

Liability of Abstract

P 4

# TITLE NEWS

Vol. 5

SEPTEMBER, 1926

No. 8

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A PUBLICATION ISSUED MONTHLY BY  
*The American Title Association*

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Fellow Titlemen:

The report of the Association for the Fiscal Year ending August 31st shows it to have been the greatest in the history of the organization and to have exceeded all expectations. It is approaching the first century of existence as this ends its nineteenth year. That time has been a series of interesting periods and stages of progress and development since its establishment.

The first was that of organization when its founders labored so unselfishly for such a time. Worth while things are not accomplished without effort.

Next came the problem of financing in order that the funds necessary to carry on its work and activities might be available. To finance it required that it be "sold" to the members, so for a recent period the greatest part of its energies and activities had to be spent in presenting the organization to the titlemen of the country.

That was accomplished as evidenced by the bountiful backing given in every way during the past year, and particularly the moral and financial support. These made it possible to function in a most profitable and beneficial measure. And now that it is organized, fairly financed and the titlemen of the country know they have a representative national commercial association, it can devote almost all of its efforts in better serving the title industry.

Its present problem nowever, seems to be in "selling" its services to the members. They do not seem to realize how much use it can be to them. So try to think how it can help you-what it could do for you and your business, then call upon its Executive Office for assistance.

Sincerely yours,

*Richard B. Hall*  
 Executive Secretary.

# TITLE NEWS

A publication issued monthly by

The American Title Association

*Published monthly at Mount Morris, Illinois; Editorial office, Kansas City, Mo. Entered as second class matter, December 26, 1921, at the post office at Mount Morris, Illinois, under the act of March 3, 1879*

Vol. 5

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## Editor's Page

We feel very much enthused this month in being able to present the article on "Liability of Abstractors" by V. E. Phillips of Kansas City, Mo. This is treated in a different way than the usual handling of a legal subject. It is not a mere summary of cases, with a long tedious review of each, but a general treatment of the points involved and a reference to cases only.

The subject is analyzed and explained in an interesting and comprehensive way and conclusions of facts given. At the end is a table by states showing all of the cases in each.

There has been a need for such an article and the Association promised a short time ago to give it. There is a feeling of pride however in being able to present such a one as this.

Mr. Phillips is especially competent to handle this subject because he understands the legal as well as practical phases involved. He is a member of a representative law firm, instructor in Real Property Law in one of the Country's leading law schools, a recognized Title Examiner, and has been an active member of the Missouri Title Association.

There have been many state conventions recently and stories of six of them appear in this issue. There was more interest in these local meetings this year than ever before and all of them experienced record breaking attendance figures and general interest and improvement in programs. The state associations are doing good work but can do more as greater support is given them by their members.

All former records of the Sustaining Fund both in number of contributors and amount subscribed were broken this year. There was a large number of new pledges and the amount was greatly in excess of last year. This fine support enabled the Association to do a great many effective things. The list of those who provided the "Sinews of War" is shown in this issue.

Watch for the October number of "Title News" which will tell the story of the Atlantic Convention.

# “Liability of Abstracters”

By V. E. Phillips, Kansas City, Mo.

[Editor's Note: This is not intended as a legal brief on the subject, but rather an interpretation and review of points involved, decisions that have been rendered on them, what the attitude of courts have been and future inclinations.

Mr. Phillips points out the common sources of loss in the titleman's work,

the things and circumstances which are his pitfalls and follows each with an explanatory case and references to others that have been rendered on the same questions involved.

A summary of cases rendered in the several states will be found at the last of the article.]

The business of furnishing abstracts of title to real property in the United States has become one of the highly specialized undertakings of experts. At least one of two abstracters are located in each county seat, and in the larger cities, one or more title companies have been organized to meet the demands for accurate title information.

The increasing prices of real property together with the increasing complexity of modern business dealings rendering the securing of personal knowledge concerning titles impracticable have added a value to the abstractor's work not heretofore possessed. As the importance of the abstractor's work to the public has increased, correspondingly the abstractor's duty and legal liability to his customer has increased.

The purpose of this article will be to discuss the legal duties of the abstractor and his liability to his customers or others relying upon his certificate for negligence in preparing abstracts. An endeavor will be made to set out the general legal principles governing and in addition a list of the cases relative to abstractor's liability decided by the courts of each state will be appended for the use of those desiring to refer to such list.

## The Law Generally

There is a growing popular idea that law is no longer a body of well recognized rules, but an ununderstandable system of procedure in which principles are lost sight of in the process of procedure. Law, in its larger sense, may be said to be not only a set of rules, but a science, and also a philosophy. If there are weaknesses in the procedural phase (which may be said to be an element of law as a science), the student of the law will find encouragement in noting the increasing clarity of rules and the firmer establishment of fundamental ideas, and further encouragement in the tendency of the courts toward a broader interpretation, thus effectuating a philosophy of uplift and social justice.

To say that the rules governing the liability of abstracters have been reduced to a set of definite principles in every state is too broad an assertion. To say that the rules which have been uniformly followed in the various states accomplishes the uplift and high plane of responsibility, which those en-

gaged in the profession desire is entirely an exaggerated statement. But we do say that an analysis of the decisions in the United States with proper allowance for the influence of the doctrine *stare decisis* (precedent) and allowing for procedural limitations in the different jurisdictions shows certain general rules of liability upon which the abstractor may reasonably depend.

## Nature of the Work.

The first of these rules is that from the nature of the work the furnishing of an abstract is an undertaking of skill.

An abstract is said by Warvelle in his treatise on Abstracts to be a "condensed history of the title of land consisting of a synopsis or summary of the material or operative portions of all the various instruments of Conveyance which in any manner affect such land or the title thereto, or any estate or interest therein, together with a statement of all liens, charges, or liabilities to which the same may be subject, and of which it is in any way material for purchasers to be apprised. It is usually arranged in chronological order and is intended to show the origin, course and incidents of the title without the necessity of referring to the original sources of information." From the above definition, no one would dispute the necessity of skill in the person preparing such document. He must exercise not only careful research, but legal learning on the subject of conveyances, descents, uses, trusts, devises, judicial proceedings, and in fact numerous branches of the law. While he is not required to give legal opinions as to the ultimate effects of facts or instruments, it is evident that unless the abstracter ascertains the facts or shows the instruments which may affect the title the lawyer or title examiner has no guidance as to the true status. The court decisions are all in accord on this point that it is an undertaking of skill.

## Relation of Abstracter and Customer.

The second rule firmly established is that a confidential relation exists between the abstracter and his customer.

It is stated as a general proposition the relationship is not unlike that existing between an attorney and his client. The abstracter is not permitted

to purchase property after he has received information of a probable sale through his position and speculate upon it at the expense of his customers. In an Illinois case in which an abstracter received such information from his official position and had purchased property, he was held to be a trustee for his employer under such circumstances.<sup>1</sup>

It is said that the abstracter handles private title papers and gains information as to weaknesses and defects in titles, which would make it highly improper for him to make disclosures to outsiders or to adverse claimants. He is held to a strict confidence in the exercise of his trust. There is, however, a relaxation of the rule in permitting him to purchase properties in cases where he has already furnished a true and correct abstract and his employment has ceased. But in a Missouri case<sup>2</sup>, it was held that an abstractor who had failed to show a deed of trust could not purchase the property under foreclosure and then assert his title against his customer who had relied upon his abstract.

## Liability for Errors.

The abstractor's duty in view of his technical undertaking is to exercise skill in the performance of his work and in case of his failure to do so, he is liable for errors.

Law suits are said to arise from a breach of duty owing by one party to another or from infraction of a right secured to one party. The undertaking of an abstractor being a responsible one and requiring skill and broad knowledge falls in a class in which he impliedly guarantees to his customer that he has the requisite qualifications to furnish the document, which he has expressly contracted to furnish, that is, an up-to-date abstract, showing all conveyances and liens affecting the property. If he fails to make a diligent search, and the courts say he must examine the actual records<sup>3</sup>, or fails to find all of the information or conveyances which the law imposes upon him to find, he will breach the duty owing by him and will be held liable to the party sustaining the damages, for all loss directly traceable to the abstractor's omission.<sup>4</sup>

<sup>1</sup>Vallette v. Tedens 122 Ill. 607; 14 N. E. 52.

<sup>2</sup>Marston v. Catterlin 239 Mo. 390; 144 S. W. 475.

<sup>3</sup>Wacek v. Frink 51 Minn. 282; 53 N. W. 632; Morin v. Divide County Abstract Company 48 N. D.; 183 N. W. 1006.

<sup>4</sup>Nat. Sav. Bk. v. Ward 100 U. S. 195; Hopkin v. Abs. Co. 36 Calif. App. 699; Lattin v. Gillette, 95 Cal. 307; Merritt v. Fremont T. & T. Co. 39 Ida. 238; Hillock v. Ida T. & T. Co. 22 Ida. 440; Chase v. Heaney 70 Ill. 268; Brown v. Sims 22 Ind. A. 317; Young v. Lohr 118 Iowa 624; Arnold v. Barner 91 Ks. 768; Humboldt Bldg. Assn. Co. v. Ducker, 26 Ky. 931; Dorr v. Ins. Co. 233 Mass. 490; Smith v. Holmes 54 Mich. 104; Wacek v. Frink 51 Minn. 282; Schade v. Gehner 133 Mo. 252; Renkert v. Title Guar. T. Co. 102 Mo. A. 267; Rankin v. Schaeffer, 4 Mo. A. 108; Dodd v. Williams 3 Mo. A. 278; Western Loan etc. Co. v. Silver Bow Abst. Co. 31 Mont. 448; Morin v. Divide Co. Abst. Co. 48 N. D. 214; Crook v. Chilvers 99 Neb. 684; Security Abst. T. Co. v. Longacre, 56 Neb. 469; Hershiser v. Ward 29 Nev. 228; Economy Bldg. etc. Assn. v. West Jersey T. Co. 64 N. J. L. 27; Glyn v. Title

It will be helpful on this point to discuss some of the leading court decisions.

In a Tennessee case<sup>5</sup> an abstract company furnished an abstract to a customer in which parts of a will were set out showing a fee simple title in the customer. The customer secured a loan from the plaintiff. Later, it developed that the will devised only a life estate. The court held the abstractor's action in setting out an abbreviated copy of the will was negligence, and made the following observations:

"The error complained of is such as could have been avoided by the exercise of ordinary care and skill on the part of one possessing qualifications adapted to the business of abstracting."

It is interesting to note that in this early Tennessee case the court, however, did not permit the building and loan association to recover even though it found the abstractor had been negligent, for the reason that there was no "privity of contract" between the plaintiff and defendant.

In another Tennessee case<sup>6</sup>, the complainant purchased twenty-one acres of land relying upon an abstract showing title in the seller. It developed that four acres of the tract had been conveyed away and the abstract company failed to find the recorded conveyances to such four acres. The court held such omission on the part of the abstractor was negligence and said:

"To furnish abstracts of title is a business. Parties undertaking it assume the responsibility of discharging the duties in a skillful and careful manner. They are to furnish the facts from the register's office without concern for their legal effect. Upon the facts furnished, the purchaser must determine for himself their sufficiency. The abstract company collects the evidence and for such collection is entitled to its fee. If it makes a mistake or oversight as in this case, it must respond to the injured party."

It is also interesting to note that in this case the Tennessee court held that since the abstractor knew that the abstract had been procured for the purpose of putting it into the hands of the prospective purchaser and acted as agent in the drawing of the deeds in the sale, there was sufficient "privity of contract" for the purchaser to maintain the action and recover for the abstractor's negligence.

Guar. etc. Co. 132 App. Div. 859; Byrnes v. Palmer, 18 App. Div. 1 (aff. 160 N. Y. 699, 55 NE 1983); Sackett v. Rose 55 Okla. 398; Walker v. Bowman 27 Okla. 172 (rev. on reh 105 P. 639); Watson v. Muirhead 57 Pa. 161; Bodine v. Waynes T. etc. Co. 33 Pa. Super. 68; Stephenson v. Cone, 24 S. D. 460; Equitable Bldg. etc. Assn. v. Bank of Commerce, etc. Co. 118 Tenn. 678; Dickie v. Nashville Abst. Co. 89 Tenn. 431; Bank v. Gough (Tex. Civ. Ap.) 197 SW 1119; Puckett v. Waco Abst. etc. Co. 16 Tex. Civ. Ap. 329; Murphy v. Fidelity Abst. & T. Co. 114 Wash. 77; Bremer-ton Dev. Co. v. Title T. Co. 67 Wash. 268.

<sup>5</sup>Equitable Building & Loan Assn. v. Bank of Commerce and T. Co. 118 Tenn. 678; 102 S. W. 301; 12 L. R. A. (N. S.) 4449; 12 Ann. Cases 407.

<sup>6</sup>Dickie v. Nashville Abstract Company 89 Tenn. 431; 14 S. W. 896.

The rule of liability governing such lack of skill is stated in a case<sup>7</sup> decided by the Supreme Court of the United States in 1879.

An attorney in Washington, D. C., had attempted to make a research of the records and advise his client as to the condition of the title to certain real estate, prerequisite to his client obtaining a loan on the property. The attorney's opinion stated that the owner had a good title and the loan company relied upon the opinion and made a loan of \$3,500. It developed a prior conveyance had been made which was not discovered. No recovery was permitted as against the attorney on the ground that there was no contractual relation between the loan company and



V. E. PHILLIPS,  
Member of the Law Firm of Proctor & Phillips and Instructor in Real Property Law, Kansas City School of Law.

the examiner, but the court announced the rule of law as follows:

"Attorneys employed by the purchasers of real property to investigate the title of the grantor prior to the purchase impliedly contract to exercise reasonable care and skill in the performance of the undertaking, and if they are negligent or fail to exercise such reasonable care and skill in the discharge of the stipulated services, they are responsible to their employers for the loss occasioned by such neglect or want of care."

This is the only case in which the Supreme Court of the United States has passed upon such undertaking, and of course the rule applies to abstractors and others engaged in furnishing title information.

<sup>7</sup>Savings Bank v. Ward 100 U. S. 195.

It frequently becomes difficult in a given case to determine what constitutes negligence, and what constitutes a breach of the customer's rights so as to give rise to an action against an abstractor on account of lack of skill. There are instances in which the abstractor makes his memoranda and prepares his books from records in the office of a county official and then later the official discovers an error and makes a correction or rewrites the record without notice to the abstractor. The public records in many counties are so poorly kept the most experienced abstractor is baffled in finding the necessary title information. The adjudicated cases disclose a large number of law suits which may be traced to such defective records.

The errors or omissions for which abstractors have been held liable fall in three classes. The first is the failure to note tax liens, special assessments or benefits, mechanic's liens, attachments, lis pendens and judgments. In this class the abstractor must rely in the main on the work of county officials and their deputies and upon his ability to understand their methods. It is not, therefore, unusual to find that the decisions abound in cases of this kind.

The second class is the failure to note existing mortgages and deeds of trust.

The third class is the failure to set out conditional conveyances, undivided interests, or full extracts from wills. In this third class diligent search of the records is required for the reason that the conditions or qualifying clauses in conveyances or wills often appear in some obscure part of the instrument.

In the first class, the abstractor's negligence is often brought about by the incompetency and poor methods of public officials. But in the second and third classes the negligence is ordinarily attributable solely to the abstractor.

A source of annoyance both to customer and abstractor is that of judgments against persons bearing similar names. The courts of North Dakota and South Dakota have assisted in determining what is negligence in searches for judgments. In the North Dakota case<sup>8</sup> the abstractor was held not liable for failure to show a judgment against William J. Rideout on a search for William G. Rideout. However, in the South Dakota case<sup>9</sup> it was held to be negligence to omit a judgment against E. J. Borstad on a search for Edward J. Borstad.

A more difficult question arises in connection with matters *dehors* the record. On account of the confidential relationship between the abstractor and his customer, the abstractor must reveal such outside information to his customer upon its coming to his attention irrespective of the record information. In a Missouri case<sup>10</sup> an at-

<sup>8</sup>Turk v. Benson 30 N. Dak. 200; 152 N. W. 354.

<sup>9</sup>Stephenson v. Cone 24 S. Dak. 460; 124 N. W. 439; 26 L. R. A. (N. S.) 1207.

<sup>10</sup>Keuthan v. St. Louis Tr. Co. 101 Mo. App. 1; 73 S. W. 334.

tempt was made to hold an abstractor company liable for failure to show facts recited in a deposition on file in a tax suit, indicating the death of a certain defendant and the failure in the suit to secure service on his heirs. The court held a failure on the part of the abstractor to read the deposition on file in the case was not negligence and commented on the obligation of the title examiner in the following language:

"Where a conveyance of real property results from legal proceedings and the official deed is only prima facie evidence of the recitals therein, as in a tax deed in this State, an examiner of title should do one of two things; he should either by marginal notes on his abstract call attention to the fact that the deed is but prima facie evidence of title, or he should examine the court proceedings and ascertain for himself whether or not the court rendering the judgment had jurisdiction of the subject-matter and also had acquired jurisdiction of the person of the defendant, and that the parties to the suit and to the title are identical. Warvelle on Abstracts, p. 619. Such an examination would ordinarily be sufficient, if the record showed jurisdiction in the court to render the particular judgment and the parties to the judgment and the title claimed under it to be identical in name and description, and it would not be negligent in the examiner to fail to make inquiry *dehors* the records to ascertain if there might not be some possible defect in the proceedings, or error in the name or description of the parties."

It will be seen that each case presents a question in itself, but the abstractor must realize that on account of his special undertaking and the skill required together with the absolute reliance by the customer on his work, there is a tendency on the part of the courts and of juries to hold him liable whenever possible.

