 1-2 interest, does an order to sell "all right, title and interest" convey minor's entire interest?

Yes. *Holmes v Coe*—237 Pac. 441 (Okla.)

19. Where space for name of grantee in deed is left blank, can it be filled in later upon verbal authority of grantor?

Yes. *Johnson v Rost*, 204 NW 642 (Minn.)

20. Can one grantee who takes subject to restrictions prevent violation by another grantee of the same grantor, taking subject to different restrictions that are not shown to be part of a general plan?

No. *Beattie v Howell*, 129 Atl. 822 (N. J.)

21. A deed dated in 1888 begins "We the heirs of Whitmill Stephens" and is acknowledged by "said Whitmill Stephens heirs," without naming them. It is signed by names and marks without witnesses. Is the deed valid or not?

The deed is valid. *Stephens v Perkins* 273 SW 545 (Ky Ct of App)

22. In a State where separate examination of wife is necessary to validity of deed of conveyance, is such examination necessary in deed of adoption?

No; not necessary, *Bell v Thomsen*, 273 SW 1109 (Tex. Com. of App.)

23. Where a tract is bounded on the North by the center line of a

street, and deeds convey the "North half" of the tract to one person, and the "South half" to another, (there being no street on the South line of the tract), is the line between the two "halves" determined by measuring from the center of the street on the north or from the side line?

From the side line, even though the custom of surveyors was to measure from the center line, *Ackerman v. Ryder*, 271 S. W. 743 (Mo.) But the contrary was held in Indiana; where 20 acres was conveyed, it meant 20 acres measured from the center. *Woolverton v. Miller*. 148 N. E. 621.

24. Under a bankruptcy sale "free of liens" is an adverse claim of title barred?

No; suit must be in equity, *Petition of Eddy*, 6 Fed. (2nd) 196.

25. Can debts of bankrupt that are barred by discharge, be revived by subsequent promise to pay?

Yes, *Winbourn v. Crump*. 238 Pac. 58 (Colo.)

26. Is a corporation of another state "Doing business" so as to require license where it lays out subdivision for sale?

Yes; *Brown v. Smythe*. 129 Atl. 871 (N. J.)

27. Is a Warranty deed of "all right, title and interest" in a tract, a general or special (limited) warranty?

A general warranty in Oklahoma. *Kimbrow v. Harper*. 238 Pac. 840.

28. Where there is no statute of limitations barring dower, will widow be barred by laches if she failed to assert her claim for 24 years after sheriff's sale and 17 years after right accrued?

Held barred in Florida, *Pingree v. DeHaven*, 105, Sa. 147.

29. If an escrow is to be closed in 30 days but negotiations are continued by consent of both parties for several months, can one party terminate the escrow?

No. Particularly where the other party has fully performed, *Parry v. Campbell* 238 Pac. 127 (Calif.)

30. Where the statute provides that minors lands shall be sold by guardian for a certain per cent of the appraised value, but court nevertheless approves sale for less, is the sale valid?

No, void and court has no jurisdiction to approve. *Pritchett v. Walters*, 238 Pac. 487 (Okla.)

# TITLE NEWS

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The Hall Abstract Company

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DECEMBER, 1925.

## Editorial Entries

The question of advertising seems to be one of thought and concern to those in the title business, particularly the abstracters. The Association receives many requests for ideas, suggestions and even guidance on this subject. It is hard to give satisfactory help because of the various elements entering into it, and the special consideration that must be given each individual case because of the local conditions. It is for this reason that the Association has undertaken to do something that will establish some basis for a foundation of advertising principals for the title business.

It used to be that advertising was a thing done by a manufacturer, jobbers, merchant, a certain business or an individual so that when people thought of a certain thing which he had to

offer, they would think of him. Advertising was generally thought of as an aid to the disposal of some product, or to induce people to patronize a certain business or office. This was because merchandisers, whether the manufacturers or sellers of things resorted to it to sell their products.

Anyone can make a thing. It is the disposing of production that makes a business a success. This applies to certain articles or wares, and likewise to personal services.

Salesmen are sent out on the road, but even they cannot sell their product, or if they do, the retailer to whom they might talk into purchasing their line cannot dispose of it unless it is advertised, either by the manufacturer or the retailer himself. So advertising has gotten to be a companion of the salesman. Let a salesman go into a jobber's or retailer's to sell his line, and he has little luck unless that jobber or retailer has heard of it before through advertising.

Manufacturers now do not attempt to sell a new product or make any effort to market it until an advertising campaign has preceded their road men. Recall the instant success and advance orders of a certain now well known automobile built around the name of a man no one had ever heard much about before, but whose name is now a familiar fireside word. It was all done by means of an advance advertising campaign. People ordered that car without ever having seen one or knowing much what it would look like.

Advertising has come to be used for other purposes, too. It is used to build public opinion about certain things. Political parties elect candidates by the advertising they give them. Public issues are decided by the publicity given them. The minds and opinions of the people are changed, swayed, moulded by advertising. Many a lost cause, or lost venture has been picked from the smouldering ruins and fanned into a fierce flame of desired achievement by advertising.

Public utilities are now enjoying peace and prosperity and get whatever they seem to want, to raise their rates at will and still hold the good will of the people because they used advertising to build their favor in the minds of the people, and at the same time sold themselves, their service, their product as a necessity, and their stocks to the people, their customers and changed their consumers from a mob of belligerents into a massive force of staunch supporters.

People want to pay for advertising, and really consider that it is a good investment because they want to know what is what and believe and invest in and only buy advertised goods.

Advertising is a science, a profession, one of the highest of the learned vocations. The ads of today are works of art and literary skill. Many institutions pay their advertising department

head as much as the president of the company, and the budget for advertising in many institutions is its largest item of expense.

And does it pay? It certainly does, else these great advertisers would not each year increase their advertising. A firm's success, quality of its products, and character of the institution can be judged by its advertising.

But there are many mediums of advertising. Anything that puts you or your business before your field of clients and customers is advertising, whether it be printed publicity, novelties, or the personal things done by an individual.

