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THE AMERICAN TITLE ASSOCIATION

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THE INSIDE STORY—

We are fortunate to be able to carry this month some clarifying and helpful information regarding the recent ruling of the Internal Revenue with reference to traveling and entertainment expense. This timely article, beginning on Page 3, is supplemented with forms approved by Internal Revenue authorities.

"You scratch my back, etc." might be the supplemental thought in the article "New Business for Abstracters" by the outstanding and seasoned title man from Iowa, Mr. Albert F. Block. Mr. Block proposes a new method of including pertinent matters to a given title, the evidence of which is outside the county of the abstracter. This is thought provoking and perhaps will point the way to a solution.

One of the best public relation talks ever to reach the Association headquarters is the copy of the speech by Howard Burnham, "A Tree Grows in the Title Company". Readers will find this a fascinating and novel approach to the ramifications of the title business.

Another comprehensive treatment of federal tax liens is included here through the courtesy of William H. Trueman, attorney at law, Birmingham, Alabama, and the **Lawyers Title News** publication. It is redundant to say this is noteworthy for all in the title business. It brings us up to date on this constant problem.

A few years ago Mr. J. L. Bowman was President of the Oklahoma Title Association. He wrote for his local state association a stimulating article on certain abstract practices. It is not one everyone will endorse immediately, but "The Equitable Outlook" is an approach which will likely invoke some additional thinking along this line.

To all authors of the above, we express our thanks and appreciation.

TRAVELING AND ENTERTAINMENT EXPENSE

The Title Insurance Corporation of Pennsylvania, Bryn Mawr, Pennsylvania, by Mr. Gordon Burlingame its President, has favored us in that he has secured and sent to us permission to carry this article in Title News. It relates to the recent position taken by the Internal Revenue Department with reference to traveling and entertaining expenses. It has been prepared by Charles S. Rockey and Company, Certified Public Accountants, 135 Walnut Street, Philadelphia.

Mr. Burlingame also sent to us the form used by his company as approved by the firm's tax consultant, Mr. Leon Meltzer, 1529 Walnut Street, Philadelphia, Pennsylvania, which form was prepared after consulations on the subject with the Internal Revenue Department of Philadelphia.

On behalf of our members we express our deep thanks to all parties named in this Forward. (Ed.)

In recent years much attention has been focused upon challenges by the Internal Revenue Service of deductions claimed for traveling and entertaining and other promotional type expenses. The subject really came into the limelight, however, with the release of the 1957 Individual Income Tax Return. This return contains a new line — 6(a) — requiring that "Travel, reimbursed expenses, etc.," be specifically claimed and supported as deductions. The instructions accompanying the return require that money paid to an individual as expense allowances or for reimbursement of expenses be included as income on line 5 with wages, salaries and other compensation.

As it was announced, the additional line on Form 1040 was merely carrying out a ruling that had been in effect for some years. However, because of many complaints emphasizing the extreme difficulties in attempting to furnish the information requested for 1957, it was later announced that line 6(a) need not be used for 1957. At the same time taxpayers were put clearly on notice that the information will be required for 1958.

The purpose of this bulletin is threefold: (1) to point out the record keeping and reporting requirements beginning with 1958; (2) to suggest means of simplifying compliance with the requirements; and (3) to indicate other areas justifying attention in the field of traveling, entertaining and other promotional expenses.

(1) Record Keeping and Reporting Requirements

The more seriously you take the present emphasis upon the necessity for providing supporting data for expenses for traveling, etc., the better will be your chances of obtaining deductions for these expenses when your individual and business returns are examined later. Revenue Agents have the right to demand reasonable supporting data and are being instructed to do so. The taxpayer has the burden of proof to support all claimed deductions.

What will be considered to be adequate records will vary with individual cases. Lump sum allowances or purported reimbursements with no supporting details will undoubtedly result in extensive or total disallowances of claimed expenses. There is no prescribed manner of keeping records, but it is believed that probably the minimum acceptable record will be a diary showing the date, amount

and nature of expense or entertainment and the persons involved. It would also be preferable to record the business relationship of the persons entertained — certainly upon questioning the reasons for entertaining must be shown.