#### Measure of Damages.

Courts hold that the damages recoverable against an abstractor on account of his negligence in making a true transcript of the records and setting out the facts affecting the title are those which are a direct result of his negligence or breach of duty.<sup>11</sup>

It is also held that the plaintiff must have relied upon the recitations contained in the abstract. Thus, where a purchaser entered into a contract for the conveyance of real estate free and clear of encumbrance and paid the purchase price before the abstract was presented to the abstractor, it is held that no recovery can be had against the abstractor for his omission of an encumbrance for the reason that the

<sup>11</sup>Chase v. Heaney 70 Ill. 268; Beckovsky v. Abst. Co. 208 Mich. 224; Keuthan v. St. Louis T. Co. 101 Mo. Ap. 1; Crook v. Childers 99 Neb. 684; Morin v. Divide Co. Abst. Co. 48 N. D. 214; Brynes v. Palmer 18 N. Y. Ap. Div. 1; Kimball v. Connolly 33 How. Pr. 247; Morange v. Mix 44 N. Y. 315; Sackett v. Rose 55 Okla. 398; Abst. Co. v. Harris 48 Okla. 577; Manville v. Abst. Co. 65 Okla. 12; DeVilliers v. Pioneer Abst. Co. 92 Okla. 80; Land Co. v. Rutland, Tex., 185 SW 1064.

purchaser paid over his money relying upon the representations of the seller that he had an unencumbered title. It is said that where an encumbrance is overlooked, the measure of damages is ordinarily the cost of paying off or removing the encumbrance and is not measured by the equity in the property which the plaintiff may have lost on account of foreclosure. The rule is stated in Devlin on "Deeds," Volume 3, page 2799, as follows:

"Before a party can recover damages for any loss sustained by a faulty abstract, he must show that he relied upon the abstract \* \* \* A recovery in damages cannot be had unless it can

*One learns from this article and a study of the cases and decisions on liability of abstractors that the following points are emphasized:*

1. *The rising value of real estate and the increasing number of transactions have added to the importance of the abstractor and his work, and consequently his duty and liability have increased.*

2. *Early cases show an inclination to let him evade and escape legal liability on a defense of technicalities but the courts are showing an inclination now of recognizing the moral liability too and more closely defining the real responsibility and dependence placed in his work.*

3. *The relation between the abstractor and his client is one of confidence and high trust.*

4. *That the work of the abstractor is unquestionably one calling for high skill and knowledge.*

5. *The Common Law Rule of privity of contract has been abrogated in some states by statute and in others by decisions recognizing rights of a third party sustaining a loss.*

be shown that actual injury has resulted to the person who relied and who had a right to rely on the abstract."

The mere fact that an error in the abstract exists is not sufficient, but it must be shown in addition to this fact that actual loss resulted from it. In an action which was brought to recover damages for failure to show liens existing on property, the plaintiff to whom the abstract was furnished had sold the property by warranty deed and sued on the theory that he would be liable on his warranty for the damages sustained by the purchaser. The Court held that the plaintiff had not yet suffered any actual damage and the mere apprehension

that he might at some time be compelled to indemnify his grantee did not give him a cause for action against the abstractor.<sup>12</sup>

#### Duty of Customer to Mitigate Damages.

It is a general rule of law that one injured or about to be injured on account of some breach of contract is obligated to use his best endeavors to mitigate the damages.<sup>13</sup>

This rule was applied in an Oklahoma case<sup>14</sup> in which the defendant furnished an incorrect abstract to certain property in Oklahoma City on which property plaintiff loaned money. An existing judgment which was a lien upon the property was omitted from the abstract. Later plaintiff purchased the property but permitted it to be sold under the judgment lien and completely lost. In the lower court, plaintiff recovered and the measure of damages was held to be the full value of the property. The appellate court remanded the case with directions to enter a decree only for the amount of the omitted judgment. The opinion written in the case contains a statement of the fundamental law applicable:

"It is the duty of the party injured by a breach of contract or tort to make reasonable effort to avoid damages therefrom. Such damages as might by reasonable diligence on his part have been avoided are not to be regarded as the natural and probable result of the defendant's acts. There can be no recovery therefor for damages which have been prevented by reasonable effort on the part of the person injured."

In another case<sup>15</sup> it was held that a person likely to be injured by an error or omission of an abstractor should report the fact to the abstractor in order that the abstractor might make such effort as he desired to prevent any loss.

#### Privity of Contract.

The Common Law rule is that the abstractor's responsibility runs only to the party contracting with him and this is the rule generally followed by the courts of the United States unless it has been changed by statute.

The courts have decided in a majority of cases involving this inquiry that the abstractor was not liable to a third party—as a purchaser in a case in which the seller ordered the abstract, or a mortgagee who relied upon the abstract in extending credit.<sup>16</sup> There

<sup>12</sup>Walker v. Bowman 27 Okla. 172; 111 Pacific, 319.

<sup>13</sup>Sackett v. Rose, 55 Okla. 398; Roberts v. Leon Loan Co. 63 Iowa 76; Von Schaick v. Sigel, 60 How. Pr. (N. Y.) 122.

<sup>14</sup>Sackett v. Rose 55 Okla. 398; 154 Pac. 1177; L. R. A. 1916D 820.

<sup>15</sup>Von Schaick v. Sigel 60 How. Pr. 122.

<sup>16</sup>National Sav. Bk. v. Ward 100 U. S. 195, 25 L. ed. 621; Dundee Mortg. etc. Co. v. Hughes 20 Fed. 39; Talpey v. Wright 61 Ark. 275, 32 SW 1072, 54 AmSR 206 and note; Mechanics' Bldg. Assoc. v. Whitacre, 92 Ind. 547; Allen v. Hopkins, 62 Kans. 175, 61 P. 750; Mallory v. Ferguson 50 Kan. 685, 32 P. 410, 22 LRA 99 and note; Symms v. Cutter, 9 Kans. A. 210, 59 P. 671; Beckovsky v. Abst. Co. 208 Mich. 224; Kenyon v. Charlevoix Imp. Co. 135 Mich. 103, 97 NW 407; Schade v. Gehner, 133 Mo. 252, 34 SW 576; Clark v. Marshall, 34 Mo. 429; Zweigardt v. Birdseye,

are some decisions to the contrary.<sup>17</sup> However, where the state statute expressly provides that the abstractor shall be liable for his negligence to any person relying upon his certificate and a bond is so conditioned, then it is said that the conditions of the bond are read into the original contract and the third party can sue on such contract as a beneficiary.

This rule of privity of contract seems arbitrary, subversive of business ethics and contrary to reason. Owners seldom expend money for abstracts unless it is for the purpose of conveying that information to someone else. It would seem that the courts would take judicial notice of such a common fact. This harsh rule is upheld on the ground that no duty is ever created between individuals other than by an express or implied contract, except in the case of extrahazardous instrumentalities and in the case of malicious conduct. It is argued that any other rule would open a field of speculation with attendant evils of asserted claims growing out of imagined relations, the evil of which would be greater than the occasional denial of a recovery on the ground of no "privity of contract."

It is a settled rule of modern real estate business that the seller shall furnish to the buyer within ten days or other specified time "a complete abstract of title to said property from the United States Government to this date with certificates by competent abstractors as to taxes, judgments and liens affecting the property." Every abstractor knows that his abstract will be inspected by some purchaser, mortgagee or other person extending credit on the faith of it. The Ohio Supreme court has held, however, that no established custom can have the effect of changing the fundamental law of the land in this respect.<sup>18</sup>

There is a twilight zone in which it is difficult to say when fundamental legal principles should give way in order to effectuate desired adjustment in business relations. The philosophy of the law, undoubtedly would dictate giving of relief to an innocent purchaser who lost his farm on account of an abstractor's error in failing to show pending liens or an unreleased mortgage, irrespective of privity of

contract. But under the common law rule and the rule adopted by the majority of our American courts, he has no remedy. As above stated, this evil has been met by statute in some of the states.<sup>19</sup>

It is thought that if the abstractor's certificate would recite that the search was made for the benefit of the owner as well as for the benefit of all purchasers, mortgagees and other persons relying thereon, then in case of damage arising from negligent omissions or statements contained in the abstract, such third parties might recover on the certificate under the well-established principle of a contract made for the benefit of third persons.<sup>20</sup> There are, however, some limitations applied by the courts under this doctrine which might prevent relief, and the principle limitation is that the beneficiary must be specifically designated.<sup>21</sup> Another limitation is that there must be some obligation flowing from the promisor to the beneficiary. The better view adopted by the courts under these limitations is that if the beneficiary is designated as one of a class and he adopts the contract as being for his benefit and acts relying upon it, he can recover. An illustration of this principle of law is shown in a case where an agreement between an owner and a lessee provides that the owner deposit money for the express purpose of paying material bills to persons making alterations of the premises. The material men infrequently are not ascertained at the time the contract is entered into and in many instances it is not determined the quantity or character of material needed in the construction work. In such cases, however, the courts hold that if the contractor or materialman adopts the contract between the owner and the lessee and undertakes performance relying upon the deposit, a recovery can be had, under the doctrine of a contract made for the benefit of a third party.<sup>22</sup>

#### Statute of Limitations.

The general rule is that an action against an abstractor for incorrect statements or omissions is an action in contract and not one in tort. Consequently, the statutes of limitations governing contract actions apply. The length of such statutes, of course, varies in the different states. The ordinary range of time for the barring of contract actions under such limitation statutes is three to five years.

It becomes important to ascertain when the statute begins to run in an action against an abstractor. Many actions are barred if the statute runs from the time of the transactions or as

might be said from the time of the employment or entering into of the contract, but such actions would not be barred if the statute begins to run from the time the error or mistake is discovered.

It is ordinarily held that the statute begins to run from the time of the furnishing of the abstract.<sup>23</sup>

The rule is well stated in a recent Oklahoma case<sup>24</sup> as follows:

"A cause of action against an abstractor of titles for giving a wrong certificate of title accrues at date of the delivery and not at the time the negligence is discovered or consequential damages arise."

There are, however, cases holding to the contrary.<sup>25</sup> In the cases holding to the contrary, the rule is predicated either on the statute of that state or on the theory that a fraud has been committed. In nearly every state it is provided that the statute of limitations does not begin to run in cases of fraud until the fraud is discovered. In

*Losses seem to be sustained from a few sources. The greatest number are from overlooking unpaid taxes, suits pending, judgments, etc.*

*Next comes the missing of existing mortgages and deeds of trust.*

*The third common source of mistakes is in overlooking covenants, restrictions, conveying of fractional interests, interpretations of wills, etc.*

*All of these are the result of carelessness or oversight but which prove that you cannot be too careful, and emphasizes the fact that wills should always be copied in full and no abstractor endeavor to interpret or brief them.*

the state of Idaho, the statute touching upon this point reads "that the cause of action in such case does not accrue until the discovery by the aggrieved party of facts constituting the fraud or mistake." In view of this provision it has been held in an Idaho case<sup>26</sup> that the statute begins to run from the time of the discovery of the "mistake." This, of course, enlarges upon the ordinary statute which includes only fraud.

In the most recent case<sup>27</sup> reported

<sup>17</sup>Russel v. Polk Co. Abst. Co. 87 Ia. 233; Lattin v. Gillette 95 Calif. 317; Owen v. West Sav. Fund 97 Pa. St. 47; Provident L. T. Co. v. Wolcott 5 Kans. Ap. 473; Schade Gehner 133 Mo. 252; Rankin v. Schaeffer 4 Mo. Ap. 108; Walker v. Bowman Okla. 172; Arnold v. Barner, 91 Kan. 768.

<sup>18</sup>Garland v. Zebold 98 Okla. 6; 223 Pac. 682.

<sup>19</sup>Hillock v. Idaho T. & T. Co.; C. R. I. & G. Ry. v. Duncan (Tex. Civ App) 273 SW 908.

<sup>20</sup>Hillock v. Idaho Title & Tr. Co. 22 Idaho 440; 126 Pac. 612; 42 L. R. A. (N. S.) 178.

<sup>21</sup>Chicago Rock Island & Gulf R. R. v. Duncan (Tex. Civ. App) 273 S. W. 908; 1 Corpus Juris 370.

<sup>19</sup>Arnold v. Barner 91 Ks. 768; Crook v. Chilvers 98 Neb. 684; Sackett v. Rose 55 Okla. 398; Merrill v. Fremont Abst. Co. 39 Ida. 238; Gregory v. Harper 51 Okla. 419.

<sup>20</sup>R. C. L. 882; 13 C. J. 703 et. seq.; Page on Contracts Vol 3 page 4191 et. seq.; Williston on Contracts Vol. 1, page 674 et. seq.; Contracts for Benefit of Third Persons by James Lewis Parks, Univ. of Missouri Bar Bulletin, Law Series 33, Nov. 20, 1925.

<sup>21</sup>Page on Contracts Vol. 3, page 4215.

<sup>22</sup>Beattie Manufacturing Co. v. Clark 208 Mo. 89; 106 S. W. 29; 14 L. R. A. (N. S.) 822.

57 Mo. A. 462; Security Abst. of T. Co. v. Longacre, 56 Nebr. 469, 76 NW 1073; Gallegos v. Ortiz 28 N. Mex. 598; Glawatz v. People's Guar. Search Co. 49 App. Div. 465, 63 NYS 691; Lockwood v. New York T. Ins. Co. 73 Misc. 296, 130 NYS 824; Thomas v. Guarantee T. etc. Co. 81 Oh. St. 432, 91 NE 183, 26 LRANS 1210 and note; Houseman v. Girard Bldg. Assoc. 81 Pa. St. 262; Peabody Bldg. & L. Assoc. v. Houseman 89 Pa. St. 261; Equitable Bldg. etc. Assoc. v. Bank of Commerce, etc. Co. 118 Tenn. 678, 102 SW 901 SW, 901, 12 LRANS 449 and note, 12 AnnCas 407 and note; Bremerton Dev. Co. v. T. T. Co. 67 Wash. 268, 271, 121 P. 69.

<sup>17</sup>Young v. Lohr, 118 Ia. 624; Brown v. Sims, 22 Ind. Ap. 317; Loan Co. v. Abst. Co. 31 Mont. 448; B & L. Assn. v. Title Co. 64 N. J. L. 27; Appleby v. State 45 N. J. L. 161; Dickie v. Abst. Co. 89 Tenn. 431; Denton v. Title Co. 112 Tenn. 320; Houseman v. B. & L. Assn. 89 P. St. 261; Chase v. Heaney 70 Ill. 268; Lattin v. Gillette 95 Calif. 319; Anderson v. Spriestersbach 69 Wash. 393.

<sup>18</sup>Thomas v. Guarantee Title and T. Co. 81 Ohio St. 432; 91 N. E. 183; 26 L. R. A. (N. S.) 1210; 2 N. C. C. A. 80.

in the law books on abstractor's liability, the Court of Civil Appeal of Texas announces an anomalous rule in connection with the time the statute begins to run and enlarges upon the term "fraud" as it is usually understood in connection with such statutes.

The action was brought by plaintiff railroad company against the executrix of the estate of a deceased abstractor alleging omission of deed dated in 1883 conveying the property to grantor's children reserving a life estate in the grantor. It was alleged that damages had been sustained in the sum of \$12,000, representing the amount paid to the children for their estate. The abstract was prepared by the defendant's decedent in August, 1902 and the omission was discovered by the plaintiff in February, 1916. Defendant executrix set up the two-year statute of limitations and the four-year statute of limitations provided by the Texas law. In the trial court, the case was dismissed on the ground that the statute of limitations was a bar. On appeal the case was reversed. The court first departed from the usual rule applied in such cases that the action is on the contract<sup>28</sup> in event of an abstractor's error or omission and held plaintiff could elect to bring its action in tort thereby waiving the contract. Under the evidence in the case it was admitted that the decedent acted in the best of faith in preparing the abstract and the omission was entirely accidental, yet the court reaches the naive conclusion that decedent's acts worked a *legal fraud* on plaintiff railway company and was *equally actionable as if it had been maliciously done*. The court further said plaintiff was induced to purchase the property through the "concealment of the fraud alleged \* \* \* that is, the fraud in its concealed or hidden state." Presumably, this is a reference to the abstractor's certificate which recited that the abstract contained all of the documents affecting the title.

By the steps above referred to, the conclusion was reached that the rule "limitations will not run in cases of fraud until the fraud is discovered" should be applied and the lower court in view of such ruling was instructed to try the case even though the certificate was dated fourteen years before the omission was discovered. We believe the reasoning in this case is not paralleled in any case touching upon the subject of abstractor's liability.

#### Conclusion.

In conclusion, we submit that an analysis of all of the cases decided by the courts of the United States show the following rules, which may be relied upon, subject, however, to the limitations of each state so far as they may be affected by procedure and precedent existing in that state:

1. The furnishing of an abstract from the very nature of the work is an undertaking of skill requiring competence and careful scrutiny of the records.

2. The relation existing between the abstractor and his customer is such a confidential one that the abstractor is held to a high degree of trust.

3. The duty is imposed upon the abstractor in the performance of his undertaking to exercise care and skill and in case of his failure to do so, he will be held liable for his errors.

4. In case of such failure on the part of the abstractor to exercise care and skill, his liability is only for damages actually sustained as a direct consequence of his negligence.

5. The customer owes a duty to the abstractor to notify the abstractor promptly of any errors on his part and the customer owes the further duty to mitigate the damages in every reasonable way.

6. The Common Law rule adopted by a majority of the courts is that there must be privity of contract between the damaged party and his defendant.

7. The Common Law rule of privity of contract has been abrogated by statute in some of the states and in other states the courts have by judicial decision abrogated the rule where the evidence shows that the abstractor knew a designated third party who has been damaged was relying thereon.

8. Actions for the recovery of damages on account of the abstractor's negligence must be brought within the statutory limitation period dating from the making of the contract and furnishing the abstract and not from the discovery of error unless this point is controlled in the particular state by statute or precedent.