And should the title business advertise? It most assuredly should, and there is no one in the business who should think for a moment that his situation is so tranquil or different that advertising is unnecessary. Even the fellow in the small county, and the one without any competition can afford to do some advertising, keep up some activity and use some medium that will keep the business before the public. People really think of the product or the service or the business rather than the man who is in it.

Probably the greatest reason the title business is the butt of so much abuse, why the abstracters and the abstract is condemned and cursed is because it is so little known to the public. The abstracter not only does not advertise but he rarely talks, takes the offensive in or stands up for the protection of his business.

There is a greater reason now than ever why the abstracter and the title company should advertise. More and more deals are being handled entirely by agents. This is especially true in the cities, even the small cities of 15,000 to 20,000 and upwards. "Realtors" loan agents, lawyers, and bankers are completely engineering deals whether sales or loans. They start them and close them, order the abstract, pay the bill, and neither seller or buyer ever comes into contact with the abstracter except to think they pay an exorbitant bill or are put to a lot of trouble because of the abstract and the abstracter.

For this reason alone, and because such will become the case more and more, abstracters should advertise. They should let the public know of them and their work. Put yourself in the ordinary buyer's or seller's place, whoever it is that pays the title making bill. He is given a list of the expenses, and here is a strange sounding item, abstract fees so much. Maybe he never heard of an abstract or an abstracter. He does not understand it and it sounds strange. You yourself would have no objection in any instance to paying for something you knew about or that has a familiar name. Call upon you to pay for a strange thing and you wonder, then you pay it because you probably have to, but likewise have a bad taste

in your mouth forever afterward whenever you hear that item mentioned again.

You may not have to advertise to get new customers in your particular case, and you may not have to advertise to keep the ones you have, but you certainly will not lose anything if you do a little advertising, give them some nice little novelty, etc., and thereby stamp your name a little deeper in their memory and build up just a little more friendly feeling and good will.

Where there is competition, advertising will pay. The one who couples good title service with energetic advertising will get the bulk of the business.

Cut-throat, price cutting, discount giving and other competition can be overcome to a great extent by advertising.

Title insurance companies can not only increase their business, but add to their title business by the addition of escrow, trust, banking, mortgage, safe deposit and other relative branches built by advertising, and likewise so stamp their names and establish such a respect and prestige in the minds of the public that they will get returns in a more satisfied and agreeable clientele, and also build the atmosphere for a more profitable scale of charges.

Title insurance can only be introduced in a new community by means of very energetic and applicable advertising. The success of many title insurance companies, and a few in particular can especially be credited to their advertising methods and the scale with which they were carried on.

The best and proper methods of advertising the various branches of the title business present a problem for research and study, and then some general principles might be established.

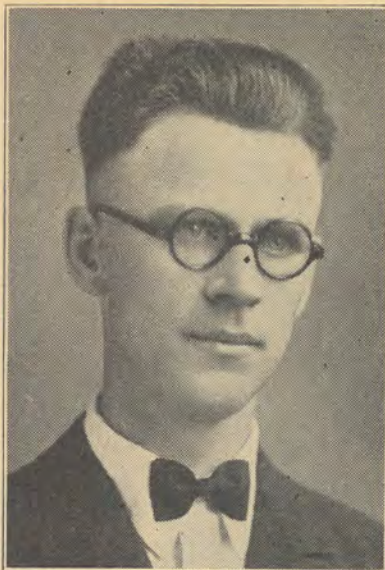
There is a need for this and the Association is therefore functioning and fulfilling a demand in its undertaking to thoroughly study the matter. Nothing of the kind has been attempted before by any organization. There is a decided lack of information and precedent in title advertising. Even newspapers and advertising agencies who have secured contracts from title companies appeal to the Association for ideas, information and assistance.

This work of the Special Committee on Advertising can therefore be a thing of great value and result in something that will be a benefit for the business.

#### NEBRASKA ASSOCIATION HOLDS 1925 CONVENTION IN LINCOLN.

The Nebraska Title Association combined business with football and held a successful meeting for a day and a half and a football game for a half day.

The Executive Secretary attended the convention as the representative of the American Title Association, and also was a hard grand-stand worker in an



GUY W. JOHNSON,  
Wahoo, Neb.

Who Will Give the Nebraska Association Another Year's Good Service as Secretary.

endeavor to help the Kansas University football team beat Nebraska. His efforts were in vain, however. The Cornhuskers were operating in their own territory and the Wheatshockers had a poor crop.

The meeting was scheduled to open on Friday morning, but a several days' and nights' rain preceded the night before, and all morning by a shower of extra quantity marooned several. President Slonecker and several from Omaha and other nearer points managed to slip and slide the whole distance and arrived about the middle of the afternoon. Several others did not make it.

There was a mighty fine crowd though, and it would have been a record breaker for this Association had it not been for the rain and roads. As it was, there was a mighty successful convention staged. Verne Hedge, the

Annual Host of the Nebraska Title Association, provided an even finer convention atmosphere than usual. The banquet given the evening of the first day, with the three speakers from the city provided by Host Hedge, was worth the time and trouble of anyone who attended.

A real practical program was provided and those present got a great deal of mighty valuable information and many ideas.

Prof. Henry H. Foster of the University Law School thoroughly explained the Covenants for Title Act.

W. J. Hammond, an attorney, gave an interesting talk on "What is Necessary to be Shown in Abstracts of Court Proceedings."

Thomas B. Dysart, of the Peters Trust Co., also an instructor in the Omaha Law School, gave a most thorough and exhaustive paper on "Tax Titles."

A feature of the session, however, was the Question Box conducted by David W. Swarr, attorney, of Omaha. Mr. Swarr seemed especially adept at handling the many things put at him.

This is President Fehrman's home state title association, and the appreciation of the members for his honor in being President of the American Title Association was evidenced by the demonstration given him when introduced to extend greetings from the national organization.

The crowd was enthusiastic for a greater program and more active coming year for the organization. Plans were formulated for a membership drive, bulletin service of Court Decisions, and other things.

It was voted to send the Secretary, Guy W. Johnson of Wahoo, to the Mid-Winter Meeting of State and National Officials to be held in Chicago, February 5 and 6.