The Internal Revenue Service has no right to tell taxpayers how to run their businesses and cannot disallow expenditures simply because they are what a Revenue Agent might consider as being too great. However, the agent has a perfect right to try to determine whether there was a valid business purpose behind expenditures for entertaining, or whether in fact the taxpayer is asking the government to bear part of the taxpayer's personal entertaining costs. Many abuses by taxpayers have created the present Internal Revenue Service attitude. The problem of keeping adequate records to support claimed deductions will be simpler and less irritating if approached with the viewpoint that: (1) the expenditure will be questioned, and (2) an appropriate record made at the time of the expenditure will be a valuable investment. Income tax money saved is in 100% dollars—you pay no further taxes on such savings.

Although it was stated above that Revenue Agents cannot tell taxpayers how much is allowable for entertaining expenses, etc., it is obvious that to obtain a complete deduction for items that appear on the surface to represent extravagant expenditures, the taxpayer must be fortified with relatively detailed records to prove that the expenditures were in fact made and for a real business purpose.

What to do about keeping records of reimbursed expenses is a problem for both employer and employee. As the rulings stand now, the employee must be in a position, beginning with 1958, to support a deduction to be claimed, on his individual return, for reimbursed expenses. Consequently, it appears advisable for the employee to prepare a detailed expense report in duplicate and to retain one copy. In certain instances it may be advisable for supporting vouchers to be returned to and retained by the employee after appropriate cancellation to prevent their re-submission for duplicate reimbursement. For executives in closely held corporations, probably the most practical answer will be for the company files to contain the only reports of reimbursed expenses and supporting details. In most such cases Internal Revenue Service examinations will be made at the office of the company, or the data can be made readily available to the individual executive.

(2) Suggestions for Simplifying Compliance, etc.

To avoid having expense items considered chargeable to an employee and the consequent requirement for him to report them on his individual return, it may be advisable to have many items paid directly by the company. Air travel credit cards and automobile rental charge accounts are frequently used and can provide for payment directly by the company. Likewise railroad tickets can often be paid for directly by the company. Diners Club charge accounts are coming into widespread use and can be used to provide for direct company payment of hotel, restaurant, night club, auto rental and many other items. Telephone charge cards are not in such general use but, in addition to serving an excellent purpose regarding expenses, are wonderfully convenient. Providing for eliminating many items from the category of reimbursed expenses may reduce the total amount reportable by the individual and thus direct less attention to his return. Two words of warning are pertinent, however. First, the Internal Revenue Service may attempt to require that the individual report any items incurred by him on behalf of the company, even if he makes no disbursement for them. Second, records must be kept to indicate the purpose of the expenditures. Again, presumably a carefully kept diary is the minimum acceptable record.

To avoid having the individual keep records of automobile expenses per-

sonally, many companies purchase or rent cars for individuals using them extensively on company business. Of course, this may give rise to the question as to whether the individuals use the cars to some extent for personal purposes.

(3) Other Suggestions

The Internal Revenue Service is contending more than ever before that for travel and entertaining expenses to be deductible by an individual, if the company doesn't reimburse the expenses, there must be some directive by the company indicating that the individual is expected to bear such expenses personally, on behalf of the company, out of his salary. Normally, in a closely held corporation this provision would be in the corporate minutes regarding executives' expenses. If minutes are being written for the first time, the resolutions probably should confirm a prior understanding as well as providing for the future.

Indications are that the Internal Revenue Service will attempt to extend the idea of alleging that disallowed expenses with respect to stockholder employees should be not only disallowed to the corporation but taxed to the individual as dividends. This practice might make it advisable in some instances for the corporation to set stockholder executive compensation high enough to include the contemplated expenses with appropriate resolutions. Then if an individual's expenses are disallowed in part, the additional tax should be paid only by the individual since the corporation claimed no separate deduction for the expenses.

If an individual uses the optional standard deduction it would be advisable, if practicable, for all of his expenses to be reimbursed by the company. Allowable expenses in excess of the amount reimbursed must be claimed under "Other Deductions" on page 2 of Form 1040.

Information Returns

The employer is required to file information returns on Form 1099 for expense payments to employees for which detailed expense statements are not submitted to the employer.