It is thought that careful study of the decisions of our courts over a period of many years will show a tendency in recent years to make the abstractor liable in clear cases, notwithstanding any arbitrary rules of law whenever it is possible to justify the decision on any reasonable ground. There are, however, some additional rules which the writer predicts will eventually become well settled in the law governing the liability of abstractors. These may be stated as follows:

1. If the abstractor's certificate recites that the search is for the benefit of the owner, purchaser, mortgagee of other person relying thereon, the courts will hold, in the states which have not remedied the situation by statutory provisions, that the damaged party who has relied upon the certificate may have relief under the doctrine of a contract made for the benefit of third persons.

2. The courts will take judicial notice of the custom which has become universal in the United States in connection with real estate transactions that the abstract is prepared for some third person and not solely for the owner and will decide that the abstractor's undertaking is for the benefit of a purchaser, mortgagee or other person extending credit upon the faith of his recitals, and a primary obligation

from the very nature of the work will be held to be created between the abstractor and such third person.

When these two rules have been clearly established by the courts, it is believed that the business of furnishing abstracts will conform more nearly to the business ethics for which abstractors generally, and particularly those who are members of The American Title Association, are striving and seeking to secure for their profession. It is also thought that the law will then more nearly effectuate a philosophy of uplift and justice in the relations between owners of real property, mortgages, and abstractors than afforded by our present jurisprudence.

#### Court Decisions.

Classified by states and with comment or omission.

#### UNITED STATES:

Dundee Mortg. & Trust Co. v. Hughes, 20 Fed. 39.  
Page v. Trutch, Fed. Cases No. 10,608.  
National Sav. Bank v. Ward, 100 U. S. 195; 25 L. Ed. 621.

#### ARKANSAS:

Talpey v. Wright, 61 Ark. 275; 32 S. W. 1072.

#### CALIFORNIA:

Lattin v. Gillette, 95 Calif. 317; 30 Pac. 545.  
(failed to show one half of land vested in others.)  
Hopkins v. Abstract Co. 36 Calif. App. 699; 173 Pac. 106.  
Brown v. Title Ins. & T. Co., Calif. App. 65; 196 Pac. 114.

#### IDAHO:

Hillock v. Idaho Title & Trust Co., 22 Ida. 440; 126 Pac. 612; 42 LRA NS 178. (tax deed omitted.)  
Merrill v. Fremont Abstract Co. 39 Idaho 238; 237 Pac. 34. (mortgage omitted; Idaho statute interpreted.)

#### ILLINOIS:

Chase v. Heaney, 7 Ill. 268. (judgment omitted.)  
Vollette v. Tedens, 122 Ill. 607; 14 N. E. 52. (good faith required.)

#### INDIANA:

Williams v. Handy, 16 Ind. App. 464; 45 N. E. 622.  
Brown v. Sims, 22 Ind. App. 317; 53 N. E. 779.  
(lis pendens omitted)  
Batty v. Fout, 54 Ind. 482 (mortgage omitted)  
Mechanics Bldg. Assn. v. Whitacre, 92 Ind. 547  
(mortgage shown as released)  
Ohmart v. Citiz. Sav. & Trust Co. (Ind. App.)  
145 N. E. 577 (omitted judgment. No liability to purchaser)

#### IOWA:

Roberts v. Leon Loan & Abst. Co. 63 Iowa 76; 18 N. W. 702. (liability for error but duty to mitigate damages)  
Thomas v. Schee, 80 Iowa 237. (suit affecting title)  
Russell v. Polk Co. Abstract Co. 87 Iowa 233; 54 N. W. 212.  
Young v. Lohr, 118 Iowa 624; 92 N. W. 684. (sheriff's deed)

#### KANSAS:

Provident Loan & Trust Co. v. Walcott, 5 Kans. App. 473; 47 Pac. 8.  
Symms v. Cutter, 9 Kans. App. 210; 59 Pac. 671. (judgment)  
Mallory v. Ferguson, 50 Kansas 685; 32 Pac. 410; 22 LRA 99. (suit affecting title)  
Allen v. Hopkins, 62 Kans. 175; 61 Pac. 750. (mortgage)  
Arnold v. Barner, 91 Kans. 768, 139 Pac. 404; Ann. Cases 1915 D 446; 6 N. C. C. A. 965. (mortgage omitted; statute since 1903 includes third persons)

#### KENTUCKY:

Humboldt Bld. Assn. Co. v. Ducker, 26 Ky. Law 931; 82 S. W. 969.

#### LOUISIANA:

Marano v. Shaw, 23 La. Ann. 379. (no privity)  
Fox v. Thibault, 33 La. Ann. 32. (mortgage)

#### MASSACHUSETTS:

Dorr v. Insurance Co. 238 Mass. 490 131 N. E. 191 (easement)

#### MICHIGAN:

Smith v. Holmes, 54 Mich. 104; 19 N. W. 767.  
Kenyon v. Charlevoix Imp. Co. 135 Mich. 103; 97 N. W. 407.  
Beckovsky v. Burton Abstract & Title Co. 208 Mich. 224; 175 N. W. 235. (incumbrance)

#### MINNESOTA:

Banker v. Caldwell, 3 Minn. 94  
Wakefield v. Chosen, 26 Minn. 379. (judgment)  
Wacek v. Frink, 51 Minn. 282; 53 N. W. 633  
(showing partial release as full release)

#### MISSOURI:

Wood v. Roland, 10 Mo. 143  
Gilman v. Hovey, 26 Mo. 280 (judgment)  
Schade v. Gehner, 133 Mo. 252; 34 S. W. 576.  
Clark v. Marshall, 34 Mo. 429 (incorrect description)  
Marston v. Catterlin, 239 Mo. 390 (deed of trust)  
Dodd v. Williams, 3 Mo. App. 278.  
Roberts v. Sterling, 4 Mo. App. 593 (must rely on certif)  
Rankin v. Schaeffer, 4 Mo. App. 108 (pending suit)  
Trimble v. Stewart, 35 Mo. App. 357. (taxes)  
Zweigardt v. Birdseye, 57 Mo. App. 462 (judgment)  
Keuthan v. St. Louis Trust Co. 101 Mo. App. 1;  
73 S. W. 334. (not required to read deposition)  
Renkert v. Title Guaranty Trust Co. 102 Mo. App. 267; 76 S. W. 641.

#### MONTANA:

Western Loan & Savings Co. v. Silver Bow Abstract Co. 31 Mont. 448; 78 Pac. 774. (judgment)



## NEBRASKA:

Thomas v. Carson, 46 Nebr. 765; 65 N. W. 809.  
Gate City Abstract Co. v. Post, 55 Nebr. 742; 76 N. W. 471 (judgment); statute is for benefit of purchaser.)  
Security Abst. Title Co. v. Longacre, 56 Nebr. 469; 76 N. W. 1073.  
Crook v. Chilvers, 99 Nebr. 685; 157 N. W. 617; Ann. Cases 1918 E, 90; 13 N. C. C. A. 431.  
Marcell v. Midland Title Guar. & Abst. Co. 112 Nebr. 420; 199 N. W. 731. (attachment lien)

## NEVADA:

Hershiser v. Ward, 29 Nev. 228; 87 Pac. 171. (mortgage).

## NORTH DAKOTA:

Turk v. Benson, 30 N. D. 200; 152 N. W. 354 (no liability to show judgment Wm. J. Rideout on search William G. Rideout)  
Morin v. Divide County Abst. Co. 48 N. D. 214; 183 N. W. 1006.

## NEW MEXICO:

Gallegos v. Ortiz, 28 N. Mex. 598; 216 Pac. 502.

## NEW JERSEY:

Appleby v. State, 45 N. J. L. 161.  
Economy Bldg. & Loan Assn. v. West Jersey Title Guarantee Co. 64 N. J. L. 27; 44 Atl. 854 (certificate guaranteed second loan to be first)

## NEW YORK:

Day v. Reynolds, 23 Hun. 131.  
Morange v. Mix, 44 N. Y. 315 (special assessments)  
Kimball v. Connelly, 33 How. Pr. 247 (judgment)  
Von Schaick v. Sigel, 58 How. Pr. 211  
Von Schaick v. Sigel, 60 How. Pr. 122 (mortgage)  
Brynes v. Palmer, 18 App. Div. 45 N. Y. S. 479; aff. 160 N. Y. 699; 55 N. E. 1093. (judgment)  
Glawatz v. Peoples Guaranty & Search Co. 49 App. Div. 465; 63 N. Y. S. 691 (mortgage stated \$3000 when \$2300)  
Palliser v. Title Insurance Co. 61 Misc. Rep. 490; 115 N. Y. S. 545.

## MORTGAGE BANKERS ASSOCIATION CONVENTION TO BE HELD IN RICHMOND, VIRGINIA, SEPTEMBER 21, 22 AND 23.

### Many Members of Title Association are Members of this Organization and Interested in Its Work.

A remarkably interesting program has been prepared for the convention of the Mortgage Bankers of America which will be held as above stated. A very interesting and strong program has been prepared. A feature this year will be the advertising exhibit showing advertising of the members.

The program includes an address by Congressman W. R. Green, chairman of the Ways and Means Committee of the House, who will talk on finance and taxation.

L. J. Esty, president of the Ohio Mortgage Association, will present and explain a new class of investment security, Land Trust Certificates.

Geo. W. Barber of the United States Department of Agriculture will tell of the new crop pest, the European Corn Borer, and how to exterminate it.

Guy W. Cox, General Counsel of the John Hancock Mutual Life Insurance Co., of Boston, will talk on points and matters of interest to lenders of money on real estate security.

Fred R. Marvin, editor of the New York Commercial, will expose and discuss on the many schemes now being proposed by socialists and idealists who want the business of the country nationalized.

E. W. McCullough of the Department of Commerce of the United States will present a valuable subject in "Starting a Cost Accounting System."

Other subjects and speakers on the program are:

"Some Aspects of the First Mortgage Business." Byron V. Kanaley, Cooper, Kanaley & Co., Chicago, Ill.

"Our Duty to Our Association and

Glyn v. Title Guarantee & T. Co. 132 App. Div. 859; 117 N. Y. S. 424.  
Lockwood v. Title Insurance Co. 73 Misc. Rep. 296; 130 N. Y. S. 824. (condemnation award incurredly shown)  
Kenserson v. Guarantee Co. 100 Misc. Rep. 723; 166 N. Y. S. 369  
Empire Develop. Co. v. Title Guarantee & T. Co. 171 App. Div. 116; 157 N. Y. S. 68 (title insurance held indemnity)

## OHIO:

Thomas v. Guarantee Title & Trust Co. 81 Ohio St. 432; 91 N. E. 183; 26 L. R. A. (N. S.) 1210; 2 N. C. C. A. 80. (showing fee instead of life interest)

## OKLAHOMA:

Walker v. Bowman, 27 Okla. 172; 111 Pac. 319; 30 L. R. A. (N. S.) 642; Ann. Cases 1912 B 839 (attachment)  
Washington Co. Abst. Co. v. Harris, 48 Okla. 577; 149 Pac. 1075.  
Sackett v. Rose, 55 Okla. 398; 154 Pac. 1177; L. R. A. 1916 D 820. (judgment)  
Scott v. Jordan, 55 Okla. 708; 155 Pac. 498 (pending suit)  
Gregory v. Harper, 51 Okla. 419; 152 Pac. 7 (taxes)  
Manville v. Abstract Co. 65 Okla. 12; 162 Pac. 682. (voluntary payment of void mortgage does not create cause of action)  
DeVilliers v. Pioneer Abst. Co. 92 Okla. 80; 218 Pac. 310 (lease)  
Leeper v. Patton, 91 Okla. 12; 215 Pac. 421. (taxes)  
Garland v. Zebold, 98 Okla. 6; 223 Pac. 682. (judgment)

## PENNSYLVANIA:

McCarahan v. Commonwealth, 5 Watts & Searg. 21. (mortgage)  
Zeigler v. Commonwealth, 12 Pa. St. 227.  
Boyer v. Wayne Title Co. 33 Pa. Sup. 68. (covenant to maintain fence)  
Watson v. Muirhead, 57 Pa. 161. (lien)  
Houseman v. Girard Bldg. Assn. 81 Pa. St. 256.

(mortgage)  
Slevers v. Commonwealth, 87 Pa. 15. (judgment).  
Peabody Bldg. & Loan Assn. v. Houseman, 89 Pa. St. 261 (mortgage)  
Philadelphia v. Anderson, 142 Pa. St. 357. (taxes)

## SOUTH DAKOTA:

Goldberg v. Sisseton Loan & Title Co. 24 S. D. 49; 123 N. W. 266. (lis pendens)  
Stephenson v. Cone, 24 S. D. 460; 124 N. W. 439; 26 L. R. A. (N. S.) 1207. (judg Ed. J. Borstad not shown on search for Edward J. Borstad.)

## TENNESSEE:

American Trust Co. v. Nash Abst. Co. (Tenn. Ch. App.) 39 S. W. 877.  
Dickla v. Nashville Abstract Co. 89 Tenn. 431; 14 S. W. 896.  
Denton v. Nashville Title Co. 112 Tenn. 320 79 S. W. 99.  
Equitable Bldg. & Loan Co. v. Bank of Commerce & T. Co. 118 Tenn. 678; 102 S. W. 901; 12 L. R. A. (N. S.) 449; 12 Ann. Cases 407. (fee instead of life estate)

## TEXAS:

Puckett v. Waco Abst. Co. 16 Tex. Civ. App. 329; 42 S. W. 812 (97 acres conveyed away)  
Decatur Land Loan & Abst. Co. v. Rutland, (Tex. Civ. App.) 185 S. W. 1094. (mortgage)  
Garland Nat. Bank v. Gaugh, (Tex. Civ. App.) 197 S. W. 1119.  
Chicago Rock Island & Gulf Railway v. Duncan, (Tex. Civ. App.) 273 S. W. 908. (fee shown when only life estate)

## WASHINGTON:

Bremerton Develop. Co. v. Title Trust Co. 67 Wash. 268; 121 Pac. 69. (Improvement assessment)  
Douglas v. Title & Trust Co. 80 Wash. 71; 141 Pac. 177. (condemnation proceeding)  
Anderson v. Spriestersbach, 69 Wash. 393; 125 Pac. 166; 42 L. R. A. (N. S.) 176. (liability to party relying on abstract)  
Murphy v. Fidelity Abst. & Title Co. 114 Wash. 77; 194 Pac. 591. (tax lien; undisclosed principal may sue)

the Investor." E. D. Schumacher, Southern Bond & Mortgage Co., Richmond, Va.

"Tips on Securing a Life Insurance Outlet for Mortgage Loans." F. O. Ketcham, Realty Trust Co., Dallas, Texas.

"Management of Farms for Non-Resident Owners." J. L. Humphrey, Great Falls, Mont. I. Sibbersen, Omaha, Nebr.

"Ethics of Mortgage Loan Competition." C. W. Bailey, Southern Trust Co., Clarksville, Tenn.

"What can be done to Improve the Condition of Agriculture." C. B. Merriam, Central Trust Co., Topeka, Kans.

"Selling Bonds by Mail." Y. W. Mann., General Sales Manager, Geo. M. Forman & Co., Chicago, Ill.

"Title Insurance." Richard B. Hall, Executive Secretary, The American Title Association, Kansas City, Mo.

"Experience with a Recording Tax." H. V. Wheeler, Wheeler, Kelly & Hagney Co., Wichita, Kans. J. Nile Godfrey, The Godfrey Investment Co., Oklahoma City, Okla. Grant Crawford, Crawford Loan & Abstract Co., Sedalia, Mo. F. J. Mulcahy, Minnesota Loan & Trust Co., Minneapolis, Minn.

"Making Appraisements for Insurance Companies." George H. Taylor, George H. Taylor Real Estate Mortgage Co., Chicago, Ill.

"Completion Bonds—Their Necessity, Form and Uses." Harold A. Moore, Secretary, American Bond & Mortgage Co., Chicago, Ill.

"Is a Fire Insurance Department Desirable for a Mortgage Company." E. H. Wrenn, Jr., Secretary, Jemison and Co., Birmingham, Ala.

"Relation of Tax Rates and Public Debt to Margin of Safety and the Effect of Special Taxes." Geo. W. Williams, Iowa Loan & Trust Co., Des Moines, Ia.

"The Most Profitable Size of the Farm Unit, as Shown by the Fairway Farms Experiment in Montana." Carl

Harris, National Life Insurance Co., of the U. S. A., Chicago, Ill.

"Guaranteeing Mortgages as to Interest and Principal." L. K. Harper, Colonial Mortgages & Investment Co., Baltimore, Md. Albert C. Dulaney, Franklin Title & Trust Co., Louisville, Ky.

"Farm Fire Prevention." E. B. Mount, E. B. Mount & Co., Minneapolis, Minn.

"The Importance of Soil Studies." F. C. Waples, Midland Mortgage Co., Cedar Rapids, Ia.

"Methods by which a layman may quickly check up Valuations and Building Costs." Gilbert Bowie, H. L. Rust Co., Washington, D. C.

"Stimulating the Market for Farms." Griff Johnson, Equitable Life Insurance Co., Des Moines, Iowa.

A reasonable time will be allowed for general discussions of the subjects presented by the speakers. Those present will be invited to express their views freely.

The formal and complete program will be issued in September giving information in detail.

### A Historic Trip.

Friday, following adjournment, will be a gala day. The citizens of Richmond will conduct an excursion to Jamestown, Williamsburg and Yorktown, three places of the greatest national historic interest.

### IT IS SAID.

"A gentleman is a man that's clean inside and out; who neither looks up to the rich nor down to the poor; who can lose without squealing and who can win without bragging; who is considerate of women, children and old people; who is too brave to lie; too generous to cheat, and who takes his share of the world and lets other people have theirs."