Ralph Barney, the golf and potato king of Kearney, was elected President, and Guy Johnson continued as Secretary-Treasurer.

## S. O. S.

The Executive Secretary has several requests for the services of

**Experienced Abstracters,  
Searchers,  
Take-Off Clerks,  
Typists.**

*Both Men and Women*

There are a number of good positions to be filled.

Applicants should write stating experience, age, married or single, typewriter operators, and any choice of location.

## Abstracts of Land Titles—Their Use and Preparation

*This is the sixteenth of a series of articles or courses of instruction on the use and preparation of abstracts*

### General Principles of Actions.

There are a few general things followed in the procedure of civil court actions that establish, principles and constitute the general scheme of things in all of them.

The plaintiff is the one who brings the suit and his action is based upon certain grounds. It is necessary that he allege and set them up and name all the parties who have some interest adverse to his and from whom he wants relief and they be forever barred or their rights adjudicated.

He (the plaintiff) does all of this by his Petition which is filed and tells his story, sets-up a cause of action and tells his side.

The first thing to do when starting to abstract a set of court proceedings is to take the petition, then pick out all the summons and papers of service out of the files and check to see that every defendant has been served because "every man is entitled to his day in court" and "no one can be divested of his property without due process of law."

The plaintiff setting up his cause of action gives notice to all the named defendants that their interests, if any, are involved and they must appear to protect them. Failure to appear makes them in default and they lose out.

A summons is issued for all of the defendants who are known to be within the jurisdiction of the court and upon whom actual service by summons can be secured. These are issued out of the clerk of the courts office, and directed to the Sheriff or process server, commanding him to notify those named therein that they have been sued and must answer the summons by a certain date or be barred.

The process server then takes these summons and notifies the parties either by delivering a copy of the summons to them, or if they are not at home by leaving a copy at their usual or known place of residence.

If he is unable to locate them at all, and learns they are out of the state and no service can be secured, the law provides that they can be served by publication, and which subject will be taken up later. This return of the sheriff on the original copy of the summons tho, telling whether he served them personally, by leaving a copy at their residence or could not find them is very essential.

All of those defendants whom they are unable to locate in any way, or know to be out of existence, or who have died, and their heirs unknown, or who are removed from the state are served by publication notice or sum-

mons by publication.

The plaintiff or his attorney makes an affidavit that actual service of summons cannot be had, and they are unable with due diligence to find the following named defendants, naming them, and service must be had by publication.

**THIS AFFIDAVIT MUST ALWAYS BE COPIED IN FULL** because the statutes are very particular as to the ground that must be covered in such cases and the affidavit must state things exactly according to statute.

Then after the notice is published in some newspaper for the required number of consecutive weeks or issues, the printer makes an affidavit stating the notice was published in his paper for a certain length of time and attaches a clipping of the notice to the affidavit which is made a part thereof.

This proves the service by publication and this affidavit and the copy of the notice is called "Proof of Publication."

There is another way of getting people into court, and that is by a voluntary Entry of Appearance. They simply say they enter their voluntary appearance and waive service by summons. This is in cases where the defendants know they have been or are going to be sued and are either interested in the case or friendly to it even tho defendants for some reason or other.

After everyone has been served the case is ready for trial and a hearing is set on a certain date. The trial is had and judgment rendered accordingly.

In quiet title, and divorce cases, this judgment ends the case, and the record is complete upon the filing of the Journal Entry which is a record of the trial and the orders of the court.

In foreclosures, partitions and others, tho, there is more to do. The property is ordered sold and the decree provides that it shall be appraised or not appraised, sold at public or private sale, notice of the sale given either by posting in a public place or publication notice in a newspaper, etc.

The Sheriff then holds a sale and sells the land. He makes a return showing the facts as to the sale. These matters are reported to the court with a request for a confirmation and the sale is then confirmed which ends it.

The Sheriff issues a deed after the redemption period has expired, etc., and thus is another chapter of the history of a piece of land written.

The form and material of an abstract of a court case will now be considered, and district court cases con-

sidered first. The form is important, for the idea of briefing or abstracting a court case is to set out the essentials so as to permit ease of examination and readily reveal its contents, and it is therefore all the more advisable to set them in such a form as to add to this desired purpose.

The first will be the statement, "ABSTRACT OF COURT PROCEEDINGS." Then the court wherein they have taken place will be stated as follows, "IN THE DISTRICT COURT IN AND FOR THE FIRST DISTRICT OF BLANK COUNTY, KANSAS."

Then the case number will be given, "CASE No. 10800."

This will be followed by the statement, telling the kind of case, as "NATURE OF ACTION—FORECLOSURE OF MORTGAGE" or Suit to Quiet Title, Partition of Real Estate, Specific Performance of Contract, Divorce, etc.

The next will be a statement, "ABSTRACTED FROM THE RECORDS AND FILES OF SAID CASE."

Following this will be the last of the "heading," and will be a caption showing the Plaintiff and Defendants.

When these are stated, the setting out of the facts in the case can begin, and the first of course is the Petition. This will be abstracted, except as stated before in cases of partition suits or others where there are so many and such an intricate statement of facts that it is best to copy it. Very few cases if any outside of partition suits require copying, and they largely because of the facts stated therein usually being necessary information about deaths, heirships, relations, etc.

Paragraphs will not be indented, but will be "pulled out" as this brings out the different changes and steps in the proceedings more prominently.

For this style and arrangement, see Fig. 1.

### The Quiet Title Suit.

This is a simple one and will be considered first. A quiet title suit is meant as a dry cleaning for a title, and it is said that a title has been dry cleaned or laundered when sent through the court to have its title quieted.

With the heading stating the facts as to the case number, nature of action, what court, and plaintiffs and defendants, the petition commands our attention.

First state "Petition filed, May 25, 1916, wherein plaintiff alleges and represents," and then follow with a statement of the facts.

