TITLE NEWS

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THE AMERICAN TITLE ASSOCIATION

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THE ABSTRACT AND ITS CONTENTS

by

GEORGE E. HARBERT, PRESIDENT

DeKalb County Abstract Company, Sycamore, Illinois
Chairman, Abstracters Section, The American Title Association

(Editors' Note--This article was prepared for and delivered at the 1951 short course on "Title Examination," held at the University of Illinois Law School in February, 1951. It is proposed to publish this article in installments until the whole has been brought before you.)

Land and the marketing of land has occupied a prominent place in the economic structure of every civilized nation. Throughout the centuries, under the able leadership of the bench and bar, innumerable attempts to remove real estate from the marts of commerce have been successfully resisted, and public policy has been guided along a course favoring frequent and easy transfers of land. Among the many problems which have been encountered, the question of assuring a purchaser of real estate, that the title to the land in which he is investing, is such that he may rest secure in his ownership, is one which has been ever present.

Mathematical certainty of a good title is impossible, and the simplest imaginable title, a patent from the State, requires a legal opinion on at least three facts--the proper execution of the patent in accordance with the then existing law; a correct description of the land involved; and assurance that a prior patent has not been granted. Although all of the facts in most titles and most of the facts in all titles are never seriously questioned, with each step in the chain of title the scope of inquiry widens until today it would be impossible to assure anyone that a title is absolutely perfect.

Most contracts for the sale of real estate provide that the seller must only submit evidence that his title is "Marketable."

A marketable title has been defined by the Supreme Court of Illinois as "a title which is not subject to such a reasonable doubt as would create a just apprehension of its validity in the mind of a reasonable prudent and intelligent person; one which a person of reasonable prudence and intelligence, guided by competent legal advice, would be willing to take and pay the full value of the land therefore" (Eggers v. Busch, 154 Ill. 604).

One writer in commenting upon marketability has stated that a marked difference may be noted in the decisions affecting marketability arising from metropolitan districts as compared with rural communities and in defending his position, we find the following interesting excerpt:

"In a farming district the ownership of realty is popularly known; family history is familiar to the neighborhood; boundaries are recognized by rough but sufficient measurement; and each owner is in actual possession of his premises and uses substantially the whole of them. In such a community each member knows what a purchaser expects to get for his money and no one sympathizes with a speculative attack upon title or a technical refusal to complete a bargain. Consequently the law of marketability makes a close approach to common sense and justice. In metropolitan areas, on the other hand, very different standards prevail. Real estate has marvelously increased in value and is bought not necessarily for possession and use but frequently for speculation; family affairs may be unknown to the closest neighbors; and where every inch is valuable, precision of measurement becomes indispensable. * * * Consequently the most minute technicality may become the foundation of attack upon title; while public opinion has little, if any, restraint upon claimant. * * * When therefore the law of marketability is modified by metropolitan cases it grows technical and complex, and the judicial point of view wavers between protection of honest title against adventurous attack on the one hand, and on the other the discountenancing of slipshod conveyancing and dishonest litigation brought to cut off genuine rights without due notice. The more complex the subject grows, the more the claimant is encouraged to litigate and the more nearly perfect must a title be to be held marketable. Fortunately the attitude of the courts has in spite of this development remained liberal, and has sanctioned highly technical rulings in only a few topics." (Davis, Marketability of Titles in New York, page 4).

Since the usual method of satisfying a purchaser that his

title is merchantable is to produce an abstract of the title to the land, it is customary for the attorney representing the purchaser to embody this requirement in his contract of purchase.

An abstract of title is a history of the title to a particular tract of land.

An abstract of title should contain a summary of all grants, conveyances, wills, and all records of judicial proceedings whereby the title is in any way affected, and all encumbrances and liens of record, showing whether they have been released or not, and should show all such facts of record as may impair the title. Attebery v. Blair, 244-363.