### OREGON TITLE ASSOCIATION HOLDS 1926 MEETING IN ASTORIA

**Walter Daly Elected President; George Peek to Atlantic City.**

The Oregon Title Association held its annual convention in Astoria on Aug. 13 and 14. G. C. Pauling, president during the past year, was host.

Walter M. Daly, president of the Title & Trust Co., of Portland, was chosen president for the coming year, and others elected were:

Roy T. Yates of The Dalles for first vice president, and George H. Crowell of Albany, second vice president. F. E. Raymond of Portland has been chosen secretary-treasurer for the coming year, succeeding G. F. Peek, of the



**WALTER M. DALY,**  
Portland,

**Elected President of the Oregon Title Association.**

Union Abstract company, Portland. Chester Fuller, of the Oregon Title Insurance company, Portland; B. F. Wylde, of the Abstract Title company, LaGrande, and W. E. Hanson, of the Union Abstract company, Salem, were elected to the executive committee.

G. F. Peek, who completed a term as secretary-treasurer, will represent the Oregon title men at the national convention this year. The big meeting will be held at Atlantic City, N. J., in September. James S. Johns of Pendleton attended the convention last year as a representative of this state organization, and gave an interesting report of the gathering, at the afternoon meeting of the convention yesterday.

Decision as to the 1927 meeting place of the organization was left in the hands of the executive committee, owing to indefinite plans for the coming year. The sessions will be held at



**F. E. RAYMOND,**  
Portland.

**Elected Secretary of the Oregon Title Association.**

one of two places. The Oregon body may meet in joint sessions with the Washington organization of title men at Victoria, B. C., during the Northwest Real Estate association convention next year. If this plan is not worked out, the convention sessions will be staged at Eugene.

One of the most interesting talks of the convention proved to be the address given by Frank Spittle, local attorney. He spoke on the preparing of abstracts and deeds in England, a subject with which he proved himself thoroughly familiar, having been trained for the English bar.

Following the invocation by Rev. E. A. Gottberg, pastor of the First Baptist church of Astoria, Mayor O. B. Setters delivered the address of welcome at the opening session of the convention. Walter M. Daly responded for the association. G. C. Pauling of this city, president of the association, presided over the meetings.

Suggesting methods by which abstract companies can increase and improve their service to the public, F. E. Raymond of Portland spoke during the morning. J. B. Bell of Eugene discussed the assessment of abstract plants in the final address of the morning session. Other morning speeches were given by Mr. Pauling, president, and Mr. Peek, secretary-treasurer, who delivered their annual reports.

One of the interesting discussions of the afternoon, "Possibilities of the Title Insurance in New York and Smaller Communities," was led by B. C. Pittman of Portland. It was generally held that the large companies in the city

should write title insurance for new communities.

The annual banquet was held Friday night and ended the formal sessions of the convention. Another day was spent however in sight-seeing and pleasure. This began with a Sea Lion Breakfast at eight o'clock Saturday morning, and at which time Worrall Wilson of Seattle spoke to the meeting.

Following the breakfast the crowd was taken on a tour of the city, the water front and to the salmon canneries. The afternoon was spent in golf and other recreation.

As a final big feature, the delegates gathered at Seaside in the evening for a picnic and social time. A sea dinner was served and a special program of stunts and entertainment given.

### WISCONSIN TITLE ASSOCIATION HAS FINE CONVENTION.

**Good Program and Exceptional Attendance.**

The Wisconsin Title Association held a most successful 1926 convention. The meeting was in Fond du Lac and attended by a representative number of the members. There is an apparent real interest in the state association among the abstractors of the state and the Wisconsin organization is firmly established and going since its re-organization two years ago. Much credit is due its secretary, John M. Kenney, who has worked hard in his activities building up the membership, interest in the organization and the exceptionally fine bulletins he has issued during the past year.



**JOHN M. KENNEY,**  
Madison,

**Re-elected Secretary of the Wisconsin Title Association and delegate to Atlantic City Convention.**

His good work was recognized by re-election and sending him to the Atlantic City Convention of the American Title Association.

Some good talks and addresses were delivered at this meeting. Among them were, "Statewide Title Insurance" by Julius E. Roehr of the Milwaukee Abstract and Title Guaranty Co., Milwaukee; "A Uniform Certificate for Abstracters" by E. F. Dithmar; "How to Get Best Service from Employees" by Col. E. M. Seaman of the Security Title Co., Milwaukee; "Abstract Prices in Wisconsin" by Emil Lenicheck of the Citizens Abstract and Title Co., Milwaukee; and "Outside Activities for Abstracters" by Will Hardy, of the Hardy-Ryan Abstract Co., Waukesha.

The Association voted to continue and enlarge its activities, to work for an increased membership, adopt a Uniform Certificate for use in the state; plan for a bigger and better state meeting next year, and to have an active and attentive legislative committee on the job.

Officers elected were: president, W. H. Hardy, Jr., Hardy-Ryan Abstract Co., Waukesha; first vice president, Fred A. Foster, Fond du Lac County Abst. Co., Fond du Lac; second vice president, Agnes E. Benoe, Ashland; third vice president, Col. E. M. Seaman, Security Title Co., Milwaukee; treasurer, W. S. Rawlinson, Forest County Abst. Co., Crandon; secretary, John M. Kenney, Dane Abstract of Title Co., Madison.

#### MONTANA TITLE ASSOCIATION MEETS IN GREAT FALLS.

##### Clause to be Put in Certificates.

The 1926 convention of this Association was held in its usual meeting place, Great Falls. This organization holds a two day session devoted almost entirely to informal discussion and the interest of those in attendance can be measured by the fact that the time is always crowded.

There were but three addresses given as a formal program. President W. B. Clarke gave a splendid talk on general matters affecting the abstract business in his president's annual address.

Sidney A. Cryor, General Counsel for the Federal Land Bank of Spokane, made some interesting remarks. The Spokane Land Bank has always evidenced much interest in the state title associations in the District comprising its territory. This is a mighty fine spirit that will work for the good of both the bank and the titlemen of that community. It is mighty fine too that men of the type of Mr. Cryor have so much interest in the title business and take an active part in the affairs of the title associations. His presence at this meeting was appreciated very much by the Montana Association.

The executive secretary of the American Title Association was present as the representative of that organization and talked on general title matters.

The Association voted to increase its activities. Study will be made towards the adoption of a uniform certificate. Annual meetings will be held hereafter and an abstract contest will be a feature of the next one.

The Montana Law provides that a certain bond must be furnished, and which when filed and approved, the state treasurer issues a Certificate of Authority to engage in the abstract business. The following clause was also adopted and recommended to be included in certificates of all members:

"This company is a Bonded Abstract Company, having complied with the laws of the State of Montana; is a member of the Montana Title Association and the American Title Association."



**W. B. CLARKE,**  
Re-elected President of the Montana Title Association and to represent his association at the Atlantic City Convention.

tion and this abstract is issued under Certificate of Authority granted by said State under date of .....

The Montana Association has been in active and beneficial existence for a number of years and raised the business to a high standard and satisfactory basis. The members are all extremely interested in their business and the relation of the state organization to it. There was a high spirit of morale at this meeting and the number in attendance was fine.

The visitors attended an interesting ball game between Great Falls and the team from the House of David.

A noon luncheon was held on the second day and was an enjoyable event.

A rodeo was also a feature of the meeting, and Secretary Cal Hubbard



**C. E. HUBBARD,**  
Great Falls.

"Cal" was one of the organizers of the Montana Title Association, elected Secretary its first year and re-elected ever since, holding World's Long Distance Record as Secretary of a State Title Association.

won the steer roping and broncho busting contest.

The Association voted to send President W. B. Clarke to the national convention at Atlantic City.

Officers elected were: President, W. B. Clarke, Miles City, Custer Abstract Co.; first vice president, C. C. Johnson, Plentywood, Sheridan County Abst. Co.; second vice president, James T. Robinson, Choteau, Teton County Abstract Co.; third vice president, Margaret M. Egan, Stanford, Judith Basin County Abst. Co.; secretary-treasurer, C. E. Hubbard, Great Falls, Hubbard Abstract Co.

#### SOUTH DAKOTA ASSOCIATION RE-ORGANIZES AND HOLDS FIRST MEETING IN WATERTOWN.

##### Number in Attendance Fine Surprise.

The South Dakota Abstracters Association, lying dormant for several years yet always kept in tacit existence by the efforts of some of the interested members, came into an actual and active state association as a result of the past few months intensive work of its state officials. This was culminated in a great success by the meeting held in Watertown, July 23.

Despite the fact there had been a heavy rain over most of the state during the twenty-four hours preceding the meeting, a large crowd was in attendance and they came from all over the state.

A great deal of credit for this meeting and the successful and enthusiastic re-organization of the association is due to R. S. Williams of the Southwick Abstract Co., Watertown, president, and John Claymore, of the Beadle County Abstract and Title Co., Huron, secretary. Much effort was spent in the past year in interesting the abstracters of the state in membership and the South Dakota Association has sixty-two members as a result.

This particular convention was planned well in advance and the attendance showed the value of state associations making and completing annual meeting arrangements sometime before the actual dates and then advertising. Both President Williams and Secretary Claymore did several things.



**FRED B. WALZ,**  
Milbank.

**Elected President of the Re-organized South Dakota Title Association.**

Mr. Williams prepared a novel program in the form of an abstract sending it out to all abstracters of the state and Mr. Williams got up a very clever and novel cartoon that undoubtedly resulted in many attending.

The program was very interesting. One of the features was an address on "Title Insurance" by Anthony H. Rutgers, manager of the Title Insurance Department of the Southern Surety Co., Des Moines.

F. B. Stiles, vice president of the First National Bank, Watertown, talked on "The Abstracter from the Banker's View Point" and gave a most interesting discourse, bringing out many more points than one would think possible from anything that might be possible from such a subject.

Arthur H. Hasche, attorney of Wa-

tertown and a well known title examiner, gave a most constructive talk on "What the Examiner Expects from the Abstracter." Mr. Hasche's remarks were very good and he refrained entirely from telling how he personally wanted abstracts made. He was enthusiastically received.

The entertainment and atmosphere of this meeting and the crowd there was one of real friendship and hospitality. It would be hard to distinguish from the luncheon at noon, and the banquet in the evening. Both were mighty fine. There was a splendid menu, good entertainment and informal and friendly talks from a number at each. "Dangerous Dan" Getty of Sioux Falls presided at the luncheon and "Stub" Williams, fine host, was toastmaster for the evening banquet.

The visitors were taken for an automobile trip in the afternoon over the city and in the surrounding country, arriving at Lake Kampeska and then returning to the hotel.

The executive secretary of the American Title Association attended as the representative of that organization.

It was voted to change the name to "The South Dakota Title Association" to conform with the national and other state organizations.

Officers elected for the coming year are: President, Fred W. Walz of the Consolidated Abstract Co., Milbank; vice president, John Claymore of the Beadle County Abstract and Title Co., Huron; secretary-treasurer, Paul M. Rickert, of the Roberts County Abstract Co., Sisseton.

#### **NORTH DAKOTA ASSOCIATION HAS USUAL GOOD MEETING.**

The North Dakota Title Association held its 1926 convention in Valley City. There was the customary good crowd in attendance to hear a mighty fine program. The North Dakota Association has done much for the abstract business in that state and those in it seem to realize the worth and merit of the organization and desire to support those in charge of its activities.

The program was replete with discussions on interesting and timely topics. Geo. B. Vermilya, of the McHenry County Abstract Co., Towner, talked on "Uniformity in Abstracts." Geo. H. Phelps of the Burke Abstract Co., Bowbells, N. D., gave some interesting points on "Abstracting as a Profession." (North Dakota is the only state where it is a profession according to the definition generally accepted that a profession is a business of personal service operating under regulations, license and authority.)

Anthony H. Rutgers, manager of the Title Insurance Department of the Southern Surety Co., Des Moines, Iowa, talked on "Title Insurance." He told of its general principles and then emphasized its relation to the abstracter. A general question box on the subject was opened afterwards and Mr. Rutgers was asked many questions, showing how interested abstracters are in title insurance,



**JOHN BOWERS,**  
Mandan,

**Re-elected President of the North Dakota Title Association.**

A. W. Dennis, one of the founders and influences in the success of the North Dakota Association, gave some fine ideas on "The Future of the North Dakota Title Association."



**A. J. ARNOT,**  
Bismarck.

**Re-elected Secretary-Treasurer of the North Dakota Title Association.**

A. P. Paulson, Attorney of Valley City, gave a very valuable address on "The Liability of Abstracters."

Richard B. Hall, executive secretary of the American Title Association, attended as the representative of the national organization.

The officers of last year were re-elected, and the offices of secretary and treasurer consolidated.

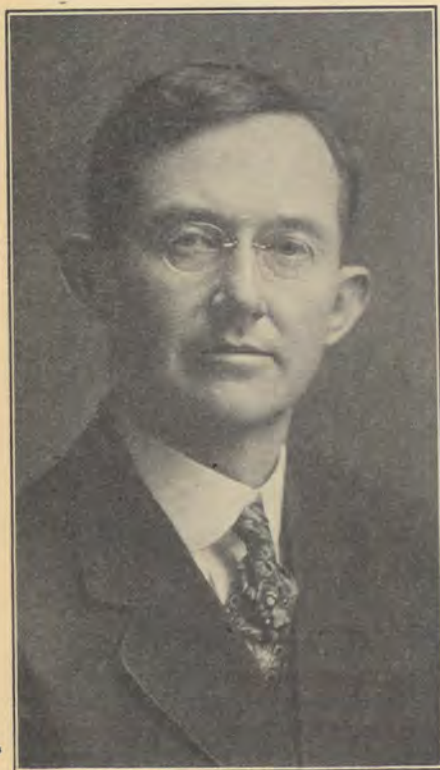
Officials for the coming year are: President, John L. Bowers, Mandan Abstract Co., Mandan; vice president, Geo. B. Vermilya, McHenry County Abstract Co., Towner; secretary-treasurer, A. J. Arnot, Burleigh County Abstract Co., Bismarck.

#### OHIO ASSOCIATION MEETS IN CEDAR POINT.

The 1926 convention of the Ohio Title Association was held in the usual and delightful place, Cedar Point.

Edwin H. Lindow, of Detroit, attended as the representative of the American Association.

Officers elected for the coming year are: President, Theo. Kemp, Jr., Newark, O.; vice president, Carl H. Beckman; secretary-treasurer, George N. Coffey, of the Wayne County Abstract Co., Wooster.



GEORGE N. COFFEY,  
Wooster.

Elected Secretary of the Ohio Title Association.

#### A DANGEROUS ELEMENT IN NATIONAL FINANCE.

In discussing the recently-enacted New York housing law the Financial World of New York City, by its Contributing Editor, C. M. Harger, in commenting on real estate securities, says:

"The operation of this law, particularly if it be adopted by many states, seems likely to bring into the tax situation an entirely new element in our national financial experience. The farm land bank operation has been the subject of criticism because of the tax exemption connected therewith. But this exemption extends only to the bonds that are issued to raise the money to loan to farmers. The New York housing law goes farther and allows exemption not alone of the bonds but says that the municipalities may also exempt the buildings constructed by the companies operating under it from taxation. If all the lands on which the government has loaned through the farm land bank and the joint stock land banks—at present about 500,000 loans for nearly \$1,800,000,000—were also exempt from taxation there would go up a howl that would shake the country. Not only that but every farmer would borrow money of the land banks to escape taxation. Should the municipalities exempt from taxation all the tenements, stores and other buildings under the class of dwellings that are erected under the provisions of this new law in the state of New York it is likely that we shall see a rush to get in line and take advantage of the opportunity. The effect of every new issue of tax exempt securities and of every exemption of property from taxation is to increase the levy upon property that is not so favored. It will be interesting to see the outcome of this experiment which adds a new complication to our tax situation and, if it becomes a popular movement with states, its result will be something to watch with concern."

#### A LAND PROBLEM SOLVED.

##### Restrictions Affecting Ownership Upheld By Supreme Court.

##### Property in White or Negro District May Be Restricted Against Sale to a Person of Other Race.

Washington, June 5.—Private restrictions placed on residential property by indentures or agreements, prohibiting the sale or conveyance of the property to negroes, have been held valid by the United States Supreme Court in a decision which will be of great importance to realtors as well as to property owners in every city of the country.

Contention that such contracts violate the fifth, thirteenth and fourteenth constitutional amendments is "entirely lacking in substance or color of merit," the opinion states.

The covenant in the case in question, the court held, was valid, and did not invade the constitutional rights of negroes, inasmuch as they had the right to enter into similar agreements to keep white persons or other persons, deemed undesirable, out of colored neighborhoods. The decision thus extends the question beyond a mere distinction on a basis of color, and up-

holds the right of any group to covenant to keep out of their community any class of occupancy deemed undesirable.

#### The Realtor's View.

Denial to owners of a right to impose on their own real property, restrictions as to the use, occupancy and future ownership of such property would have worked serious interference with the orderly and proper development of American cities adopted by the directors of the National Association of Real Estate Boards, the present case stated.

Of interest in connection with the decision of the supreme court, though not at all parallel with it in subject matter, is a recent decision of the supreme court of Louisiana which has held as constitutional an ordinance of the city of New Orleans providing for segregation of the residences of white and colored persons. The ordinance forbids the public authorities "from issuing a building permit for the construction of a residence for negro occupancy in a 'white community,' or for a white person in a 'negro community,' without the written consent of a majority of the persons of the opposite race inhabiting that community."

The opinion of the United States Supreme Court, upholding the validity of private agreements of restriction on sale of property, was given in a case involving property on S street, in the city of Washington, only a few blocks distant from the former residence of the late Woodrow Wilson, and from the home of Secretary Hoover and other notables.