In quiet title suits as a rule it does not specifically state what each claim each party may have, or why each individual is brought into the case, but will merely state that the plaintiff has been in possession for a certain time, and that the defendants and each of them claim some right, title, interest, estate in, or lien upon said premises junior and inferior to that of plaintiff, and that they be required to set up

and prove same, have it adjudicated by the court, or be forever barred of all right title, interest, etc., in and to said land.

This will follow with the "prayer" found in all petitions and which should be copied in full in all cases.

The following is a sample of what might be stated for a brief of the petition in a quiet title case.

"Petition filed, May 25, 1925, wherein Plaintiff alleges and represents that he and the assigns before him have been in the open, notorious, peaceable undisputed, continuous and adverse possession of the following described real estate for a period of more than . . . . years last past. (Here describe real estate as given in petition). "That he is a resident of Blank County, Kansas, and is now the owner said real estate above described. That this action is to determine the right, title, interest and estate in and to said real estate as against said defendants, and each of them, and who claim some estate, right, title or interest in or to said premises or parts thereof, but that whatever they may be, they are junior and inferior to that of this Plaintiff.

"That the said Security Mortgage and Investment Co., appears to have a lien of record by reason of a certain mortgage dated March 1, 1880, in the sum of \$75.00, but which has long since been paid, and no demand ever made for more than five years last past for the payment of any part of the principal or interest thereof, and that same should be declared null and void and of no force.

"Wherefore, Plaintiff prays that each and all of said defendants be required to set forth the exact nature of their claims in and to said real estate, that the same be adjudicated subject, inferior and subordinate to the title of plaintiff, that the said mortgage be adjudged wholly satisfied and discharged, that the same be cancelled of record, that judgment be rendered in favor of plaintiff forever quieting the title of plaintiff in and to said real estate against the defendants, if living, and in the alternative against the unknown heirs, executors, administrators, devisees, trustees and assigns of such of them as are deceased, and forever barring, excluding and enjoining each and all of said defendants and persons claiming by, through or under them or either of them from having or claiming any title to, interest or estate in or lien or claim upon said real estate or any part thereof and for all other proper relief."

**Service.**

Now follows the service. All the papers of service are picked from the files and the list of defendants checked to see if they have all been served or entered their appearance.

A Summons will be noted as follows: "Summons Issued, May 25, 1916, directed to the Sheriff of Blank County, Kansas, commanding him to notify

John Doe, Richard Roe, Mildred Roe, his wife, and Bill Smith that they have been sued and must answer plaintiffs petition on or before June 23, 1916, or same will be taken as true and judgment rendered accordingly."

The Sheriff's Return or report on service will be noted as follows, copy-

ing part of it in the exact language, which part is set out in capitals. "Personal Service, May 27, 1916, upon John Doe, BY DELIVERING A COPY OF SAID SUMMONS TO SAID DEFENDANT PERSONALLY." For "house" service, state as follows: Service, May 27, 1926, upon Richard Roe

(Fig. 1)

ABSTRACT OF COURT PROCEEDINGS.

In the District Court in and for the First District, Blank County, Kans. Case No. 10800.

Nature of Action, Suit to Quiet Title.

Abstracted from the Records and Files in said Case.

Geo. W. Hedrick, - - - - - Plaintiff

vs

John Doe, and \_\_\_\_\_ Doe, his wife, (if married)  
Richard Roe, Mildred Roe, his wife, Bill Smith,  
if living, and if dead, their unknown heirs,  
administrators, executors, trustees or assigns;  
the Security Mortgage and Investment Co. a  
corporation, its successors, trustees, or  
assigns, - - - - - Defendants.

\*\*\*\*\*

Petition filed, May 25th 1916, wherein Plaintiff alleges and sets-up that he is the , etc. (See text for showing).

Summons Issued, May 25th 1916, directed to the Sheriff of Blank County, Kansas, commanding him to notify John Doe, Richard Roe, Mildred Roe, his wife, and Bill Smith, that they have been sued in the District Court for the First District of Blank County, Kansas, and must answer Plaintiff's Petition on or before Jun. 23-1916, or judgment will be taken accordingly.

Personal Service, May 27-1916, upon John Doe, by delivering a copy of said summons to said defendant personally.

Service, May 27-1916 upon Richard Roe and Mildred Roe, his wife, by leaving a copy of said summons at their usual and known place of residence.  
Bill Smith not found.

Answer of Richard Roe and Mildred Roe filed, Jun. 12-1916, entering general denial, and disclaiming any interest.

Affidavit for Service by Publication, filed, Jun. 5-1916, is as follows: (To be copied in full.)

Service by Publication upon Bill Smith and the Security Mortgage & Investment Co., as per proof of publication filed, July 8th-1916 shown by Affidavit of John Meredith, Publisher, of the Arlington Enterprise, a weekly newspaper published in the City of Pleasantville, Blank County, Kansas, and which newspaper has been published continuously for a period of more than 52 consecutive weeks prior to the publication of this particular notice.

States that notice was published for 4 consecutive weeks, First Publication, Jun. 8th-1916, Last Publication June 29-1916.

The printed notice attached is as follows: (To be copied in full.)

Journal Entry filed, Sep. 1st-1916, is as follows: (Copied in full.)



and his wife, Mildred Roe, "BY LEAVING A COPY OF THE WITHIN SUMMONS AT THEIR USUAL PLACE OF RESIDENCE." Bill Smith could not be found, and the Sheriff makes the following notation, "BILL SMITH NOT FOUND IN BLANK COUNTY."

Sometimes a defendant not found in the county where the case is brought is known to be in another county in the state, so a new summons will be gotten out for Bill Smith directed to the Sheriff of the county where he lives, which Sheriff serves it, and makes his endorsement, returning it to the county of origin.

The balance of the defendants who cannot be found are served by publication, and the affidavit for service by publication filed.

This is shown as follows: "Affidavit for Service by Publication, filed June 6, 1926, is as follows," and the thing is copied, word for word and

period for period. You cannot be too particular in this.