It is said that an abstract is no better than its maker. The attorney representing the purchaser therefore should not be satisfied with just any compilation which is labelled "Abstract" but should ascertain that the abstract is one that is generally acceptable in the community where the land is located. To meet this requirement: (1) An abstract should be prepared by persons experienced and skilled in this business; (2) The indices from which the abstract is prepared should be sufficient to enable the abstracter to prepare a complete abstract and (3) the abstract should be backed by financial responsibility to enable its maker to pay for any damage caused by an error in his product.

Persons engaged in the business of making abstracts of title are to be held to a strict responsibility in the exercise of the trust and confidence necessarily reposed in them. Vallette v. Tedens, 122-607.

One who engages in the business of searching the public records, examining title to real estate, and making abstracts thereof, undertakes to use due and ordinary care in the performance of his duties, and for a failure in this respect, a party injured is entitled to recover. Chase v. Heaney, 70-268.

There are two agencies which assist an attorney in determining the acceptability of an abstract.

In most counties the County Bar Association has passed rules stating which abstracts are acceptable. These resolutions are the result of careful consideration of the quality of the abstract and of the financial responsibility of the abstracter

and should not be lightly disregarded.

Then too, the Title men have recognized their responsibility to the real estate investors, and for the past forty years, have, through their title association, required that their members maintain certain basic indices and conform their practices to the accepted standards of abstracting.

If the county has a member of the Title Association, his abstract will be found to measure up to the requirements that are necessary to make for a complete abstract of the title. I realize this is a controversial statement because the membership in the association is not compulsory, and there are some good abstracters throughout the State, who have been elected not to join the association.

The Abstract

An Abstract of Title can either consist of one complete abstract or of a series of portions of the title history, which when coupled together will make one complete abstract.

Thus, if the land were sold in 1900, the investor probably ordered an abstract from the Government to that date. The seller today need only order a continuation of the Abstract from 1900 to date, to secure a complete abstract, provided the abstract made in 1900 is acceptable.

Old Abstracts

In most counties throughout the state, during the past 100 years, there have been abstracters and abstract companies which have ceased to do business. Many of such companies have been purchased by a going concern, and usually the abstracts of such predecessor companies are accepted. The abstracts which cause the most trouble are those made by persons or companies which have ceased to do business completely, and have no successor now operating. There is no standard rule that can be applied to such companies. Usually these problems are the subject matter of resolutions by the County Bar Association. Such rules are based entirely on the quality of the work of the abstracter, since financial responsibility for error is no longer a factor. However in the adoption of such rules, the lapse of time since the cessation of business of the abstracter may prove to be a compensating factor.

Copies of Abstracts

It frequently occurs that a tract of land is divided by sub-division or otherwise so that one abstract will cover the owner-ship of several tracts of land for some part of the time. This gives rise to the practice of making copies of the abstract. There are several things to bear in mind if such an abstract is offered.

1. A copy of a bad abstract even though made by a reputable abstracter does not render the copyist liable for any thing other than the correctness of his copy, unless he assumes specifically such liability.

2. A copy of a good abstract if made by one whose career is transitory (as the secretary of a lawyer) will usually soon be refused since the correctness of the copy depends both upon the accuracy and experience of the typist and upon his reputation in the community.

3. It is doubtful if the maker of the original abstract is liable to the holder of a copy made by a stranger to him, even though it is proved that there was an error or omission in the abstract from which the copy was made, since no contractual obligation could possibly exist between the holder of such a copy and the original maker.

4. Such copies are not admissable as evidence in any law suit.

5. The integrity of the maker of the copy is a matter of such concern as the omission of a page or the substitution of a page is much easier to detect in the original than in a copy, even though it be a photostat copy. Expert photographers can insert and detract portion of a page so skillfully that it will defy the most careful scrutiny. Thus in a copy the certificate of the one who makes it is still a matter of great importance.

As a result of these problems most County Bar Associations require that copies of abstracts be made by a reputable abstract company. If the original abstract is unacceptable, many abstract companies will re-examine the chain of title and certify to the correctness of it, thereby assuming the additional respon-sibility of guaranteeing the correctness of the original.

The Caption of The Abstract

The abstract states on the first page of each portion thereof, the land that it is intended to cover. This called the caption.