#### How the Case Began.

Property owners in a certain section of S street, the opinion stated, executed an indenture in 1921 binding themselves not to sell, lease, or give their property to negroes for at least twenty-one years. Neighboring property owners secured an injunction against completion of the conveyance. It was an appeal from this injunction which brought the case into the supreme court.

The opinion states:

"The thirteenth amendment, denouncing slavery and involuntary servitude, that is, a condition of enforced compulsory service of one to another, does not in other matters protect the individual right of persons of the negro race. The prohibitions of the fourteenth amendment have reference to state action and not that of private individuals."

The fifth amendment is a limitation only upon the powers of the general government and is not directed against the action of individuals, the court held.

It's tough to be in a crowd of mah Jongg and radio fans when you understand only English. Incidentally that's the only place a golf bug can be out-distanced.

# LAW QUESTIONS AND THE COURTS' ANSWERS



Compiled from Recent  
Court Decisions by  
**McCUNE GILL,**  
Vice-President and Attorney  
Title Guaranty Trust Co., St. Louis, Mo.

*Can an oral contract to convey lands, by foster parents, be enforced?*

Yes. *Rooney v. McDermott* (Kansas, June 2, 1926).

*Are restrictions against negroes valid under the Constitution?*

Held valid by the Supreme Court of the United States. This was an agreement between several owners in Washington, D. C., that their land should not be used or occupied by, or sold, leased, or given to, negroes. *Carrigan v. Buckley* (May 28, 1926).

*What is the effect of omitting the husband's name from the body of a mortgage by husband and wife?*

It makes the mortgage void even though they signed and acknowledged it. *Duncan v. Jenkins* (Kentucky, May 26, 1926).

*Are absentee administration laws constitutional?*

The recent act of Michigan (1925) as to persons absent seven years was held constitutional. *Walz v. Dawson*, June 7, 1926 (Michigan).

*A devise is to the wife "to be hers forever. At her death to brothers"; is the executory devise to brother good?*

Held void in Ohio on the theory that a fee cannot be cut down. *Stophlet v. Stophlet*, June 2, 1926.

*A devise is to a person with power of disposal (except by will), and if not disposed of, to others; is the gift over good?*

Held void in New Jersey because the first taker was held to have a fee simple. *Gaston v. Ford*, June 8, 1926.

*Is a State tax upon mining royalties constitutional?*

Yes. *Lake v. Lord*, Supreme Court of U. S. (from Minnesota), June 7, 1926.

*Can a conveyance in trust that is testamentary in character, be probated as a will?*

Yes. If it is properly witnessed. *Merrill v. Boal* (Rhode Island, May 8, 1926).

*Is a mechanic's lien superior to a purchase money mortgage?*

Lien held superior, even though materials were ordered by purchaser before deed to him was executed, where seller did not object to work, and building was completed before date of deed and mortgage. *Diamond v. Elberta* (May 22, 1926, Ohio).

*Is a real estate broker's licensing law constitutional which provides that an unlicensed broker cannot collect a commission?*

Yes. May 25, 1926 (New York) (where broker did not renew his license).

*Can the holder of bond coupons payable at a bank compel it to pay if the coupons are lost?*

No. *Erb v. Dinapoli*, May 25, 1926 (New York).

*Where mining lease grants right to construct shaft, does this give right to hoist coal mined on other land?*

No. *Moore v. Lackey* (Kentucky), June 8, 1926.

*Is a living trust subject to Federal Estate Tax?*

Not subject as to income payable to persons other than the settler; doubtful as to income payable to the settler. *Arnold v. U. S.*, Court of Claims, June 14, 1926. *Bradley v. Nichols*, U. S. Dist. Court (Massachusetts), June 23, 1926.

*Is a trust to terminate in ten years or upon previous marriage, valid in a "life but not years" perpetuity state?*

The trust is void. *Markert v. Solomon*, June 25, 1926 (New York).

*A remainder is "to be equally divided between the living heirs of my brothers and sisters"; should division be per capita or per stirpes?*

Per capita. *Driskill v. Carwile*, June 26, 1926 (Virginia).

*Which is superior—a sale under the U. S. townsite act, or a previous settlement with intention to homestead the land?*

The homestead settlement is superior. *U. S. v. Norton*, U. S. Dist. Ct. (Florida) June 28, 1926.

*Is a broker entitled to his commission where the sale is defeated by building restrictions?*

The broker gets his commission if he did not know of the restrictions. *Lewis v. Spitznaugle* (Ohio), June 26, 1926.

*Can a contingent executory devise be conveyed by quit claim deed?*

Yes. *Platt v. Woodland* (Kansas), July 6, 1926.

*Is a verbal authority to fill in name of grantee good?*

Yes. *Corporation v. Lange* (New York), June 28, 1926.

*Can a Probate sale be had to pay taxes accruing after death, or funeral expenses of widow?*

No. Sale is void, because such sale can only be had to pay debts of the decedent existing at the time of his death. *Wise v. Wedlake* (New York), July 6, 1926.

*Does overdue interest on mortgage charge assignee with equities between original parties?*

No. Hence where maker pays the original payee with-

out having payments endorsed on notes, he need not again pay the assignee who holds the notes as collateral. *Kreitz v. Bank*, June 29, 1926 (Ohio).

*Is a living trust subject to Federal Estate Tax?*

No. If irrevocable nor in actual contemplation of death, even though it is in trust to pay income to settlor for life and then to vest in children. *Miller v. U. S.*, June 14, 1926, U. S. Court of Claims, June 14, 1926.

*Is a contract by heirs with testator, not to contest the will, valid?*

Yes. It is not against public policy. In re will of Cook, July 12, 1926 (New York).

*Can one tenant by the entirety execute a valid lease?*

Held that he can in Pennsylvania. *Gasner v. Pierce*, June 26, 1926.

*Is a mortgage of a fruit crop recorded in the personal property records, notice to a purchaser of the land?*

No. And hence he takes the crop free from the mortgage. *Nicholson v. Bank* (Oklahoma), July 8, 1926.

*Does suit to quiet title affect unborn children's rights?*

Held not affected in Indiana. The doctrine of virtual representation not applying to rights under deed. *Bearss v. Corbee*, July 8, 1926.

*Can a testator give a trustee power to execute a lease extending beyond the trust?*

Yes; and a privilege to renew after the termination of the trust is also valid. *Reynolds v. Browning*, July 6, 1926 (New York).

*Does a wife have power in an equitable interest?*

Yes. As where husband's sister held title in her name, the property really belonging to husband. *Byrnes v. Owen*, July 19, 1926 (New York); but held contrary where husband and wife lived apart. *Nash v. Kirschoff*, 208 N. W. 193 (Minnesota).

*Does a bankrupt's trustee take a contingent remainder?*

Yes. As where remainder was to children living at life tenant's death, the remainderman becoming bankrupt Dec. 10, 1923, and the life tenant dying Dec. 28, 1925. *Reilly v. McKenzie*, July 27, 1926 (Maryland).

*Is a devise to a hospital good?*

Not in Pennsylvania if will was executed less than thirty days before death. *Moore v. Gilbert*, June 26, 1926.

*Can an executed duplicate will be probated?*

Not unless it is shown that the original was not revoked or destroyed. In re Bates, June 26, 1926 (Pennsylvania).

*Does power in trustees to sell give power to sell to divide trust fund?*

Yes. As where the share of child reaching certain age is "to be paid over" to him. *Zandorf v. Smith*, June 29, 1926 (New York).

*Is an Act of Legislature curing defects in tax sales valid?*

Yes. Because the legislature can cure the non-observance of any requirement that it might have dispensed with. *Daly v. Fisk* (Connecticut), July 19, 1926.

*Can an assignee of a sales con-*

*tract enforce it?*

He can if it runs to "heirs and assigns"; otherwise only where no return mortgage is to be given. *Harney v. Hellgren*, July 26, 1926 (Illinois).

*Does ante nuptial contract prevent revocation of will by marriage?*

No. Will is void if statute so provides. *Clevenger v. Stewart*, July 17, 1926 (Kentucky).

*Is a remainder to life tenant's "heirs of body" vested or contingent?*

Contingent; but held vested in North Carolina. *Williams v. Sasser*, 132 S. E. 278.

*Is a remainder to testator's "heirs" vested or contingent?*

Vested; but held contingent in New York. In re Bishop's Estate, 215 N. Y. S. 237.

*Can an adoption be attacked by other heirs of adoptive father after his death?*

Yes in North Carolina; no in Georgia. *Truelove v. Parker*, 132 S. E. 295. *Harper v. Lindsay*, 132 S. E. 639.

*Is payment of taxes considered possession against one in actual adverse occupancy?*

No. Not possession, even in a State where a payment of taxes on uninclosed land for seven years, under color, gives title. *Harges v. Lawrence*, 204 S. W. 755 (Arkansas).

*Can a future estate be created without an intervening or supporting particular estate?*

Yes. *Heath v. City*, 151 N. E. 649 (Ohio).  
No. *Legout v. Price*, 149 N. E. 427 (Illinois).

*Is title good from a son who holds under devise "to him and his children"?*

It is in Alabama where son had no children at testator's death, because the Rule in Wild's Case makes this an estate tail, which is converted by statute into fee simple in the first taker. *Gilchrist v. Butler*, 107 So. 838.

*A purchaser takes a deed from the husband alone, and afterward gets deed from wife "in release of dower"; is this good?*

Void if the property was the homestead, *Phillips v. Smith*, 107 So. 841 (Alabama).

*Is abstractor liable for incorrectly stating date of expiration of timber contract in habendum?*

Yes. *Lee v. Hetherwick*, 107 So. 772 (Louisiana).

*Does a zoning ordinance annul previous deed restrictions?*

No. *Kramer v. Nelson*, 208 N. W. 252 (Wisconsin).

*Do growing crops pass under deed?*

Yes. As between vendor and vendee where crops are not reserved. *Weyranch v. Johnson*, 208 N. W. 706 (Iowa).

*Does a quitclaim deed pass present title the same as a warranty deed?*

Yes. *McDonald v. Dabney*, 132 S. E. 547 (Georgia).

*Is approval necessary of administrator's sale under order of court?*

Yes. *James v. Gaal*, 282 S. W. 298 (Texas).

# TITLE NEWS

Published Monthly as  
Official Publication of

The American Title Association

Printed by Kable Brothers Company. Publication office, 404 N. Wesley Ave., Mount Morris, Ill.

## EDITOR

Richard B. Hall, Kansas City, Mo.  
Title & Trust Bldg.

Subscription price \$2.00 per year.

Entered as second class matter December 26, 1921, at the post office at Mount Morris, Illinois, under the Act of March 3, 1879.

Address all communications relative to this publication or matters contained therein to

**THE AMERICAN TITLE ASSOCIATION**

Richard B. Hall, Executive Secretary  
Title & Trust Bldg., Kansas City, Mo.

SEPTEMBER, 1926.

## A TITLE DEED IN POETRY.

A deed for the conveyance of a piece of land, and one of the greatest legal curiosities in the world, was drawn up in 1881 by J. Henry Shaw, a lawyer at Beardstown, Illinois. The novelty document complies with every requirement of law, and has more than once been declared by a court in that state to be entirely valid. The deed follows:

I, J. Henry Shaw, the grantor herein,  
Who lives at Beardstown, the county  
within;

For seven hundred dollars to me paid  
today,

By Charles E. Wyman, do sell and  
convey

Lot two (2) in Block forty, said county  
and town,

Where Illinois river flows placidly  
down;

And warrant the title forever and aye,  
Waiving homestead and mansion to  
both a good bye,

And pledging this deed is valid in law,  
I add here my signature, J. Henry  
Shaw. (Seal)

July 25, 1881.

Not to be outdone in clever versification, Sylvester Emmons, Notary Public, added his official lines to the deed, as follows:

I, Sylvester Emmons, who lives at  
Beardstown,

A Notary Public of fame and renown,  
Of the County of Cass, in Illinois State,  
Do certify here that on the same date,  
One, J. Henry Shaw, to me did make  
known,

## "PRICE CUTTING IS PEANUT SALESMANSHIP"

The price cutter is worse than a criminal. He is a fool. He not only pulls down the standing of his goods; he not only pulls down his competitors; he pulls down himself and his whole trade. He scuttles the ship in which he himself is afloat.

Nothing is so easy as to cut prices; and nothing is so hard as to get them back when once they have been pulled down.

Any child can throw a glass of water on the floor, but the wisest scientist in the world can't pick up that water!

Who gets the benefit of price-cutting? **NOBODY!**

The man who sells makes no net profit; the man who buys soon finds himself getting an inferior article.

No producer can permanently keep up the standard of his goods if the price is persistently cut. Pretty soon he is compelled to give inferior service and to cut down the wages of his workers.

The man who cuts prices puts up the sign: "This way to the junk heap."

He admits his own failure as a salesman. He admits he has been defeated according to the Marquis of Queensbury rules of business. He admits he cannot win by fighting fair. He brands himself as a hither-below-the-belt.

If the business world were dominated by price cutters, there would be no business at all.

Price-cutting in fact is not business, any more than small-pox is health.

That the above deed and name were his  
own,

And he stated, he sealed and delivered  
the same

Voluntarily, freely and never would  
claim

His homestead therein, but left all  
alone,

Turned his face to the street and his  
back to his home.

S. Emmons, Notary Public (Seal)  
August 1, 1881.

## THE BUSINESS BAROMETER.

"Business poor," said the beggar.

Said the undertaker, "It's dead."

"Falling off," said the riding school  
teacher.

The druggist—"It's vial," he said.

"It's all write with me," said the  
author.

"Picking up," said the man of the  
dump.

"My business is sound," quoth the  
bandsman.

Said the athlete, "I'm kept on the  
jump."

The bottler declared "It was corking."

The parson—"It's good," answered  
he.

"I make both ends meat," said the  
butcher.

The tailor replied, "It suits me."

## JUST WHY ONE EDITOR LEFT TOWN.

Somebody sent the editor of the Puketown Gazette a few bottles of home brew. The same day he received for publication a wedding announcement and a notice of an auction sale. Here are the results:

Wm. Smith and Miss Lucy Anderson were disposed of at public auction at my farm one mile east of a beautiful cluster of roses on her breast and two white calves, before a background of farm implements too numerous to mention in the presence of about seventy guests including two milch cows, six mules and one bob sled.

Rev. Jackson tied the nuptial knot with 200 feet of hay wire and the bridal couple left on one good John Deere gang plow for an extended trip with terms to suit purchasers. They will be at home to their friends with one good baby buggy and a few kitchen utensils after ten months from date of sale to responsible parties and some fifty chickens.

"Every man owes some of his time to the upbuilding of  
the industry or profession to which he belongs"

Theodore Roosevelt



# The Sustaining Fund Membership Roll of The American Title Association for 1926

The Constitution and By Laws of the Association provide that in order to obtain the necessary funds to maintain and operate the Association, and carry out the work effectively for which the Association was organized, and which is not possible from the source of membership dues alone, that a voluntary Sustaining Fund be established and that members supporting said Fund be designated as Sustaining Fund Members and that they be given full credit therefor, in recognition of the increased measure of service thus rendered. The following is the list of those who pledged to this fund for 1926.

## ALABAMA

Alabama Title & Trust Co.	Birmingham
E. P. Quigley	Birmingham
Etowah Abstract Co.	Gadsden
Title Insurance Company	Mobile
Ballard Brothers	Troy

## ARIZONA

Coggins Title Company	Phoenix
Phoenix Title & Trust Co.	Phoenix
Tucson Title Insurance Co.	Tucson
Security Title Company	Yuma

## ARKANSAS

Augusta Title Company	Augusta
South Arkansas Abst. Co.	Camden
Greer Abstract Company	Fayetteville
Guaranty Abstract & Title Ins. Co.	Ft. Smith
N. W. Denty	Hope
Arkansas Trust Company	Hot Springs
Beach Abst. & Guar. Co.	Little Rock
Little Rock Abst. & Guar. Co.	Little Rock
Guaranty Abstract Company	Marion
J. L. Robertson	Piggott
Scott County Abst. Loan & Ti. Co.	Waldron

## CALIFORNIA

The San Joaquin Abst. Co.	Fresno
Kings Co. Abst. Co.	Hansford
Lake Co. Title & Abst. Co.	Lakeport
Calif. Title Ins. Co.	Los Angeles
Security Ti. Ins. & Guar. Co.	Los Angeles
Title Guar. & Trust Co.	Los Angeles
Title Insurance & Trust Co.	Los Angeles
Contra Costa Abst. & Title Co.	Martinez
Richmond-Martinez Abst. & Ti. Co.	Martinez
Napa County Title Co.	Napa
Alameda Co. Title Ins. Co.	Oakland
Oakland Title Ins. & Guar. Co.	Oakland
Plumas County Abst. Co.	Quincy
Geo. H. Rice Abst. Co.	Redwood City
Riverside Title Company	Riverside
Capitol City Title Company	Sacramento
Sacramento Abst. & Title Co.	Sacramento
Pioneer Title Insurance Co.	San Bernardino
Southern Title Guaranty Company	San Diego
Union Title Insurance Company	San Diego
California-Pacific Title Ins. Co.	San Francisco
City Title Insurance Co.	San Francisco
Title Insurance & Guar. Co.	San Francisco
Western Title Insurance Co.	San Francisco
San Jose Abst. & Title Ins. Co.	San Jose
Marin County Abst. Co.	San Rafael
Orange County Title Co.	Santa Ana
Santa Cruz Land Title Co.	Santa Cruz
Stockton Abstract & Title Co.	Stockton
Mendocino Co. Title Co.	Ukiah