Then comes the Proof of Publication. The Printer filed his affidavit, accompanied by a clipping of the published notice, and this is shown as follows: Proof of Publication, filed, July 8, 1916, as per the Affidavit of John Meredith, Publisher of the Arlington Enterprise, a weekly newspaper published in the City of Pleasantville, Blank County, Kansas, and which newspaper has been published continuously for a period of more than fifty-two consecutive weeks prior to the publication of the first notice hereof. States that notice was published for a period of four consecutive weeks. First publication, June 8, 1916, last publication June 29, 1916. The printed notice attached is as follows:" and the notice will be copied in full, because it is very essential that there be no errors in describing the land or publishing the

names of the defendants, for if so, then the whole service is void.

The mentioning that the newspaper is published in such and such a city and county, and has been issued for more than a year is just to show that the requirements of the statute have been complied with, because some states require this and that and the other thing, different in the several states, so the abstractor should state the essentials as set forth in the affidavit, necessary to show the requirements have been fulfilled.

**Journal Entry.**

Next comes the Journal Entry, which is the decree, and in a quiet title case in the end of the proceeding. This ends the case and the abstractor following the rule heretofore set out copies it in full. This is noted as follows: "Journal Entry filed, July 25, is as follows," and shows it.

## Roster, 1926, Officials and Committees, The American Title Association

**GENERAL ORGANIZATION.**

- Henry J. Fehrman, President.....Omaha, Neb.  
Attorney, Peters Trust Co.
- J. W. Woodford, Vice President.....Tulsa, Okla.  
Vice President, Title Guarantee & Trust Co.
- Edward C. Wyckoff, Treasurer.....Newark, N. J.  
Solicitor, Fidelity Union Title & Mortgage Guarantee Co.
- Richard B. Hall, Executive Secretary.....Hutchinson, Kan.  
President, The Hall Abstract & Title Co.

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**General Organization.**

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Vice President, Title Guarantee & Trust Co.
- Henry J. Fehrman (the President).....Omaha, Neb.  
Attorney, Peters Trust Co.
- Edward C. Wyckoff (the Treasurer).....Newark, N. J.  
Solicitor, Fidelity Union Title & Guar. Mort. Co.
- Fred P. Condit (the Retiring President).....New York, N. Y.  
Vice President, Title Guarantee & Trust Co.
- Ray McLain (Chairman, Abstracters' Section).....  
Oklahoma City, Okla.  
Vice President, American National Co.
- Donzel Stoney (Chairman, Title Insurance Section)....  
San Francisco, Cal.  
Manager, Title Insurance & Guaranty Co.
- Golding Fairfield (Chairman, Title Examiners' Section).....  
Denver, Colo.  
Title Officer & Attorney, Title Guaranty Co.
- M. P. Bouslog (Term ending 1926).....Gulfport, Miss.  
Mississippi Abstract, Title & Guaranty Co.
- J. M. Whitsett (Term ending 1926).....Gulfport, Miss.  
Vice President, Manager, Guaranty Title Trust Co.
- Walter M. Daly (Term ending 1926).....Portland, Ore.  
Vice President, Title & Trust Co.
- J. L. Chapman (Term ending 1927).....Cleveland, O.  
Secretary, Land Title Abstract & Trust Co.
- Henry Baldwin.....Corpus Christi, Tex.  
President, Guaranty Title Co.

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- Lewis D. Fox, Vice Chairman.....Fort Worth, Tex.  
President, Home Abstract Co.

- A. J. Arnot, Secretary.....Bismarck, N. D.  
Burleigh County Abstract Co.

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Title Officer, North Philadelphia Trust Co.
- James D. Forward, Secretary.....San Diego, Calif.  
Secy.-Treas., Union Title Insurance Co.

**Executive Committee.**

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Secretary, Seattle Title Trust Co.
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President, Kansas City Title & Trust Co.
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President, Chelton Trust Co.
- H. B. Wilkinson.....Phoenix, Ariz.  
President, Phoenix Title & Trust Co.
- Kenneth E. Rice.....Chicago, Ill.  
Vice President and Escrow Officer, Chicago Title & Trust Co.

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Title Officer and Attorney, Title Guaranty Co.
- W. L. Rogers, Vice Chairman.....Louisville, Ky.  
Attorney, Federal Land Bank.
- Solomon Goldman, Secretary.....New Orleans, La.  
Attorney, Pan American Life Insurance Co.

**Executive Committee.**

- Marion Rushton.....Montgomery, Ala.  
Attorney, First Joint Stock Land Bank.
- Lysander Cassidy.....San Francisco, Cal.  
464 California Street.

John Izzard.....Hartford, Conn.  
25 Atwood Street.  
Walter L. Cohrs.....Chicago, Ill.  
First Trust & Savings Bank.  
Edward O. Clark.....Newark, N. J.  
Attorney, Prudential Insurance Co.

#### ADVISORY COMMITTEE TO THE PRESIDENT.

Henry R. Chittick.....New York, N. Y.  
Solicitor, Lawyers Title & Trust Company.  
H. B. Wilkinson.....Phoenix, Ariz.  
President, Phoenix Title & Trust Company.  
Geo. E. Wedthoff.....Bay City, Mich.  
Treasurer, Northern Title & Trust Co.  
Worrall Wilson.....Seattle, Wash.  
President, Seattle Title Trust Company.  
Justin M. Dall.....Chicago, Ill.  
Vice President, Chicago Title & Trust Co.  
Jesse P. Crump.....Kansas City, Mo.  
Vice President, Kansas City Title & Trust Co.  
Edward O. Clark.....Newark, N. J.  
Asst. Solicitor, Prudential Ins. Co. of America.  
Frederick P. Condit.....New York, N. Y.  
Vice President, Title Guarantee & Tr. Co.  
J. R. Morgan.....Kokomo, Ind.  
President, Johnson Abstract Co.  
Ed. F. Daugherty.....Omaha, Neb.  
General Attorney, Federal Land Bank.

#### PROGRAM COMMITTEE.

##### 1926 Convention.

Henry J. Fehrman (the President), Chairman.....  
.....Omaha, Neb.  
Donzel Stoney (Chairman, Title Insurance Section)  
.....San Francisco, Calif.  
Ray McLain (Chairman, Abstracters' Section).....  
.....Oklahoma City, Okla.  
Golding Fairfield (Chairman, Title Examiners' Section)  
.....Denver, Colo.  
Richard B. Hall (the Executive Secretary).....  
.....Hutchinson, Kan.