The caption of an abstract should cover the land which is the subject matter of the pending transaction. If the abstract consists of several parts, each part should cover at least the tract of land in question. While the earlier captions may cover more, they should never cover less. If the tract which is now being examined is not included in the caption,the fact that every deed in the abstract covers that land is no criterion upon an opinion of title can be based. There may be other matters affecting the land which the abstracter has disregarded because they are not included in the land described in the caption.

The description of the land in the caption of the abstract should be scrutinized by the application of the same rules that apply to a deed. It should describe the land with such certainty that this tract may be located by one experienced in land conveyancing and may be distinguished from any other tract in the world.

The Certificate

Each portion of an abstract should contain a certificate by the abstracter stating the period which the abstract covers and clearly stating any limitations upon the extent of his search.

The liability of an abstracter cannot be limited by an obscure certificate to the abstract unless he specially calls the attention of the other party to it. It is the abstracter's duty when he finds that he cannot furnish a complete and reliable abstract to give the other party notice of that fact. (Chase v. Heaney, 70-268.)

A careful attorney should read the certificates to determine if any exceptions to the coverage of the abstract are noted.

In Illinois the title association has adopted a standard form, which is in use in most counties. I could not conscientiously state that this form should be demanded in every case, since the largest title company in the State of Illinois, Chicago Title and Trust Company,prefers to use their own certificate to that recommended by the association.

You will note, that the certificate gives broad coverage and for all practical purposes will assure the purchaser of the real estate, that the records have been properly searched. In some of the older abstracts the certificates were often very fragmentary. One of our predecessor companies used a certificate that read as follows: "We have examined our indices to the record of instruments in the Recorder's Office DeKalb County etc." It is probably that this was partly a slip, because I cannot imagine an abstracter claiming he was not liable for a mistake in his abstract solely because an instrument duly recorded in the Recorder's Office was not properly shown on his indices. Most lawyers in our county are requesting that this certificate be amended to insert the word "and" after the word indices.

There are some exceptions which are currently used and which should be noted in the opinion of the examining attorney. A few of the more common are:

Most companies make no search for Federal Court proceedings if there is no Federal Court in the County.

Some companies do not search for special assessments.

Some companies do not search for judgments in City Courts located in their County or if they do, the date covered by their certificate as to search judgments is earlier than the date of the abstract.

Some certificates call attention to the omission from the abstract of long ordinances, which concern matters generally known to attorneys, such as zoning ordinances, sewer and drainage, rental ordinances, and other similar matters which are of record and which are so voluminous as to unnecessarily burden the abstract.

Period Covered by Abstract or Continuation

The abstracter will indicate either on the caption or on the certificate the date and time that he commences his search and will note on the certificate the time that he concludes his search. If there is no time of commencement, the abstracter is certifying that the abstract is complete from the Government ownership.

Names

In their Certificates most abstracters list the names of the persons that they search for judgment and irregulars. The reason for doing this is, that, it is often impossible to determine from the record the correct names of the parties who own or have an interest in the property. Thus a deed runs to Mary Jones. She married in St. Louis and is now Mary Green. The abstracter cannot know this unless some instrument of record in the County discloses it. Or in reverse, in 1950 Mary Green acquired title to the land in the abstract. The examiner learns that she married in 1949. In either case a judgment may have been obtained against her under a name other than that searched by the abstracter. If you call these facts to the attention of the abstracter, he will gladly search the name and add it to his certificate.

Another variation comes through divorce, particularly where the wife resumes her maiden name. Keep in mind also, that an abstracter may miss a person whose title is based on an unusual legal situation, such as a lapsed devised; a child born after the making of a will, a joint tenancy created without the intervention of a third person or many other problems which will readily be discernible to the careful examiner. Therefore the list of names certified as searched by the abstracter should be checked with your minutes and a request made for any additions which your notes will indicate to be necessary.