## COLORADO

Adams County Abst. Company	Brighton
The Kit Carson County Abst. Company	Burlington
The Baker Abstract Company	Burlington
Douglas County Abst. Co.	Castle Rock
Cheyenne County Abst. Co.	Cheyenne Wells
The Menke Abstract Company	Conejos
Jefferson County Title Co.	Denver
Landon Abstract Co.	Denver
Title Guaranty Company	Denver
Morgan County Abstract Co.	Fort Morgan
The Weld Co. Abst. & Inv. Co.	Greeley
Otero County Abstract Co.	La Junta
The Winchell Abstract Co.	La Junta
The Crowley County Abst. Co.	Ordway
The Zimmerman Abstract Company	Steamboat Springs
F. J. Henderson Abstract Company	Sterling
Trinidad Abst. & Title Co.	Trinidad
North Park Abst. & Sec. Co.	Walden
Yuma County Abstract Co.	Wray

## DISTRICT OF COLUMBIA

Washington Title Insurance Co.	Washington
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## CONNECTICUT

Bridgeport Land & Title Co.	Bridgeport
Clark, Hall & Peck	New Haven
Western Conn. Title & Mtg. Co.	Stamford

## FLORIDA

DeSoto Abstract Company	Arcadia
Volusia County Abst. Co.	DeLand
Lee Co. Bank Ti. & Trust Company	Ft. Myers
Alachua County Abst. Co.	Gainesville
Dade Co. Ti. Ins. & Trust Co.	Miami
Florida Title Company	Miami
Florida Title Insurance Co.	Miami
Guaranty Title Co.	Tampa
Tampa Abst. & Title Ins. Co.	Tampa

## GEORGIA

Atlanta Title & Trust Co.	Atlanta
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## IDAHO

Lost River Title Co.	Arco
Panhandle Abstract Co.	Coeur d' Alene
Clark Co. Abst. & Realty Co.	Dubois
Gem County Abstract Co.	Emmett
Comas Abstract Company	Fairfield
Bonneville Abstract Co.	Idaho Falls
The Bonner County Abst. Co.	Sandpoint
Fremont Abstract Company	St. Anthony
Fidelity Title & Abst. Co.	Twin Falls
Twin Falls Title & Abst. Co.	Twin Falls

## ILLINOIS

St. Clair Co. Guar. & Title Co.	Belleville
McLean County Abstract Co.	Bloomington
Champaign Co. Abst. Co.	Champaign
Chicago Title & Trust Company	Chicago
The Taylor Abstract Company	Clinton
H. C. Gerke	Edwardsville
E. J. Tupper Company	Galesburg
Kane County Abstract Company	Geneva
C. E. Joyner	Harrisburg
Montgomery County Abst. Co.	Hillsboro
W. M. Pike	Lewistown
John G. Patton	Macomb
E. P. Easterday	Mound City
Charles D. Etnyre & Company	Oregon
Leland & Wilson	Ottawa
Title & Trust Company	Peoria
Chas. H. Roe	Pinckneyville
R. I. County Abst. & Ti. Guar. Co.	Rock Island
The Sangamon County Abst. Co.	Springfield
DeKalb County Abst. Co.	Sycamore
Security Title & Trust Co.	Waukegan
McHenry County Abstract Co.	Woodstock

## INDIANA

Lake Co. Ti. & Guar. Co.	Crown Point
Spahr-Morrison Abst. Company	Frankfort
Indiana Abstract Company	Goshen
The Jones Abstract Company	Huntington
Starke County Abst. T. & Guar. Co.	Knox
Bryan-Stallard Abstract Co.	Lafayette
W. H. Becher	LaPorte
LaPorte County Abst. Co.	LaPorte
Wheeler Abstract Company	Michigan City
Floyd County Abst. Co.	New Albany
The Wayne County Abst. Co.	Richmond
Marks Abstract Company	Salem
Indiana Title & Loan Company	South Bend
Kosciusko Abst. & Title Guar. Co.	Warsaw

## IOWA

Craig-Ray Abstract Company	Allison
Boone Co. Abst. & Loan Co.	Boone
Linn County Abstract Co.	Cedar Rapids
Chas. E. Moore	Cherokee
C. L. Clark	Corydon
Davenport Abstract Co.	Davenport
Des Moines Title Company	Des Moines
Southern Surety Company	Des Moines
Hardin County Abst. Co.	Eldora
Winnebago County Abst. Co.	Forest City
Chas. H. Rogers	Grundy Center
Johnson Co. Abst. & Ti. Guar. Co.	Iowa City
Security Abstract Company	Iowa City
Ralph B. Smith	Keokuk
Plymouth County Abst. Co.	LeMars
Marshall Co. Abst. & Loan Co.	Marshalltown
Security Abstract Company	Mason City
Madden & Madden	Muscatine
C. A. Batman	Nevada
Sioux Abstract Company	Orange City
Johnson Abstract Company	Oskaloosa

## IOWA—Continued

Fidelity Abstract Company.....	Pocahontas
Loomis Abstract Company.....	Red Oak
Engleson Abstract Company.....	Sioux City
C. C. Sedgwick Abst. Company.....	Sioux City
Talley-Harvey & Company.....	Sioux City
Clay County Abstract Company.....	Spencer
Spencer Loan & Abstract Co.....	Spencer
Carlton Abstract Company.....	Spirit Lake
Carl H. Mather.....	Tipton
Benson & Runkle.....	Toledo
Livingston & Eicher.....	Washington
Washington Title & Guar. Co.....	Washington
The Sedgwick-Lichty Abstract Co.....	Waterloo

## KANSAS

W. G. Carson.....	Ashland
L. D. Beil.....	Beloit
Ray H. Crumly.....	Colby
Pearl Koontz Jeffrey.....	Columbus
Misell & Son.....	Concordia
T. R. Wilson.....	Ellsworth
Greenwood Co. Abst. Company.....	Eureka
The Moore Abst. & Title Co.....	Eureka
Will G. Finks.....	Fredonia
Chan. B. Campbell & Son.....	Garden City
The Crawford County Abst. Co.....	Girard
Montgomery County Abst. Co.....	Independence
Security Abstract Company.....	Independence
Cragum Abstract Company.....	Kingman
Geo. C. Weber.....	LeCrosse
R. E. Taylor.....	Larned
John C. Emick.....	Lawrence
Harold C. Short.....	Leavenworth
Robert B. Spilman.....	Manhattan
H. Illewelyn Jones.....	Meade
Grant Mitchell.....	Newton
Benton & Hopkins.....	Oberlin
Amos H. Leach.....	Oskaloosa
J. E. Shinn.....	Ottawa
C. A. Wilkin & Company.....	Parsons
C. C. Porter.....	Russell Springs
C. W. Lynn Abstract Co.....	Salina
Salina County Abstract Company.....	Salina
Jas. S. Patrick.....	Satanta
Leo. T. Gibbens.....	Scott City
C. M. Williams.....	Sedan
Topeka Title & Bond Company.....	Topeka
Sumner County Abstract Company.....	Wellington
The Rogers Abstract & Title Co.....	Wellington
Guarantee Title & Trust Company.....	Wichita
Home Mortgage Title & Trust Co.....	Wichita
Barbour-Collinson Abstract Co.....	Winfield

## KENTUCKY

Louisville Title Company.....	Louisville
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## LOUISIANA

Bienville Abstract Company.....	Arcadia
Bossir Abst. & Title Co. Inc.....	Benton
Frank Suddoth.....	Crowley
C. A. McKisson.....	Gretna
Ouchita Abst. & Title Guar. Co.....	Monroe
Union Title Guaranty Co. Inc.....	New Orleans

## MARYLAND

The Maryland Title Guarantee Co.....	Baltimore
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## MICHIGAN

Lake County Abstract Co.....	Baldwin
Ealy & Company.....	Caro
Northern Title & Trust Co.....	Bay City
Eaton County Abst. Co.....	Charlotte
Union Title & Guaranty Co.....	Detroit
Gladwin County Abst. Co.....	Gladwin
Turner Abstract Company.....	Grand Haven
Guar. Bond & Mortgage Company.....	Grand Rapids
The Gratiot County Abstract Co.....	Ithaca
Geo. E. Luther.....	Jackson
Title Bond & Mortgage Company.....	Kalamazoo
Sibben Abstract Company.....	Manistee
Edmund Ashford.....	Manistique
Monroe County Abstract Co.....	Monroe
Muskegon Trust Company.....	Muskegon
Berrien County Abst. Co.....	St. Joseph
John W. Stradley.....	Sault Ste Marie
C. C. Mello.....	Traverse City

## MINNESOTA

Aitkin County Abst. Co.....	Aitkin
Freeborn County Abst. Company.....	Albert Lea
The Consolidated Abst. Co.....	Duluth
Pryor Abstract Company.....	Duluth
Blue Earth Co. Abstract Co.....	Mankato
Real Estate Title Insurance Co.....	Minneapolis
A. W. Thompson.....	Preston
Watsonwan County Abst. Co.....	St. James
The St. Paul Abstract Co.....	St. Paul
Marshall County Abstract Co.....	Warren
Winona County Abst. Co.....	Winona

## MISSISSIPPI

M. P. Bouslog.....	Gulfport
Mississippi Abst. Ti. & Guar. Co.....	Gulfport

## MISSOURI

Moore-Harris Abst. Co.....	Benton
Scott County Abst. Co.....	Benton
Stoddard County Abst. Co.....	Bloomfield
J. V. Davis.....	Bowling Green
Ryan & Carnahan.....	Chillicothe
St. Louis Co. Land Title Co.....	Clayton
The Trust Co. of St. Louis County.....	Clayton
Geo. S. Holliday.....	Clinton
Felix J. Parkin.....	Fredericktown
Wells Abstract Company.....	Hannibal
Arthur Conger.....	Harrisonville
Cole County Abst. Co.....	Jefferson City
Kansas City Title & Trust Co.....	Kansas City
Missouri Abst. & Guar. Co.....	Kansas City
D. D. Hamilton.....	Marshfield
Reeves-Rardin Loan Company.....	Milan
Newton Co. Abst. & Title.....	Neosho
Williams & Pottorf.....	Nevada
E. E. Richards.....	Oregon
Murdock & Newby.....	Platte City
The Landmann Abst. & Title Co.....	Sedalia
Lawson-Gibbs Title Company.....	Springfield
Emmons Abstract Company.....	St. Charles
V. V. Hall.....	St. Joseph
St. Louis Title Company.....	St. Louis
Edward G. Schall.....	St. Louis
Title Guaranty & Trust Co.....	St. Louis
Kellett-Landis Abstract Company.....	West Plains

## MONTANA

Baker Abstract & Title Service.....	Baker
Title Abstract Company.....	Billings
Gallatin Co. Abstract Co.....	Bozeman
McCone County Abst. Co.....	Circle
Pondera County Abst. Co.....	Conrad
Glacier County Abst. Co.....	Cut Bank
Northwestern Title Co.....	Forsyth
Rosebud Abstract Company.....	Forsyth
Montana Loan & Title Co.....	Glendive
Hill County Abstract Co.....	Havre
C. M. Kelly.....	Lewistown
Custer Abstract Company.....	Miles City
Musselshell Co. Abst. & Title Co.....	Roundup
Toole County Abst. Co.....	Shelby

## NEBRASKA

W. H. Davis.....	Beatrice
Wm. A. Cole.....	Bloomington
C. A. Yeoman.....	Elwood
J. F. Hanson & Co.....	Fremont
Adams County Abst. Co.....	Hastings
Thayer County Abst. Co.....	Hebron
W. W. Barney & Son.....	Kearney
A. C. Wittera.....	Kearney
The H. O. Smith Co.....	Lexington
Verne Hedge.....	Lincoln
John E. Kelley & Son.....	McCook
John W. Lamson.....	Neligh
Midland Title Guar. & Abst. Co.....	Omaha
Capron Agency.....	Ord
Seward County Abstract Co.....	Seward
Jay C. Moore.....	Tecumseh

## NEVADA

Title & Trust Company of Nevada.....	Las Vegas
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## NEW JERSEY

Asbury Park Trust Co.....	Asbury Park
Chelsa Title & Guar. Co.....	Atlantic City
Land Title Guar. Co. of N. J.....	Camden
West Jersey Title Co.....	Camden
Monmouth Title Company.....	Freehold
Fidelity Union Ti. & Mtg. Gur. Co.....	Newark
Ocean City Title & Trust Co.....	Ocean City
Fidelity Title & Mtg. Co.....	Ridgewood
Ocean County Title Company.....	Toms River

## NEW MEXICO

The Southwestern Abst. & Title Co.....	Las Cruces
The E. G. Twitty Abst. Co.....	Raton
Avery-Bowman Company.....	Santa Fe

## NEW YORK

F. M. Hosmer.....	Auburn
Home Title Insurance Co.....	Brooklyn
Elwood Roberts.....	Goshen
Chautauqua Abstract Company.....	Mayville
Orange & Rockland Title & Mtg. Guar. Co.....	Monroe
Lawyers Title & Guaranty Co.....	New York City
New York Title & Mortgage Co.....	New York City
Title Guaranty & Trust Co.....	New York City
Abstract Guaranty Company.....	Rochester
Mohawk Abstract Corp.....	Schenectady
Butler, Kilmer, Hoey & Butler.....	Saratoga Springs
Central New York Abst. & Title Co.....	Utica
Westchester Title & Trust Co.....	White Plains

## NORTH DAKOTA

M. J. Ruemmele	Ashley
The Abstract & Title Co.	Beach
Burleigh County Abst. Co.	Bismarck
Bottineau County Abst. Co.	Bottineau
Bowman Co. Abst. Co.	Bowman
G. D. Stout	Ellendale
Northern Abstract Co.	Fargo
Sargent Co. Abst. & Title Guar. Co.	Forman
Truemann Abst. Company	Grafton
The H. Bendeke Co.	Grand Forks
C. D. Kelly	Hillsboro
The Butler Company	Lisbon
The Mandan Abstract Company	Mandan
The Abstract & Title Co.	Schafer
Mountrail Co. Abst. Co.	Stanley
Security Abst. & Title Co.	Stanley
Mercer County Abst. Company	Stanton
Williams County Abst. Co.	Williston

## OHIO

The Bankers Guar. Title & Tr. Co.	Akron
W. E. Peters	Athens
Title Guar. & Trust Co.	Cincinnati
The Cuyahoga Abst. Ti. & Tr. Co.	Cleveland
The Guar. Title & Trust Co.	Cleveland
The Land Title Abst. & Trust Co.	Cleveland
Thraves Abst. & Title Co.	Fremont
G. W. Cornell Abstract Company	Jefferson
Adele M. Kagay	Marysville
John H. Green	Painesville
The Real Estate Abstract Co.	Toledo
The Title Guar. & Trust Co.	Toledo
Trumbull County Abst. Co.	Warren
The Warren Gtd. Title & Mtg. Co.	Warren

## OKLAHOMA

Lacey-Pioneer Abst. Co.	Anadarko
Washington County Abst. Co.	Bartlesville
Boise City Abst. Office	Boise City
Abstract & Guaranty Co.	Chandler
Lincoln County Abst. Co.	Chandler
Slief-Vaughn Abst. Co.	Cheyenne
Johnston Abst. & Loan Co.	Claremore
Rogers Co. Abst. Co.	Claremore
Duncan Abstract Co.	Duncan
Bryan County Abst. Co.	Durant
El Reno Abstract Co.	El Reno
The Hughes County Abst. Co.	Holdenville
Oklahoma Abstract Company	Lawton
Photo Abstract Company	Miami
Guaranty Trust Company	Muskogee
Albright Title & Inv. Co.	Newkirk
Security Abst. Company	Newkirk
Title Abstract Company	Nowata
American National Company	Oklahoma City
Okemah Abst. & Title Co.	Okemah
Guaranty Abst. Company	Pauls Valley
Osage County Abst. Company	Pawhuska
Poteau Abstract Company	Poteau
The Creek County Abst. Co.	Sapulpa
The Lafe-Speer Abstract Company	Sapulpa
Sater Abst. & Loan Co.	Stillwater
Sayre Abst. Title & Gty. Co.	Sayre
Sulphur Abst. & Title Company	Sulphur
The Cherokee Capitol Abst. Co.	Tahlequah
Title Guaranty & Trust Company	Tulsa
Guaranty Abstract Company	Wagoner
Cotton County Abstract Company	Walters
Wagoner County Abst. Co.	Wagoner

## OREGON

The Bowers Abstract Company	Baker
Wilson Abstract Company	Klamath Falls
The Abstract & Title Company	LaGrande
Jackson County Abstract Co.	Medford
Hartman Abstract Company	Pendleton
Title & Trust Company	Portland
Union Abstract Company	Portland
Columbia County Abstract Co.	St. Helens

## PENNSYLVANIA

Merion Title & Trust Company	Ardmore
Delaware County Trust Company	Chester
The Industrial Trust, Ti. & Sav. Company	Philadelphia
Ninth Bank & Trust Company	Philadelphia
North Philadelphia Trust Co.	Philadelphia
Peoples Bank & Trust Company	Philadelphia
Chelton Trust Company	Germantown
The Land Title & Trust Co.	Philadelphia

The West Philadelphia Ti. & Tr. Co.	Philadelphia
Potter Title & Trust Company	Pittsburgh
The Title Guaranty Company	Pittsburgh

## RHODE ISLAND

Title Guar. Co. of R. I.	Providence
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## SOUTH DAKOTA

Carson County Land & Ti. Co.	McIntosh
Dakota Ti. & Inv. Co. Inc.	Rapid City
Southwick Abstract Company	Watertown

## TENNESSEE

Title Guarantee Trust Company	Nashville
Title Guaranty & Trust Company	Chattanooga