#### GENERAL CHAIRMAN, NOONDAY SECTIONAL CONFERENCES.

##### 1926 Convention.

A. T. Hastings.....Spokane, Wash.  
Spokane Title Company.

#### COMMITTEE ON PUBLICATION.

Henry J. Fehrman (the President).....Omaha, Neb.  
Frederick P. Condit (the retiring President).....  
.....New York City, N. Y.  
Richard B. Hall (the Executive Secretary).....  
.....Hutchinson, Kan.

#### COMMITTEE ON CONSTITUTION AND BY-LAWS.

Henry R. Chittick, Chairman.....New York, N. Y.  
Solicitor, Lawyers' Title and Trust Co.  
M. P. Bouslog.....Gulfport, Miss.  
President, Mississippi Abstract Title & Guaranty Co.  
E. J. Carroll.....Davenport, Iowa  
Attorney, Davenport Abstract Company.

#### COMMITTEE ON COOPERATION.

"The Committee on Cooperation shall work and cooperate with such bodies as the American Bar Association, the National Association of Real Estate Exchanges, and the Commissioners of Uniform Laws, or with committees from similar bodies with the purpose of securing uniform action by the several associations to promote good legislation, to prevent bad legislation, and to the end that security of land titles and the facility of their transfer, may be performed to the highest possible degree." Sec. 5 of Constitution.

Worrall Wilson, Chairman.....Seattle, Wash.  
President, Seattle Title Trust Company.  
Arthur C. Thomsen.....Omaha, Nebr.  
Secretary, Omaha Law School.

Leroy S. Lincoln.....New York, N. Y.  
General Attorney, Metropolitan Life Ins. Co.  
Fred T. Wilkin.....Independence, Kan.  
Security Abstract Co.  
Frank P. Doherty, Attorney.....Los Angeles, Calif.  
Merchants National Bank Bldg.  
T. M. Scott.....Paris, Texas  
President, Scott Title Company.  
William Brosmith.....Hartford, Conn.  
Counsel, The Travelers' Insurance Company.  
J. M. Dall.....Chicago, Ill.  
Vice President, Chicago Title & Trust Co.  
George F. Heindel.....Orrumwa, Iowa  
President, Phoenix Trust Company.

#### JUDICIARY COMMITTEE.

"The Judiciary Committee shall investigate and make report on decisions which may have been rendered in the Federal and Courts of Last Resort in the various states, relating to the duties, liabilities and responsibilities of abstracters, title examiners, and insurers of land titles and other title matters. Such report shall cover the period for the year previous to the time of the making of same." Sec. 7 of Constitution.

Henry C. Soucheray, Chairman.....St. Paul, Minn.  
Treasurer, St. Paul Abstract Co.  
Cornelius Doremus.....Ridgewood, N. J.  
President, Fidelity Title & Mortgage Guaranty Co.  
Stuart O'Melveny.....Los Angeles, Calif.  
Vice President, Title Insurance & Tr. Co.  
Chas. C. White.....Cleveland, Ohio  
Title Officer, Land Title Abstract & Tr. Co.  
Clarence E. Bowen.....Crawfordsville, Ind.  
Attorney, Evans, DeVore & Co.  
William A. Gretzinger, Attorney.....Philadelphia, Pa.  
Title Officer, Republic Trust Co.  
McCune Gill.....St. Louis, Mo.  
Title Officer and Vice Pres., Title Guaranty & Tr. Co.

#### COMMITTEE ON ADVERTISING.

(This is a special committee, appointed to collect data, study, prepare and recommend ways and means for advertising for abstracters and the abstract business.)

Tom Dilworth, Chairman.....Waco, Texas  
President and Attorney, Dilworth Abstract Co.  
W. H. Pryor.....Duluth, Minn.  
President, Pryor Abstract Company.  
Arthur C. Longbrake.....Toledo, Ohio  
President, Real Estate Abstract Co.  
Edwin H. Lindow.....Detroit, Mich.  
Vice President, Union Title and Guaranty Co.  
Pearl Koontz Jeffrey.....Columbus, Kan.

#### LEGISLATIVE COMMITTEE.

"The Legislative Committee shall, with the consent of authority of the Executive Committee, have power to act with regard to legislation pending before the Federal Congress, and the several state legislatures, on matters affecting the interests of abstracters and title men, rendering such assistance as shall be in the interest of title men generally, to promote or oppose.

"The Legislative Committee shall also submit as a part of its report at each annual meeting of the association, a brief report of such acts or proposed acts of Congress and the several state legislatures passed since the next preceding convention, affecting titles to real estate, as the Committees shall deem of general interest to title men. It shall be the duty of the Vice President of each state association appointed by the President for the purpose, in each state having no state association to furnish the Chairman of the Legislative Committee, not less than sixty days prior to each convention, with such a report for his state." Sec. 8 of Constitution.

James P. Pinkerton, General Chairman.....Philadelphia, Pa.  
Title Officer, Industrial Trust Title & Sav. Co.  
District No. 1.  
New Jersey—Edward C. Wyckoff, Chairman.....Newark  
Solicitor, Fidelity Union Title & Mtg. Guar. Co.