Contents of the Abstract

Between the caption and the Certificate, the abstracter will insert whatever transactions appear to him to affect the title to the land covered by the caption. It is part of his function to shorten these wherever possible without eliminating any essential part of such matters. While the abstracter is called a title historian, he is more than that. He becomes a guarantor of title many times a day by determining that a matter can be eliminated or shortened. The exact dividing line between these duties is hard to define and his decisions are often based more on his judgment than upon any hard and fast rule of thumb. Thus, all abstracters keep a judgment index. If a judgment is satisfied before the title is acquired by the debtor, the practice is to eliminate the judgment. By doing so, the abstracter guarantees the validity of the satisfaction piece. He finds six divorces against John Johnson. Should he show them all verbatim, or

call them to the attention of the examiner, or forget them? These and a myriad of other decisions are made every day in some abstract office. Usually by close co-operation between the Bar and the abstracter these decisions can become somewhat standard and at the same time furnish the investor with a sound and complete abstract.

Abstracting of Deeds and Mortgages

Generally speaking the abstracter eliminates as many of the stock phrases appearing in the deed as is possible. It is fair to assume that any stock clause,which is omitted from the abstract of the deed is considered by the abstracter as being correct in form. Thus, most abstracters content themselves with a statement relative to acknowledgment about as follows: "Acknowledged on Jan. 17th, 1951 before George Smith, Notary Public of DeKalb, Illinois." A statement of this kind indicates that the abstracter believes that the acknowledgment is in the form set forth in the statute of Illinois, that it was signed by a Notary, and that the Notary affixed an impression seal. If the abstracter sets forth the acknowledgment verbatim, it means that there is something in the acknowledgment which he feels does not comply with the form set forth by statute. In such cases it is not his province to determine that the form is just as good as the statutory form,so he sets it out in detail to give the examiner an opportunity to pass upon it.

The same applies to legal descriptions. It is the practice to show simple legal descriptions as they appear in the deed. However,if the description is a long metes and bounds description, the abstracter may show it once and then in subsequent instruments indicate that it is the same as the prior document. Here the abstracter assumes the responsibility for the similarity in the description. If the abstracter notes a variance in the description he will normally show it in full and leave it to the examiner to determine if the descriptions means the same.

If the abstracter recites "signed by Margaret Ryan," he certifies that the name Margaret Ryan appears at the bottom of the deed in ink or pencil.Any variation from the usual method of signing (as by an X) will be noted. Usually if the signature varies from the name of the grantor in the body of the deed the abstracter will underline the signature or put it in quotation marks.

Covenants relating to buildings,easements,exceptions other than general exceptions. "Subject to all building restrictions of record." "Subject to all unpaid taxes and special assessments," are ordinarily shown on abstract, since the examining attorney should have this information before him,so that he may determine the legal effect of it.

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TITLE INSURANCE LOSSES DO HAPPEN

by

EDWARD T. DWYER, EXECUTIVE VICE-PRESIDENT

Title and Trust Company, Portland, Oregon

Surely America cannot be such a terrible place in which to live as some people would have us believe, when in this country men invite members of their chief competitor's firm to come before their own organizations to speak to the members of that organization of a product in which both are competitively engaged in selling.

Personally, I think Steve has paid me one of the nicest compliments that has ever been paid me. May I say in return that if all businessmen had men of Steve's calibre as competitors, this would be a grand world indeed. Steve has asked me to speak to you about title insurance. I realize that in an organization such as yours, there are many among you who are more or less familiar with this form of title evidence and if I should dwell upon some things which might seem commonplace to you, please be charitable and remember that in an assignment such as this, one must speak to the group as a whole.

It might be well at the outset to define title insurance. It has been defined as a contract of indemnity whereby the insurer agrees to pay all loss or damage caused to the assured by reason of any defect, lien, or incumbrance not specifically excepted or shown in the contract of indemnity. It might be made more clear if I used a homemade definition--a guaranteed opinion on the title to a parcel of real estate, which guarantee includes, in addition to a complete examination of, and report on, a particular title as shown by the public record, all other matters which might cause loss or damage to the assured.