Effect of New Records on Past Expenses

It should be kept in mind that any detailed records established under compulsion of the new directives will probably be scrutinized by Internal Revenue Agents, in examining years before 1958, in comparison with items having less adequate support in the past.

Account Titles

Perhaps in some cases a finer breakdown of accounts may be advisable, if it is determined that the "Traveling and Entertaining" account has become too much of a catch-all.

More to Come

It is obvious that much more will be said about this subject in coming months. The Internal Revenue Service may change its directives several times before 1958 is over. An attempt should certainly be made to simplify administration of the problems for both the Internal Revenue Service and taxpayers. We look for some arrangement to help exclude from reporting the tremendous number of individuals whose expenses certainly are not those that the Internal Revenue Service wants to scrutinize.

We will advise you of any significant new developments.

Individual Cases

Although this memorandum has been prepared to assist clients in their approach to a troublesome problem, there may be many problems requiring individual attention. We shall be pleased to be of any further assistance possible.

THE TITLE INSURANCE CORPORATION OF PENNSYLVANIA
REIMBURSED EXPENSES

PERIOD FROM:..... TO:.....

Name of Vendor	Account Name	Location Code	Account No.	Total
	Cleaning and Maintenance		5431	
	Advertising		5801	
	Travel		5901	
	Auto Mileage		5911	
	Auto Rental		5912	
	Auto Expense		5913	
	Entertainment		6001	
	Printing, Stationery & Supplies		6101	
	Books & Periodicals		6102	
	Postage		6111	
	Telephone		6112	
	Boards & Associations—Trade		6311	
	Boards & Associations—Non-Trade		6312	

PAY TO:..... APPROVED BY:.....

SAMPLE REIMBURSEMENT VOUCHER

Through the courtesy of the American-First Title and Trust Company of Oklahoma City, Mr. William Gill, Sr., President, we are privileged to carry in Title News form used by the company. This form has been approved by the Oklahoma City Office of the Internal Revenue Department.—Ed.

AMERICAN-FIRST TITLE AND TRUST COMPANY

Reimbursed Expense Voucher

NAME ..... For Period From ..... to .....

LOCAL TRANSPORTATION

Taxis ..... Buses ..... Subway ..... Trolleys .....
Others .....
(Specify and give totals)
.....

OVERNIGHT TRAVEL

To .....
(List places and dates)
Travelled by—Company Car ..... Own Car ..... Others ..... (Check One)
(List Name)
Total mileage ..... Cost ..... (Totals)
Own Car—Gas ..... Lubrication ..... Oil ..... Wash .....
Garage ..... Others .....
(Specify)
Hotels — ..... Amount .... Amount .....
..... Amount .... Amount .....
Room Rent ..... Amount ..... Tips ..... Meals .....
Totals Totals Totals
Other related expense .....

ENTERTAINMENT

Customers or Prospects .....
Names, Firms & Dates
Lunches ..... Dinners ..... (Totals) Others .....
List items
Other Information: .....
Dated ..... Signed .....
(Your Signature)

Note: **Request for reimbursement of expense will not be made unless accompanied with this form.** All Expense items must be submitted at least once each month.

Note: Under para. 5, form 1040, U.S. Individual Income Tax Return (Beginning Jan. 1, 1958) all reimbursable expenses paid by your company must be shown in total as (Reimbursable Expense) under **line 5, page one,** as **Income.**
Under **para. 6,** show this same amount as deductible expenses, i.e., (Show the cumulative totals of all expense items on one copy of A.F.T. & T. Co. form and attach to form 1040 as proof.)

"EXAMPLE"

Para. 5 Enter all wages, salaries, bonuses and reimbursement of expenses received in 1958 before payroll deductions.

	Wages, etc.
American-First Title & Trust Company, Oklahoma City, Olka.	$ .....
American-First Title & Trust Co. (Reimbursed Expense)	$ .....
Enter Totals Here	$ .....
Para. 6 Less: (a) Travel, reimbursed expenses, etc.	$ .....
ADJUSTED INCOME	$ .....
	$

NEW BUSINESS FOR ABSTRACTERS

ALBERT F. BLOCK

Secretary, Davenport Abstract Company, Davenport, Iowa

My purpose here is to offer a suggestion. We know that the abstract business is one of constant development and improvement with a spate of growing pains. Just as our doctors know that the most intense physical pains are the pressure pains—those of childbirth, sinusitis and kidney stones — so our worst pains come from the pressure of our desire to improve our service against the traditions of our past and of our abstract examiners.