- New York—Cyril H. Burdette.....New York  
Vice President, New York Title & Mtg. Co.
- Connecticut—James E. Brinkerhoff.....Stamford  
Secretary, Fidelity Title & Tr. Co.
- Rhode Island—Ivory Littlefield.....Providence  
Vice President, Title Guarantee Co.
- Massachusetts—Theo. W. Ellis.....Springfield  
Ellis Title & Conveyancing Co.
- District No. 2.
- Pennsylvania—Col. Sheldon Potter, Chairman.....  
Philadelphia  
President, Chelton Trust Company.
- Virginia—Jas. B. Botts.....Roanoke  
Secretary-Treasurer, Title Guarantee, Tr. & Savings  
Bank.
- West Virginia—George E. Price.....Charleston  
Attorney, George Washington Life Ins. Co.
- District No. 3.
- Florida—J. M. Blow, Chairman.....Miami  
Gen'l Manager, Dade Co. Title Ins. & Tr. Co.
- Georgia—Roy C. Calhoun.....Atlanta  
Attorney, Atlanta Title & Tr. Co.
- South Carolina—J. Watres Thomas.....Columbia  
Equitable Trust Company.
- North Carolina—Joseph L. Cockerham.....Raleigh  
Attorney, Atlantic Joint Stock Land Bk.
- District No. 4.
- Tennessee—J. R. West, Chairman.....Nashville  
Vice President, Examiner, Guar. Title & Tr. Co.
- Kentucky—Chas. A. Haerberle.....Louisville  
Vice President, Louisville Title Co.
- Indiana—Walter S. Coppage.....Crawfordsville  
Coppage and Swearingen.
- Ohio—John H. Green.....Painsville  
Title Guarantee & Trust Co.
- District No. 5.
- Louisiana—A. M. Mayo, Chairman.....Lake Charles  
President, Mayo Title Company.
- Alabama—H. S. Patterson.....Gadsden  
President, Etowah Abstract Co.
- Mississippi—W. R. Barber.....Gulfport  
Secretary, Mississippi Abstract & Title Guar. Co.
- District No. 6.
- Arkansas—M. B. Brewer, Chairman.....  
Oklahoma City, Okla.  
Godfrey Investment Co.
- Missouri—Jas M. Rohan.....St. Louis  
St. Louis County Land Office.
- Illinois—H. C. Gerke.....Edwardsville
- District No. 7.
- North Dakota—A. J. Arnot, Chairman.....Bismarck  
President, Burleigh County Abst. Co.
- Minnesota—W. S. Jenkins.....Minneapolis  
Secretary, Real Estate Title Ins. Co.
- Wisconsin—W. E. Furlong.....Milwaukee  
Attorney, Northwestern Mutual Life Ins. Co.
- Michigan—Lloyd L. Axford.....Detroit  
Special Counsel, Union Title & Guarantee Co.
- District No. 8.
- Nebraska—David Swarr, Chairman.....Omaha
- Iowa—Cyrus B. Hillis.....Des Moines  
Secretary, Des Moines Title Company.
- South Dakota—R. G. Williams.....Watertown  
President, Southwick Abstract Co.
- Wyoming—Osmer E. Smith, Attorney.....Cheyenne
- District No. 9.
- Kansas—C. C. Porter, Chairman.....Russell Springs  
Porter Abstract Co.
- Oklahoma—Walter Thompson.....Durant  
Bryan Abstract Company.
- Colorado—J. G. Houston.....Denver  
Vice President, Title Guaranty Co.
- New Mexico—J. M. Avery, Hayward Agency.....Santa Fe
- District No. 10.
- Texas—H. B. Baldwin, Chairman.....Corpus Christi
- District No. 11.
- Arizona—F. M. Coggins, Chairman.....Phoenix  
President, Coggins Title Company.
- California—Ross M. Pierce.....Sacramento  
President, Pierce-Bosquit Abstract & Title Co.
- Utah—Alex. E. Carr.....Salt Lake City
- Nevada—A. A. Hinman.....Las Vegas  
President, Title & Trust Co. of Nevada.
- District No. 12.
- Washington—Charleton L. Hall, Chairman.....Seattle  
Secretary, Seattle Title Trust Co.
- Oregon—L. M. Hicks.....Salem
- Montana—C. E. Hubbard.....Great Falls
- Idaho—Orval M. Fox.....Pocatello

## MEMBERSHIP COMMITTEE.

"The duties of the Committee on Membership and Organization shall be to obtain new members and assist in the organization of state associations in the different states." Sec. 6 of the Constitution.

Edwin H. Lindow, Chairman.....Detroit, Mich.  
Vice President, Union Title & Guaranty Co.

"The other members of this committee are the Presidents and Secretaries of the various State Title Associations, as follows:

## Arkansas Title Association.

President, Elmer McClure.....Little Rock  
Little Rock Abst. & Guar. Co.  
Secretary, Geo. F. Buzbee.....Benton

## California Land Title Association.

President, Wm. N. Glasscock.....San Bernardino  
Secretary, Frank P. Doherty.....Los Angeles

## Colorado Title Association.

President, J. Emery Treat.....Trinidad  
Secretary, Edgar Jenkins.....Littleton

## Idaho Title Association.

President, Henry Ashcraft.....Payette  
Secretary-Treasurer, Karl L. Mann.....Emmett

## Illinois Abstracters Association.

President, L. L. Smith.....Decatur  
Secretary, W. A. McPhail.....Rockford

## Indiana Title Association.

President, T. A. Morrison.....Frankfort  
Secretary, C. E. Lambert.....Rockville

## Iowa Title Association.

President, Cyrus B. Hillis.....Des Moines  
Secretary, John R. Loomis.....Red Oak

## Kansas Title Association.

President, E. L. Mason.....Wichita  
Secretary, F. M. Rogers.....Wellington

## Louisiana Title Association.

President, R. B. Hill.....Benton  
Secretary, Randolph Tuerbes.....Shreveport

## Michigan Title Association.

President, Ray A. Trucks.....Baldwin  
Secretary, Emma Stoeckert.....Monroe

## Minnesota Title Association.

President, J. F. Mushel.....Foley  
Secretary, E. D. Boyce.....Mankato

## Missouri Title Association.

President, J. A. Riley.....Lancaster  
Secretary, T. S. Simrall.....Boonville

## Montana Title Association.

President, W. B. Clarke.....Miles City  
Secretary, C. E. Hubbard.....Great Falls

## Nebraska Title Association.

President, Ralph W. Barney.....Kearney  
Secretary, Guy W. Johnson.....Wahoo

## New Jersey Title Association.

President, Cornelius Doremus.....Ridgewood  
Secretary, Alan A. Pott.....Summitt

## New York Title Association.

President, Henry J. Davenport.....Brooklyn  
51 Willoughby St.  
Secretary, S. H. Evans.....New York City  
149 Broadway.