Most of you men well remember when the Abstract of Title--Attorney's Opinion System was the only system in use of eviden-

cing title to real estate, and some of you might wonder why that system is so completely supplanted in most states and on the way out in many others. My answer to that query is that this is an age of speed, precision and, above all, corporate responsibility. Two weeks ago yesterday I spent a day in Seattle checking the systems of the leading title insurance company there. I found that that firm is now averaging over sixty-six orders a day and prides itself on giving its customers forty-eight hour service.

Nor are these orders for title insurance orders on vacant lots. Their order record showed that in the course of that week, they had written one policy for $900,000.00, one for $675,000.00, and many policies in amounts between $50,000. and $100,000. The leadership of this company has forced its other two competitors to give the same class of service and, needless to say, abstracts of title are a thing of the past in Seattle as they are in most of the other large cities of the United States where deals must be made quickly and safely.

The preamble to the Code of Ethics of the National Real Estate Board begins with this phrase, "Under all is the land." Now if this be true, how true is the slogan of the American Title Association, the parent service organization of all reputable title companies, "Under all the land is the title."

I wish you would let your minds dwell on that slogan for a moment--"Under all land is the title." Let your imagination run wild for a minute and try to picture, if you can, the condition of business in this country if the titles to all real estate were suddenly declared to be unmarketable.

Don Peabody, a title man of Miami, Florida, a man of some renown, once made the pertinent statement that if land is so important and back of the land is the title, it must follow as day follows night that the title is all important. Did it ever occur to you that a load of dirt, which is land, taken from the most valuable corner in the City of Hillsboro is worth far less as dirt than a similar amount of dirt taken from the Wapato Lake District? Leaving the question of location aside, title is the thing upon which people loan their funds or which they purchase--not land.

It is not my purpose to knock anyone or anything, but this is a period of cruel realities and we must face facts as we find

them. All of us who are honest with ourselves must freely admit that the Abstract of Title--Attorney's Opinion System of evidencing title to real estate transactions fell far short of being efficient and, for that reason,was supplanted by the more up-to-date method of evidencing title. A little later I want to point out a few cases where our company paid losses that under the Abstract of Title System the owner or mortgagee would have been compelled to pay (had he accepted an abstract of title on his loan or purchase.)

Ivan O. Ackley of Chicago, speaking while a member of the Executive Committee of the National Real Estate Board said, "I have written letters all over the known world from Mandalay to Timbucktoo to try to get affidavits and deeds from men living and dead, mostly dead. I have purchased property and had our lawyer, a man of nation reputation find thirty objections to title and, because we were offered a good profit, I have disregarded his objections and had the purchaser's lawyer raise thirty more entirely new objections.I have bought property and found when we sold the property that thirty-five pages in the bound part of the abstract were missing and never had been there.Modern business demands accuracy,speed and reliability. These are all present in title insurance. It is conceded that up to the present time no system of evidencing title has ever been evolved equal to that of title insurance."

The Boston Herald some years ago, speaking editorially, said, "The insurance of title to real estate by a responsible company is one of the developments of the present age which is destined to a future of widespread usefulness."

Banker and Tradesman,a paper of the same city,also said, "It is only within the last few years that a purchaser or mortgagee of an estate could, for a small sum, procure a policy of insurance which would afford him perfect protection from the cost and anxiety of litigation."

No doubt the editor of the paper last mentioned was unaware that title insurance in the United States has been written since 1876, and that other states were not so backward in adopting this form of title evidence as was Massachusetts. Title insurance has been written in Oregon since 1911.

Last week we received an order for an abstract continuation covering a lot in one of the suburban districts, the purpose of

the abstract being for a loan of $900.00.That abstract, brought down to October 1923, comprises 173 pages. Just think of it. If an attorney really examines this abstract and does a thorough job,it is likely that the mortgagor will have to increase his loan to pay the examination fee, and the examination attorney will wade through that mass of entries as many others have done before him,some of whom, I venture to guess, did not know any more about examining titles than I do about differential calculus. A dozen new questions, most of them without merit, will be reported, thus holding up the deal, and maybe the only real question of the title will go by unnoticed.