## TEXAS

Guaranty Abst. & Title Co.	Amarillo
Archer County Abst. Co.	Archer City
Guarantee Abstract Co.	Archer City
Jefferson County Abst. Co.	Beaumont
C. R. Rambo	Brownfield
The Colorado Co. Abst. Co. Inc.	Columbus
Guaranty Title Company	Corpus Christi
Guar. Abst. & Title Company	Crosbytown
W. R. Garrett	Cuero
Pioneer Abst. & Guar. Title Co.	El Paso
Home Abstract Company	Fort Worth
Love Abstract Company	Franklin
Guarantee Abstract Company	Georgetown
Live Oak Co. Title Company	George West
The Kincy Abstract Company	Greenville
W. F. Goodrich Abst. Co.	Hemphill
Eastland Title Guar. Company	Hillsboro
Houston Abstract Company	Houston
Houston Title Guar. Company	Houston
Stewart Title Guar. Co.	Houston
Texas Abstract Company	Houston
Standard Abstract Company	Lubbock
Wilson Abstract Company	Lubbock
Marshall Abstract & Title Co.	Marshall
Montague County Abst. Co.	Montague
O'Neal Abstract Company	Panhandle
Port Arthur Abst. Company	Port Arthur
Chas. L. Pickett	Post
Cherokee County Abst. Co.	Rusk
San Antonio Abst. & Title Co.	San Antonio
Texas Title Guaranty Company	San Antonio
Donegan Abstract Company	Seguin
Pioneer Abstract Company	Tahoka
Texarkana Abstract Company	Texarkana
Dilworth Abstract Company	Waco
Guar. Abstract & Title Co.	Wichita Falls

## UTAH

Fred C. Bush	Salt Lake City
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## VIRGINIA

The Title Ins. Co. of Richmond	Richmond
Title Guar. Tr. & Savings Bank	Roanoke

## WASHINGTON

Whatcom Co. Abst. Co.	Bellingham
Portland Orchard Abstract Company	Bremerton
Kittitas County Abstract Company	Ellensburg
Grant County Title Abst. Co.	Ephrata
Thurston County Abstract Company	Olympia
Garfield County Abst. Co.	Pomeroy
Washington Title Ins. Company	Seattle
Mason County Abst. & Title Co.	Shelton
Northwestern Title Ins. Co.	Spokane
Clarke County Abstract Co.	Vancouver
The Dean-McLean Abst. Company	Walla Walla
Chelan County Abstract Co.	Wenatchee
Yakima Abstract & Title Company	Yakima

## WISCONSIN

Barron County Abst. Co.	Barron
Lafayette County Abst. Office	Darlington
Walworth County Abst. Co.	Elkhorn
Rusk County Abst. Co.	Ladysmith
Citizens Abst. & Title Co.	Milwaukee
Millwaukee Title Guar. & Abst. Co.	Milwaukee
Security Abst. & Title Co.	Milwaukee
Oneida County Land & Abst. Co.	Rhineland
Door County Abstract Co.	Sturgeon Bay
First Bond & Mortgage Company	Wisconsin Rapids

## WYOMING

Natrona County Abst. & Loan Co.	Casper
Security Trust & Title Company	Sundance
Goshen County Abst. & Title Co.	Torrington

The Article on "LIABILITY OF ABSTRACTERS" by V. E. PHILLIPS, appearing in this number of TITLE NEWS will be re-printed in pamphlet form. Copies can be secured by writing Executive Secretary, stating quantity desired.

## Abstracts of Land Titles—Their Use and Preparation

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

The first kind of probate court case that we will consider for abstracting is that of the plain administration or intestate estate. This is the most common and is also the simplest. It has two classes. One is where it is just used for showing heirship and settlement of estate—as evidence that the grantors were the heirs. This is where a conveyance has been made by the heirs and after the period of administration has elapsed and the land reverted to the heirs with the danger of debts of the estate passed because of the lapse of time required by statute for their being presented. Land will sometimes be sold too before this period has elapsed and as much of the proceedings as have been filed will also be shown for the purpose of establishing the heirship as far as they will show, but the purchaser in such cases usually knows the estate is solvent, has a bond from the heirs who are responsible parties, or they furnish a surety bond protecting him. Few sales are made by the heirs before the statutory period however, unless real estate must be sold to pay debts and that brings us to the second class of the intestate estate—where there is a sale of real estate.

In such a case all the proceedings as far as they have gone will be shown to establish facts as to the death, heirship, etc. and then the special sale proceedings.

### The Closed Intestate Estate for Evidencing Heirship.

Facts as to the death and a petition for appointment of an administrator are filed. If a separate Affidavit of Death is filed, copy it in full for it states that the deceased died on a certain date, at such a place, leaving as heirs certain parties, and an estate consisting of real and personal property or only one of the two. This makes a pretty good proof of heirship in itself. This Affidavit should be copied in full.

Next comes the petition for Letters of Administration. It usually contains the additional information however, that deceased left an estate consisting of real and personal property in the amount of \$..... and that it is necessary that an administrator be appointed to properly care for and preserve said estate. It also suggests that some certain party be appointed as such administrator.

If both an Affidavit of Death and Petition for Letters of Administration are filed, then this Petition need only be abstracted, by saying: "Petition for Letters of Administration filed, ....., setting forth same facts and circum-

stances as to death and heirship of John Doe as mentioned in Affidavit of Death and also saying that he left an estate of real and personal property in the estimated value of \$25,000.00 and asks that Richard Roe be appointed administrator, in order that the same may be preserved and administered."

If no Affidavit of Death is filed, then copy this Petition in full.

Next will come an Order of Court Granting Letters. After the hearing has been had, the court will issue an order for the probating of the estate, and decreeing that Richard Roe be appointed Administrator, but that before letters shall be issued, he shall furnish bond in the sum of a certain amount, which when approved, letters will be issued and he empowered to administer the estate.

Show this order as follows "Order of the Court Granting Letters of Administration, issued June 4, 1924, wherein the court orders that the estate be admitted to probate, and that Richard Roe be appointed Administrator with all powers and authority to act as such, upon his furnishing bond in the sum of \$25,000.00."

Next will be the showing as to the bond and this will be said as follows: "Bond in the sum of \$25,000.00 filed, June 4, 1924, shows Richard Roe as Principal, and the Responsible Surety Co. as surety."

The court must approve the bond, and the next notation will be: "Approval of Bond, June 4, 1924, by the Court, by John Smith, Probate Judge."

Since the issuance of letters was conditioned upon the filing of a satisfactory bond and the same has been furnished, the court will now issue the letters. The court will first issue an order and this will be briefly stated as "Order of the Court, June 5, 1924, wherein it is ordered that letters of Administration be issued to Richard Roe, as administrator of the Estate of John Doe."

The Letters of Administration will follow and should be copied in full.

After the appointment of the Administrator to look after the estate, he takes an oath to fairly and impartially perform his office. A scant statement of this can be made by saying "Oath of administrator, June 5, 1924, before John Smith, Probate Judge."

The laws of most states provide that a period of from one to three or even more years can go on for the period of administration but that all claims against the estate must be presented within that time or be forever barred. Notice should therefore be given that John Doe is dead and that his estate is in the process of administration. It

is required that a notice shall be published in some newspaper for a certain number of consecutive weeks notifying everyone that he has died, that Richard Roe was appointed administrator by letters issued on June 5, 1924, and that all claims must be presented within one year (or whatever the statutory period is) or be forever barred.

Proof of this publication will be shown in the usual manner of abstracting the printer's affidavit and showing the notice in full. The affidavit can be abstracted as follows: Proof of Publication in the Hootstown Herald, as per the affidavit of William Johnson, publisher, stating that said publication is a weekly newspaper published in Johnson County, Mo., and has been uninterruptedly and continuously published in said county for a period of more than 52 consecutive weeks prior to first publication of this notice. That said notice was published for three consecutive weeks, first publication, June 16, 1924, last publication June 30, 1924. The printed notice attached is as follows:" and the notice will be copied.

Then remains the period for administration. No real estate will probably be sold during that time if the estate is solvent and there is enough personal property on hand to pay debts. The real estate will be held intact and the heirs can sell it together to someone else or to themselves afterwards.

An open estate has a hard time selling real estate just to be against loss and they therefore drift until time to close them.

Annual accounts are filed but they can be disregarded by the abstractor, except the final account.

This is the beginning of the wind up, and the Administrator will file it, showing the balance on hand. The abstractor should show this as "Final Account Filed, June 5, 1926, showing balance on hand of \$1,200.00."

Following this the administrator will petition for his discharge and this can be abstracted as follows: "Petition for Final Settlement of Estate, Discharge of Administrator and his Bondsmen and Order of Final Distribution and Adjudication of Heirs, filed, June 5, 1926, wherein the Administrator states that he has fully and completely administered the estate and same should be closed; that he has filed his final account showing balance of \$1,200.00 on hand; that an order of distribution of this among the heirs should be made; that he should be discharged and his bondsmen released and that the court make an order finding and adjudging the heirs of the estate."

The court will then make an order for a hearing of this petition and notice is required so that all concerned can know it. This should be shown as follows: "Order of Court, June 5, 1926, wherein the court orders that notice of hearing of said petition be had on June 30, 1926, and that said administrator publish notice of same in some newspaper of general circulation for a

period of three consecutive weeks."

A notice of this hearing will then be published and this should be shown as described for the notice of the appointment, by abstracting the printer's affidavit as formerly shown and showing a copy of the printed notice.

Then will come the last step and most courts make this a single complete order by approving the administration, the final account ordering that the funds on hand be distributed, that the heirs of the estate are—naming them, and that the administrator and his bondsmen be discharged upon his filing receipts from the heirs for their respective shares of the funds on hand. Each of these is a separate step and in some states where the probate judges use printed forms for everything, each will be on a separate form. Simply show them as such. In others though, the court will make a journal or sweeping and complete entry of all these things at once, but they should in either case be copied in full—as all orders of all courts are.

Then it is very important that the abstracter show that the receipts are in the files by stating "Receipts for above mentioned distributive shares appear in the files" but he first wants to be very sure that all of them are there.

Then will come a short and the very final order of the court—the discharge of the administrator and his bondsmen because he has paid out the last of the funds, and receipts appear therefore. Thus is the estate probated, closed, and the heirship and settlement made a matter of record.

#### Intestate Estates With Sale Proceedings.

In the second type of these cases, real estate will be sold for the payments of debts, and this will usually be in the early history of the case for it does not take long to know whether or not the estate has sufficient personal assets on hand to pay outstanding and current claims and debts.

Most states provide by law that real property can only be disposed of for certain and very few reasons, namely the payment of debts.

Abstract the case in the usual way down to the qualifying of the administrator, showing all the things to that point. This is to show that the administrator has the power to act and has been regularly appointed and qualified.

The Administrator will then file a Petition to Sell Real Estate in which he will state it is necessary for certain reasons to dispose of the real estate, but the facts set up must be allowable by statute, THEREFORE THIS PETITION TO SELL MUST ALWAYS BE SHOWN IN FULL.

The Court will then set a date for hearing the petition and order notice be given by an Order to Give Notice of Hearing of Petition to Sell Real Estate. This will be in the form prescribed by the various states, either by publication or service. If by publication, then show the Proof of Notice

that will be filed by abstracting the printer's affidavit as shown above, and copying the notice in full.

If by service, then abstract the return showing the manner of service.

After the hearing to sell, the court will issue an Order of Sale commanding the real estate be sold at either private or public sale, for a certain percentage of the appraised valuation, after being appraised by a number of disinterested householders, and that the sale be held on a certain date.

Show Appointment of Appraisers, their oath, and then COPY THEIR RETURN IN FULL SO AS TO SHOW EXACT FACTS. THIS IS IMPORTANT.

Next will be a showing as to whether or not an additional bond was filed, to cover the proceeds of the sale, as some of the states require this of the administrator. Show this as described above for bonds, that a bond in a certain sum was filed, giving date, with Richard Roe as principal and the Reli-

able Surety Co. as surety. Make notation as to approval by court.

The sale will then be had and the Administrator will make the sale, and file a report of it, stating when and where it was sold, to whom, and the price or consideration.

The court will approve the sale and the proceedings had thereunder, and order a deed issued to the purchaser. An administrator's deed will follow, and that muniment usually has the approval of it on the document itself, which will be shown in the chain of title.

This can end the case and even though the abstract may be made long after the estate has been closed, and this abstract of proceedings—the abstract of something that happened before the abstract was made, he can stop work here and not show the closing of the estate, etc.

Further steps in the estate, such as the settlement, etc., cannot effect these sale proceedings, and the particular piece of property involved.

## THE KANSAS TITLE ASSOCIATION

WILL HOLD ITS 1926 CONVENTION

in MANHATTAN

Oct. 16-17-18.

This will be a fine meeting.

Attend and hear an excellent program.

See the K. U.—Aggie Football Game.

## THE MICHIGAN TITLE ASSOCIATION

will meet in its

ANNUAL CONVENTION

in LANSING

DATES—OCTOBER 7-8.

Place of Meeting—Olds Hotel

## THE MISCELLANEOUS INDEX

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

The many friends of John H. Clark, genial treasurer of the Pennsylvania Title Association will be pleased to know he has been made title officer of his company, the Delaware County Trust Co., Chester, Pennsylvania. Mr. Clark can know that many share in congratulations to him upon his advancement and increased responsibilities.

Announcement is made of the change of name and enlargement of activities of the Scott Title Co., Paris, Texas, T. M. Scott, president. The new company is capitalized at \$100,000.00 and under the new name of the Scott Title & Guaranty Co. Complete title service is offered, including abstracts, examinations, guarantees, escrow and others.

The company has offices in Paris, Clarksville, Cooper, and Sulphur Springs.

The Virginia Realtor, published in Richmond, in the interest of real estate matters has contained some very interesting articles on title insurance. These have been written by H. Laurie Smith, General Manager of the Lawyers Title Insurance Corporation of Richmond.

They have been on ideas of the particular value of title insurance to realtors.

The Stewart Title Guaranty Co., of Texas, announces the opening of another branch in that state. This new one is in Fort Worth and the sixth in the system. The company purchased the abstract plant of the Texas Title Co. and it will be in charge of L. D. Hahn, former manager of the Texas Title Co. A. C. Heath of the legal department of the Dallas office of the company will be in charge of the examinations and legal work.

The enterprise was prompted by the fact that Fort Worth has taken the lead in building permits of Texas cities and is rapidly progressing.

The Stewart Company has offices in Houston, Dallas, Galveston, San Antonio, and El Paso, in addition to the newly acquired one in Fort Worth.

The Title Insurance and Guaranty Co. of San Francisco, Calif., has acquired another branch in the purchase of the plant and business of the Tehama County Title Co., at Red Bluff and consolidating it with the plant and business of W. L. Bransford who has operated for many years in that county. The business will hereafter be conducted under the name of Tehama County Title Co. and will be underwritten for title insurance by the

Title Insurance & Guaranty Co. and Western Title Insurance Co.

The Southern Title & Trust Co., of San Diego, Calif., is the new name recently adopted by the Southern Title Guaranty Co. The change of name was occasioned by the addition of a trust department. Additions and alterations were made to the company's offices in their own building to accommodate the enlarged activities and added services offered.

The Pioneer Title Insurance Co. of San Bernardino, Calif., W. M. Glasscock, secretary, announces the addition of a Trust Department and a change of name to The Pioneer Title Insurance and Trust Co.

The Title Insurance and Guaranty Company has purchased the plant and business of the Kipp Abstract Company of Oroville, Cal. Illness in the family of Solon S. Kipp, founder of the Kipp company, made it necessary for him to sell the business and leave Oroville. The Title Insurance and Guaranty Company took charge of the Kipp business on Feb. 1.

The Yuba-Sutter Abstract and Title Company of Marysville has discontinued the making of abstracts and the issuing of certificates and is confining its business to the issuance of title insurance policies. The Title Insurance and Guaranty Company has a branch office with the Yuba-Sutter company.

The three title companies of Santa Rosa have also gone on an exclusive title insurance basis. The Western Title Insurance Company, the Oakland Title Insurance and Guaranty Company, and the Title Insurance and Guaranty Company have branch offices in Santa Rosa.

J. B. DeJarnett and Sons and Byron D. Beckwith have discontinued making abstracts and issuing certificates and will issue policies of title insurance in Colusa County, beginning Apr. 1, through the Western Title Insurance Company and the Title Insurance and Guaranty Company. The same change was made in Glenn County, beginning Apr. 1.

The St. Louis County Land Title Co., with offices in Clayton, Mo., announces the purchase of the plant, equipment and good will of the St. Louis Title Co., of the city of St. Louis, office at 717 Chestnut Street.

This acquisition of a city title plant and office makes possible the rendition of title service in both the city and county of St. Louis. The capital stock is \$500,000.00. Title Insurance will

be featured and an escrow department is also part of the services offered. The city office will be at 717 Chestnut Street, present location of the St. Louis Title Co., and the Clayton office at its present location.

James M. Rohan is the president of the consolidated company.

The Guarantee Title & Trust Co., of Cleveland, Ohio, Paul Jones, vice president, announces the purchase and acquisition of the Abstract Title & Guarantee Trust Co., of Akron.

This will be operated under the name of the Cleveland office and Earl G. Smith will continue as vice president in charge.

The Security Title Insurance & Guarantee Co., of Los Angeles, announce plans for the construction of a new skyscraper business block on the Southeast corner of Sixth and Grand. It will cost \$1,150,000.00 and be known as the Security Title Insurance Building, with the title company occupying the first three floors.

Following the merger of Title Insurance & Guaranty Company, of San Francisco, with its several branches, Western Title Insurance Company and its 25 branches, and the Sacramento Abstract & Title Company, the Western Title Insurance Company sold all of the capital stock of the Capital City Title Company of Sacramento to Harry L. Huston, a member of the law firm of Huston & Huston, maintaining offices at Sacramento and Woodland. Mr. Huston is reselling the capital stock he has purchased to Sacramentans, thereby forming a local organization as owner of the Capital City Title Company. No change in the management of the company is contemplated. The plant involved in this deal was purchased by the Western Title Insurance Company from the Pierce-Bosquit Abstract & Title Company in March, 1925.