<b>North Dakota Title Association.</b>	
President, John Bowers.....	Mandan
Secretary, A. J. Arnot.....	Bismarck
<b>Ohio Title Association.</b>	
President, O. L. Pealer.....	Warren
Secretary-Treasurer, Theodore Kemp, Jr.....	Newark
<b>Oklahoma Title Association.</b>	
President, G. M. Ricker.....	El Reno
Secretary, Hugh Ricketts.....	Muskogee
<b>Oregon Title Association.</b>	
President, G. C. Pauling.....	Astoria
Secretary, G. F. Peek.....	Portland
<b>Pennsylvania Title Association.</b>	
President, John E. Potter.....	Pittsburgh
Potter Title & Trust Co.	
Secretary, Harry C. Bare.....	Ardmore

<b>South Dakota Title Association.</b>	
President, R. G. Williams.....	Waterloo
Secretary, C. S. Kickinson.....	Huron
<b>Texas Abstracters Association.</b>	
President, A. S. Moody.....	Houston
Care Texas Abstract Co.	
Secretary, Everett E. Weaver.....	Houston
413 1/2 Fannin St.	
<b>Washington Title Association.</b>	
President, Joseph Hunt.....	Spokane
Spokane Title Co.	
Secretary, Robt. W. Ellwell.....	Olympia
<b>Wisconsin Title Association.</b>	
President, Emil Lenicheck.....	Milwaukee
Care Miller Bldg.	
Secretary, John M. Kenney.....	Madison

## THE MISCELLANEOUS INDEX

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

"Greater Chicago Title Service for Greater Chicago" is announced by the Chicago Title & Trust Co. by the extension of its title insurance service to cover the three adjoining counties of Lake, DuPage (Illinois) and Lake (Indiana).

This is by special arrangement with the local abstract companies, The Lake County Title & Trust Co., Waukegan, Ill., DuPage Title Co., Wheaton, Ill., and the Allman-Gary Title Co., Gary and Crown Point, Indiana.

The announcement states, "This expansion made essential by the growing industrial and suburban areas of the metropolitan district places at the disposal of real estate owners in adjacent counties the proved value of title guarantees by the largest company in the West, one which in less than twenty-five years has written over one million policies."

This announcement is of further interest to the title men of the country because it is another example of the momentum which the progress of title insurance has assumed, but more outstanding of all, what a great thing and business asset title insurance is for the local abstracter and how it will make a metropolitan business institution out of his equipment.

William F. Grimes, 1156 East 62nd Street, the oldest employee of the Chicago Title & Trust Company, passed away November 19, 1925. He would have been eighty-two years old next February. He was born in Alexandria, Virginia; during the Civil War, was Deputy County Clerk there; and in 1868 came to Chicago and entered the employ of Shortall & Hoard, one of the three early abstract companies.

At the time of the Great Fire of 1871, he was one of that gallant little band of young men who loaded the tract indices and maps and other val-

uable title records belonging to his firm upon trucks furnished by General Joseph Stockton and removed them out of danger.

In 1883 he became part of the organization of the Title Guarantee and Trust Company which initiated in Chicago the insurance of titles to real estate. He remained in that branch of the business until he retired in 1923, after fifty-five years' continuous service. He was a rapid and accurate examiner of titles and for twenty years had charge of all title guarantees issued on lands in other states.

He leaves a widow and one son, Charley F. Grimes, who is one of the legal representatives of the Chicago Title & Trust Company.

The New York Title & Mortgage Co. announces the opening of an office in Miami, Florida. The quarters of the company are temporarily located at 119 South East Second Street awaiting the completion of the Hunington Building.

Mark E. Archer is in charge and the company plans to do a state wide business, making an underwriting arrangement with some abstract company in each county seat.

The company emphasizes title insurance for sub-divisions and announces a policy form especially adapted for this purpose.

Another state association is anxious about its balance on hand. This time it is the Oklahoma Title Association, whose money was caught in a bank failure.

A few years ago the North Dakota Association suffered a real loss when its deposit was in a bank that failed. And the funds have not been recovered yet.

Here's hoping the Oklahoma Association had a small balance at this particular time.

## DIRECTORY ANNOUNCEMENT GIVEN ENTHUSIASTIC RE- CEPTION.

All Post Cards Must Be in By January  
1st. Have You Mailed Yours?

The returns on the Directory Announcement were certainly enthusiastic. Everyone seems especially pleased with the plan to list the individuals of the companies as well as the firm.

The plan of distribution was also approved as signified by the large number of copies requested. Nearly everyone asked for some additional copies of the book.

The best thing, though, was the number of cards returned. The percentage of response on this was the largest ever on anything sent out by the Association and calling for a return. They are still coming in numbers and will continue to for several days.

They must all be in the Executive Secretary's office by January 1st, however, to guarantee correct listment and to also secure the additional copies.

### PLANTS FOR SALE.

**ABSTRACT PLANT** for sale in growing part of Colorado. Business established for 23 years. County of unsurpassed natural resources, coal, oil production. Address Executive Secretary.

**FLORIDA PLANT** for Sale. Completely equipped, new plant, including all records and good will of owner. One of finest counties and in one of the biggest development projects, with rapid development in the entire county. Good reason for wanting to sell, and possession will be given January 1. Only cash proposition considered. Address Florida Abstracter, Care Executive Secretary.

**GOOD ABSTRACT** plant and business for sale in Michigan County. Resort country, wonderful climate and only one in county. Owner wishes to retire. Address Michigan Plant, Care Executive Secretary.

**ESTABLISHED ABSTRACT** Plant for sale in good Missouri town, with general insurance business in connection. Address Missouri Abstracter, care Executive Secretary.

**OLD ESTABLISHED** abstract plant and business in manufacturing city of 25,000 in western state. Complete records up to date, good equipment, low overhead, immediate possession. Price \$12,000.00. Address Western State, care Executive Secretary.

**PLANT AND** good business in Hope, Arkansas. City of 7,000, on edge of oil district. For immediate sale. Address Mrs. John J. Arnold, Hope, Ark.