For instance, a few years ago we had this situation in one of our title examinations. The abstract, to our knowledge, had been examined twice. Title to six lots were taken in the name of Mrs. John A. Smith, let us call her. For the purpose of our deal, the First National Bank held a deed in escrow executed by John A. Smith and Mrs. John A. Smith, his wife. We called for proof of the given name of Mrs. John A. Smith and found it to be Lola. We took the liberty of writing back to Minneapolis, the home of the grantors,for the purpose of determining whether Lola, who joined in the execution of the deed, was the original grantee and found that the original Mrs. John A. Smith was Maurine Smith, who had died several years previous, leaving nine children, all bitterly opposed to their father and foster mother.

Title to two of the lots had been passed upon opinions rendered,filled with the usual amount of trash, and the new owners under the abstract system acquired, at best, the husband's courtesy interest, the fee title remaining in the children of Maurine.

Personally, I would rather have a title insurance policy issued by a reputable title company than an abstract prepared by our own company which had been checked and rechecked by all the other abstract companies and then examined by Charles Evans Hughes,ChiefJustice of the United States Supreme Court. For, after all, an abstract is nothing more than a condensed statement or synopsis of what is of record affecting a certain described tract of land. Its purpose, and sole purpose, is to enable one to form an opinion as to who is the owner of the land and the incumbrances against it. We must keep in mind that one may sell an interest in ones land, mortgage the remaining interest, lease that, give part of it away on certain conditions

yet to be fulfilled, until one finds a multiplicity of interest represented in the same title.

Most people do not stop to think that an abstract is but a copy of a copy of an original document, and that attorneys' opinions are always based upon the record the abstracter claims to be the record.

We do not say that our title examiners are the best lawyers in the country, but we do say that by reason of dealing in the field of real property law exclusively, that they are capable title examiners. In our institution no title is or can be checked by one man. From the time the order is placed until it comes back to you a completed job, no less than fourteen people have had a hand in its preparation. Most of these people are not legally trained, it is true, but they are trained to do certain pieces of work, and by reason of long experience, know a great deal of the fundamentals that go to make a title good or bad. The legal aspect of the title is invariably checked by the original examining attorney and rechecked by one of the more experienced attorneys.

The strange part of this business of insuring titles, however, lies in the fact that title insurance losses here and elsewhere, are for the most part non-record losses. In other words, most of our losses are caused by matters that an examining attorney couldn't possibly bring to light under any condition.

It might come as a surprise to you to learn just what coverage you get for your money when you purchase a title policy. In the first group let me list errors made by searchers:

1. In the County Clerk's office.
2. In the recording and indexing department.
3. In the United States Clerk's office.
4. In the Bankruptcy Court.
5. In the City Lien Department.
6. In the Tax Department,

and in our own office errors are made by:

(a) Chainmen
(b) Checkers
(c) Examiners
(d) Investigators
(e) Posters
(f) Typists
(g) Draftsmen

Now all these are errors of the Company's employees who could and would make the same errors in compiling an abstract, but in addition to these we have errors of

(1) Surveyors
(2) Errors made by employees of the Tax Department
(3) City Lien Department
(4) State Departments
(5) Clerks in the County Clerk's Office
(6) Errors made by attorneys and courts in actions, suits, and proceedings, and in conveyancing.

If a title policy protected against nothing but these errors which I have mentioned, it would still be a good buy, but that is only the beginning. Listen to this list of causes of loss that an abstract of title cannot possible protect you against:

Forgery, Fraud, False Affidavits, Infancy, Insanity and Incompetency, Perjury, Defects not appearing in the record (proofs of service), Statements and Recitals contained in recorded papers, False impersonations, Erroneous Interpretations of Statutes and Rules of Law, Liens which may be filed or transfer made between the time of closing title and the recording of the closing documents, Undisclosed or Missing Heirs, Suppressed or undiscovered Wills or Codicils, Bona Fides of Affidavits of Service in actions and proceedings, Entry of Foreclosure Judgments after the death of the owner, After-born or Adopted Children, Powers of Attorney revoked by death or insanity, Dower and Courtesy claims, Unrecorded Easements; Claims arising by reason of Foreign Divorces; Bankruptcies in other jurisdictions, Unrecorded Contracts of Sale, Adverse Chains of Title, shifting monuments. These are by no means all.