The Chicago Title & Trust Co. created a new standard for trust investment protection by the establishment and announcement thereof, of a \$2,000,000.00 Special Reserve Fund for protection against any loss occasioned by the failure of prompt payment of maturing principal or interest on a trust investment made in its sole discretion.

This is a voluntary addition to the present legal requirements on safeguards surrounding trust investments.

The Chicago Title & Trust is building a wonderful trust business through its advanced methods and facilities augmented by an admirable and energetic advertising campaign.

The Santa Cruz Land Title Co., Santa Cruz, Calif., experienced a great and growing escrow business in 1925. The amount of this business handled by the company increased over sixty-six per cent in 1926 from the preceding year.

# The American Title Association

## Officers

### President

Henry J. Fehrman, Omaha, Neb.  
Attorney, Peters Trust Co.

### Vice-President

J. W. Woodford, Seattle, Wash.  
Pres. Lawyers & Realtors Title Insurance Co.

### Treasurer

Edward C. Wyckoff, Newark, N. J.  
Solicitor, Fid. Union T. & Mort. Guar. Co.

### Executive Secretary

Richard B. Hall, Kansas City, Mo.  
Title & Trust Bldg.

### Executive Committee

(The President, Vice-President, Treasurer and Chairmen of the Sections, ex-officio, and the following elected members compose the Executive Committee. The Vice-President of the Association

is the Chairman of the Committee.)

### Term Ending 1926

Fred P. Condit, New York City.  
Vice-Pres., Title Guar. & Trust Co.  
J. M. Whitsett, Nashville, Tenn.  
Vice-Pres., Mgr. Title Grty. Trust Co.  
M. P. Bouslog, Gulfport, Miss.  
Pres. Miss. Abst. T. & Grty. Co.

### Term Ending 1927

J. L. Chapman, Cleveland, O.  
Secy., Land T. Abst. & Trust Co.  
Henry Baldwin, Corpus Christi, Tex.  
Pres., Guaranty Title Co.

## Sections and Committees

### Abstracters Section

Chairman, Ray McLain, Oklahoma City, Okla.  
Vice-Pres., American National Co.  
Vice-Chairman, Lewis D. Fox, Fort Worth, Tex.  
Pres., Home Abstract Co.  
Secretary, A. J. Arnot, Bismarck, N. D.  
Pres., Burleigh Co. Abstract Co.

### Title Insurance Section

Chairman, Donzel Stoney, San Francisco, Calif.  
Manager, Title Insurance & Grty. Co.  
Vice-Chairman, Wellington J. Snyder, Philadelphia, Pa.  
Title Officer, North Philadelphia Trust Co.  
Secretary, James D. Forward, San Diego, Calif.  
Secy.-Treas., Union Title Insurance Co.

### Title Examiners Section

Chairman, Golding Fairfield, Denver, Colo.  
Title Officer & Attorney, Title Guar. Co.  
Vice-Chairman, W. L. Rogers, Louisville, Ky.  
Attorney Federal Land Bank.  
Secretary, Solomon Goldman, New Orleans, La.  
Attorney, Pan American Life Insurance Co.

### Advisory Committee to the President

Henry R. Chittick, New York, N. Y.  
Solicitor, Lawyers Title & Trust Co.  
H. B. Wilkinson, Phoenix, Ariz.  
Pres., Phoenix Title & Trust Co.  
Geo. E. Wedthoff, Bay City, Mich.  
Treas., Northern Title & Trust Co.  
Worrall Wilson, Seattle, Wash.  
Pres., Seattle Title Trust Co.  
Justin M. Dall, Chicago, Ill.  
Vice-Pres., Chicago Title & Trust Co.  
Jesse P. Crump, Kansas City, Mo.  
Vice-Pres., Kansas City Title & Trust Co.  
Edward O. Clark, Newark, New Jersey  
Asst. Solicitor, Prudential Ins. Co. of America.  
Frederick P. Condit, New York, N. Y.  
Vice-Pres., Title Guarantee & Tr. Co.  
J. R. Morgan, Kokomo, Ind.  
Pres., Johnson Abstract Co.

Ed. F. Dougherty, Omaha, Neb.  
General Attorney, Federal Land Bank.

### Program Committee—1926 Convention

The President, The Executive Secretary, and the Chairmen of the Sections compose this Committee, with the Chairman of the Noon Day Sectional Conferences, who is:

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

### Committee on Membership

Edwin H. Lindow, Chairman, Detroit, Mich.  
Vice-Pres., Union Title & Grty. Co.  
The Presidents and Secretaries of the state Associations constitute the other members.

### 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.  
Pres., Miss. Abst. Title & Guar. Co.  
E. J. Carroll, Davenport, Iowa  
Attorney, Davenport Abstract Co.

### Committee on Co-operation

Worrall Wilson, Chairman, Seattle, Wash.  
Pres., Seattle Title Trust Co.  
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, Kansas.  
Security Abstract Co.  
Frank P. Doherty, Attorney, Los Angeles, Calif.  
Merchants Nat'l Bank Bldg.  
T. M. Scott, Paris, Texas.  
Pres., Scott Title Co.  
William Brosmith, Hartford, Conn.  
Counsel, The Travelers Insurance Co.  
J. M. Dall, Chicago, Ill.  
Vice-Pres., Chicago Title & Trust Co.  
George F. Heindel, Ottumwa, Iowa.  
Pres., Phoenix Trust Co.

### Judiciary Committee

Henry C. Soucheray, Chairman, St. Paul, Minn.

Treas., St. Paul Abstract Co.  
Cornelius Doremus, Ridgewood, N. J.  
Pres., Fidelity Title & Mort. Guar. Co.  
Stuart O'Melveny, Los Angeles, Calif.  
Vice-Pres., Title Insurance & Tr. Co.  
Chas. C. White, Cleveland, Ohio.  
Title Officer, Land Title Abst. & Tr. Co.  
Clarence E. Bowen, Crawfordsville, Ind.  
Attorney, Evans, DeVore & Co.  
William A. Gretzinger, Philadelphia, Pa.  
Title Officer, Republic Trust Co.  
McCune Gill, St. Louis, Mo.  
Title Officer & Vice-Pres. Title Guar. & Tr. Co.

### Committee on Advertising

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

### Legislation Committee

James P. Pinkerton, General Chairman, Philadelphia, Pa.  
Title Officer, Industrial Trust Title and Sav. Co.  
District No. 1.  
New Jersey, Edward C. Wyckoff, Chairman, Newark.  
New York, Cyril H. Burdette, New York  
Connecticut, James E. Brinkerhoff, Stamford.  
Rhode Island, Ivory Littlefield, Providence.  
Massachusetts, Theo. W. Ellis, Springfield.  
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Pennsylvania, Col. Sheldon Potter, Chairman, Philadelphia.  
Virginia, Jas. B. Botts, Roanoke.  
West Virginia, George E. Price, Charleston.  
District No. 3.  
Florida, J. M. Blow, Chairman, Miami.  
Georgia, Roy C. Calhoun, Atlanta.  
South Carolina, J. Watres Thomas, Columbia.  
North Carolina, Joseph L. Cockerham, Raleigh.

District No. 4.  
Tennessee, J. R. West, Chairman, Nashville.  
Kentucky, Chas. A. Haeberle, Louisville.  
Indiana, Walter S. Coppage, Crawfordsville.  
Ohio, John H. Greene, Painesville.

District No. 5.  
Louisiana, A. M. Mayo, Chairman, Lake Charles.  
Alabama, H. D. Patterson, Gadsden.  
Mississippi, W. R. Barber, Gulfport.

District No. 6.  
Arkansas, M. B. Brewer, Chairman, Oklahoma City, Okla.  
Missouri, Jas. M. Rohan, St. Louis.  
Illinois, H. C. Gerke, Edwardsville.

District No. 7.  
North Dakota, A. J. Arnot, Chairman, Bismarck.  
Minnesota, W. S. Jenkins, Minneapolis.  
Wisconsin, W. E. Furlong, Milwaukee.  
Michigan, Lloyd L. Axford, Detroit.

District No. 8.  
Nebraska, David Swarr, Omaha.  
Iowa, Cyrus B. Hillis, Des Moines.  
South Dakota, R. G. Williams, Watertown.  
Wyoming, Osmer E. Smith, Denver, Colo.

District No. 9.  
Kansas, C. C. Porter, Chairman, Russell Springs.  
Oklahoma, Walter Thompson, Durant.  
Colorado, J. G. Houston, Denver.  
New Mexico, J. M. Avery, Santa Fe.

District No. 10.  
Texas, H. B. Baldwin, Chairman, Corpus Christi.

District No. 11.  
Arizona, F. M. Coggins, Chairman, Phoenix.  
California, Ross M. Pierce, Sacramento.  
Utah, Alex. E. Carr, Salt Lake City.

Nevada, A. A. Hinman, Las Vegas.

District No. 12.  
Washington, Charleston L. Hall, Chairman, Seattle.  
Oregon, L. M. Hicks, Salem.  
Montana, C. E. Hubbard, Great Falls.  
Idaho, Orval M. Fox, Pocatello.

## State Associations

### Arkansas Land Title Association

President, Elmer McClure, Little Rock.  
Pres. Little Rock Abst. & Grty. Co.  
Vice-Pres., Miss Ealy Redd, Little Rock.  
Beach Abst. & Grty. Co.  
Secretary, Geo. F. Buzbee, Benton.  
Mgr. Saline Co. Abst. & Grty. Co.  
Treasurer, J. A. Stallcup, Hot Springs.  
V.-Pres. Arkansas Trust Co.

### California Land Title Association

President, Benj. J. Henley, San Francisco.  
California-Pacific Title Ins. Co.  
1st V. Pres., Stuart O'Melveny, Los Angeles.  
Title Insurance & Trust Co.  
2nd V. Pres., Jarvis Streeter, Fresno.  
San Joaquin Abstract Co.  
3rd V. Pres., Morgan LaRue, Sacramento.  
Sacramento Abst. & Title Co.

Secy.-Treas., Frank P. Doherty, Los Angeles.  
Merchants Natl. Bank Bldg.

### Colorado Title Association

President, J. Emery Treat, Trinidad.  
Mgr. Trinidad Abst. & Title Co.  
Vice-Pres., H. C. Hickman, Boulder.  
Mgr. Record Abst. of Title Co.  
Secretary, Edgar Jenkins, Littleton.  
Secy. Arapahoe Co. Abst. & Title Co.  
Treasurer, Anna E. Allen, Denver.  
Jefferson Co. Title Co.

### Florida Title Association

President, Richard P. Marks, Jacksonville.  
Title & Trust Co. of Florida.  
Vice-President, C. A. Vivian, Miami.  
Florida Title Co.  
Vice-President, Allan I. Moseley, Fort Myers.  
Lee County Bank Title & Trust Co.

Secretary-Treasurer, Geo. S. Nash, Orlando.

Nash Title Co.  
Assistant Secretary, Mia Beck, Orlando.  
Central Florida Abst. & Title Grty. Co.

### Idaho Title Association

President, Henry Ashcroft, Payette.  
Payette County Abst. Co.  
Vice-Pres., A. E. Beckman (S. E. Division).  
Pocatello.  
Pocatello Title & Trust Co.  
Vice-Pres., E. L. Shaw (S. W. Division).  
Caldwell.  
Canyon Abst. & Title Co.  
Vice-Pres., O. W. Edmonds (Northern Division), Coeur d'Alene.  
Panhandle Abst. Co.  
Secy.-Treas., Karl L. Mann, Emmett.  
Gem County Abst. Co.

- Illinois Abstracters Association**  
 President, Lynn R. Parker, Lincoln.  
 Vice-President, W. A. McPhail, Rockford.  
 Holland-Ferguson Co.  
 Secretary, Harry C. Marsh, Tuscola.  
 Douglas County Abstract & Loan Co.  
 Treasurer, Florence Beard, Pittsfield.  
 Pike Co. Abstract Co.
- Indiana Title Association**  
 President, John F. Meredith, Muncie.  
 Vice-President, Deleware Co. Title & Loan Co.  
 Vice-Pres., R. W. Miles, Martinsville.  
 Pres. Morgan Co. Abst. Co.  
 Secy.-Treas., Charles E. Lambert, Rockville.  
 Lambert Title Co.
- Iowa Title Association**  
 President, O. N. Ross, Orange City.  
 Sioux Abstract Co.  
 Vice-President, Ralph B. Smith, Keokuk.  
 Secretary, John R. Loomis, Red Oak.  
 Loomis Abstract Co.  
 Treasurer, Mary A. Matt, Boone.  
 Boone County Abst. Co.
- Kansas Title Association**  
 President, E. L. Mason, Wichita.  
 Guarantee Title & Trust Co.  
 Vice-Pres., Robt. B. Spilman, Manhattan.  
 Secy.-Treas., F. M. Rogers, Wellington.  
 Secy. The Rogers Abst. & Title Co.
- Louisiana Title Association**  
 President, R. B. Hill, Benton.  
 Bossier Abst. & Title Co.  
 Vice-Pres., Frank Sudboth, Crowley.  
 Secretary, R. A. Querbes, Shreveport.  
 Caddo Abst. Co.  
 Treasurer, N. K. Vance, Alexandria.  
 La. Title & Mort. Co.
- Michigan Title Association**  
 President, Ray A. Trucks, Baldwin.  
 Lake Co. Abst. Co.  
 Vice-Pres., William J. Abbott, Lapeer.  
 Secretary, Emma Stoeckert, Monroe.  
 Monroe Co. Abst. Co.  
 Treasurer, Herbert W. Goff, Adrian.  
 Lenewee Abst. Co.
- Minnesota Title Association**  
 President, V. E. Erickson, Aitkin.  
 Aitkin Co. Abst. Co.  
 Vice-Pres., C. E. Tuttle, Hastings.  
 Secy.-Treas., E. D. Boyce, Mankato.  
 Mgr., Blue Earth Co. Abst. Co.
- Missouri Title Association**  
 President, J. A. Riley, Lancaster.  
 Schuyler Co. Abst. Co.  
 Vice-Pres., James M. Rohan, Clayton.  
 St. Louis Co. Land Title Co.  
 Secy.-Treas., T. S. Simrall, Boonville.  
 Cooper Co. Abst. Co.
- Montana Title Association**  
 President, W. B. Clarke, Miles City.  
 Custer Abstract Co.  
 1st V. Pres., C. C. Johnson, Plentywood.  
 Sheridan County Abst. Co.
- 2nd V. Pres., James T. Robison, Choteau.  
 Teton County Abstract Co.  
 3rd V. Pres., Margaret M. Egan, Stanford.  
 Judith Basin County Abst. Co.  
 Secy.-Treas., C. E. Hubbard, Great Falls.  
 Hubbard Abstract Co.
- Nebraska Title Association**  
 President, Ralph M. Barney, Kearney.  
 W. W. Barney & Son.  
 1st V.-Pres., Verne Hedge, Lincoln.  
 2nd V.-Pres., E. P. Mathews, Omaha.  
 3rd V.-Pres., John M. McAllister, Neligh.  
 4th V.-Pres., Russell A. Davis, Fairbury.  
 5th V.-Pres., F. L. Youngblood, Hastings.  
 6th V.-Pres., J. G. Leonard, Broken Bow.  
 Secy.-Treas., Guy E. Johnson, Wahoo.  
 Hamilton & Johnson.
- New Jersey Title Association**  
 President, Cornelius Doremus, Ridgewood.  
 Pres. Fid. Title & Mort. Grty. Co.  
 1st V.-Pres., William S. Casselman, Camden.  
 West Jersey Title Ins. Co.  
 2nd V.-Pres., Frederick Conger, Hackensack.  
 Peoples Tr. & Grty. Co.  
 Secretary, Stephen H. McDermott, Freehold.  
 Monmouth Title Co.  
 Treasurer, Arthur Corbin, Passaic.  
 Grty. Mort. & Title Ins. Co.
- New York State Title Association**  
 President, Henry J. Davenport, Brooklyn.  
 Pres., Home Title Ins. Co.  
 Vice-Pres., R. P. Ray (Southern Section),  
 White Plains.  
 Westchester Title & Tr. Co.  
 Vice-Pres., E. Day Clark (Central Section),  
 Binghamton.  
 526 Security Mutual Bldg.  
 Vice-Pres., DeLancey Bentley (Western Sec-  
 tion), Rochester.  
 Title Grty. Corp. of Rochester.  
 Secretary, S. H. Evans, New York City.  
 149 Broadway.  
 Treasurer, Fred P. Condit, New York City.  
 V.-Pres. Title Guar. & Tr. Co.
- North Dakota Title Association.**  
 President, John L. Bowers, Mandan.  
 Mandan Abstract Co.  
 Vice President, Geo. B. Vermilya, Towner.  
 McHenry County Abst. Co.  
 Secy.-Treas., A. J. Arnot, Bismarck.  
 Burleigh County Abst. Co.
- Ohio Title Association**  
 President, O. L. Pealer, Warren.  
 Title Officer, Warren Gr. T. & Mort. Co.  
 Sec.-Treas., Theodore Kemp, Jr., Newark.
- Oklahoma Title Association**  
 President, Vera Wignall, Pauls Valley, Guar-  
 anty Abstract Co.  
 Vice-Pres., Howard Searcy, Wagoner, Wag-  
 oner Co. Abst. Co.  
 Vice-Pres., J. W. Banker, (N. E. Dist.) Tahle-  
 quah.  
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## THE NEBRASKA TITLE ASSOCIATION

will hold its Annual Convention at  
**LINCOLN HOTEL—LINCOLN**  
 on October 8-9.

A real helpful program has been arranged.  
 Annual Banquet at 6:30 P. M. on first day.  
 Meeting will adjourn at noon of October 9th to attend

## NEBRASKA-MISSOURI FOOTBALL GAME

Let's Make it a Bigger and Better Convention Than Any Before.