Now, some of these things that I have mentioned are of no small moment. It is not generally known, for the title companies gave it no publicity, but the title companies of Los Angeles paid out in a period of less than two years, $188,000.00 by reason of forgeries alone. We here have been more fortunate, although not immune, and forgery is a loss that is a total one. You don't even have the fun of a lawsuit.

Just to give you something to stimulate your imagination, think these cases over in your spare time. All of these are actual cases and none of them would be covered by a title evidence other than title insurance.

1. Case of Smith, judgment satisfied as to Co-Judgment debtors only, error in County Clerk's office.

2. Bad Service, plaintiff living in Oregon service by publication.

3. Description in mortgage takeoff in abstract. Copied from abstract caption Mortgage covered land in other township. (Henningsen-Mooney case)

4. Strange woman for spouse joining in execution of mortgage.

5. False affidavit regarding claim of judgment. Letters to prove owner was a resident of Texas. (Kelly)

6. Judgment against oil station man, totaling $39,500.00. (Not a loss).

7. False affidavit in divorce action rendered in Nevada over twenty years previous. (Stimson case) (140 Ore 570)

8. Ladd's Addition case.

9. Suit to set aside deed because of non-delivery.

10. City liens not carried forward on index.

11. Les Pendens filed in this county out of Marion County--re Satisfaction of Mortgage.

A few weeks ago, and in the course of one week, we had two claims of loss come to us. The Allegations in both complaints were very similar. One arose out of our main office; the other through one of our agencies. The outside claim we settled the day we were notified, for the attorneys who filed the suit were either rational and reasonable men, or not too sure of their case, but the other came to us after the attorney for our assured put himself into the case by filing an answer to the complaint. Both of these cases alleged the executions of deeds under misrepresentation, in both cases the plaintiff is over eighty years of age;both are cursed with poor eyesight, and according to the allegation for that reason did not know what they were signing. In both cases the properties are mortgaged and the mortgages insured under our Mortgagees Policy.

Where, may I ask, would the mortgagee find himself under the abstract system in either of these cases?

Another recent claim settled by us because we had insured the mortgagee is this. John E. Jones, we will call him, had nine judgments against him. He was judgment proof. All his titles were taken in the name of his lady friend, but she and he had had a lover's quarrel, and as he had a chance to grab a good deal for cash if he acted quickly, he took the deed in the name of Edmond Jones we will say; in other words he simply threw off his first name, and used the name represented by his initial. No title company or attorney could possibly pick up these judgments against John E. Jones when searching Edmond Jones. Somehow the cat got out of the bag and a judgment creditor moved against the property we had insured for a mortgagee, and we, of course, had to foot the bill.

Some months ago, representatives of the three title companies met at a luncheon. The ostensible purpose of the meeting was to devise a uniform practice of setting up objections to titles. The real purpose of the meeting was to determine if we couldn't agree on passing some of the old stock objections every attorney raises as a matter of course. In other words, we were trying to be more helpful in expediting the closing of deals. To give you an idea of the matters discussed, allow me to mention but a few:

1st To strike some arbitrary period where questions of dower and courtesy would no longer be raised. The period set was thirty-five years.

2nd To set a limitation on old contracts of sale that have never properly been disposed of.

3rd To pass releases of mortgages running to husband and wife where the satisfaction by one has been on record for a period of ten years.

4th To accept proof by affidavit, covering questions of intestacy and heirship in lieu of probate after a period of six years from the death of the deceased.

5th To determine, if we could, what our attitude was to be concerning alimony and maintenance judgments where satisfactions are based on stipulations contrary to the

1921 Amendment.

We know full well that some time we will be called upon to pay a loss or be required to bring a suit on some of these old questions, but what of it: we expect to pay losses occasionally and are glad to do it, if by an attitude such as this we can help speed the wheels of progress. I don't mind telling you that our interest is a selfish one: for our revenue is derived from writing title insurance, not from rejecting titles.

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