We also know that not all of the matters affecting the title to the land in our several counties are of record in the county where the land lies. Some of the matters are of record in other counties, or even in other states. When we find this situation, our tradition is to put these things of record in our own county, either by transcripts, certificates of one kind or another or by affidavits. I am suggesting a different solution, thereby causing growing pains for which I shall have to take the blame, as I well know.

In order to present the problem I ask you to suppose a case. Suppose that my client, Mr. W. T. Door, comes to me and says that he owns a nice 40-acre patch in Scott County, Iowa, which he bought, because he got it cheap that way, without benefit of any title investigation, so he has to buy an abstract. After pointing a very pointed finger at his stupidity in buying land that way, I get down to business, he tells me where the land is and I order the abstract from my Davanperot Abstract Company.

The tract index shows that, from the date fifty years ago, where we begin, the title runs very smoothly until it shows a deed to John Doe about five years ago. The next instrument is a mortgage to the First National Bank. The next instrument is a deed from Richard Roe, Trustee in Bankruptcy for John Doe, conveying the premises to my client, W. T. Door.

This kind of a deed I must abstract myself. When I go to the court house to do so I find that it is a beautiful deed, very skillfully drawn. It describes the land correctly, recites that Richard Roe was the Trustee in Bankruptcy for John Doe, the jurad on the acknowledgment reads "United States of America, Western District of Arkansas, Pulaski County", and the Notary certifies that he is a Notary in and for Pulaski County, Arkansas, with his seal impressed. The deed bears a certificate of Lee Cazort, Referee in Bankruptcy, that the deed and sale had been approved by him and that the sale had been made upon due notice to creditors. The deed also bears the certificate of the Clerk of the District Court of the United States for the Western District of Arkansas, with the seal of the court impressed, to the effect that Lee Cazort was the Referee in Bankruptcy of said court. The deed conveys the property free of all liens, which means that it is a proper foreclosure of the mortgage held by the First National Bank.

So I decide that this is enough and put the deed in the abstract and deliver it to the examiner. But he is a flyspecker and wants to see the bankruptcy proceedings. He is adamant and insists despite all the law I can show him. Now what do I do?

Under the present practice I have no choice. I get a transcript from the clerk of the bankruptcy court, which he is glad to furnish me just as soon as he has nothing else to do, and I pay him for it. Then I pay the clerk of my court for entering it in his records and then I can put it on the abstract and my examiner is satisfied. But my client, who has to pay for all of this, roars.

My suggestion is that I should have a choice. In fact, I should have the choice between two other alternatives. Why can I not send the abstract to Don Cameron to have his

Beach Abstract & Guarantee Company, at Little Rock, put a supplement on it which would contain nothing but his abstract of these bankruptcy proceedings so far as they affect my client's land? If I should do anything like that today, two things would result. First, my client would have no unwarranted expense to roar about, and second, the examiner would do the roaring.

Or, perhaps, I would not have to send the abstract to Don. Perhaps I could give him the number of the bankruptcy case and the description of the land and ask him to send me an abstract of the pertinent parts and then I could adapt his abstract to my forms and include it in my abstract and certify myself that those matters appeared of record in the office of the Clerk of the District Court of the United States for the Western District of Arkansas. Why not? The answer to that lies in the roars of the examiner. "It has never been done that way."

Why not? Why don't we do it that way? Or one of those ways? There is only one reason why we do not do it that way—we have not yet endured the prerequisite growing pains.

Or the matter can also arise locally. Part of the title record to a patch of land in my county could be in Henry County. Why not send it to Harold McLeran and have him abstract the record, instead of getting me a transcript to be recorded in my county? He would guarantee his work to me and I would guarantee it to my examiner. He ought to be content but listen to him roar!

This suggestion is offered to you in the hope that you will make it the general practice. I wish that some of you would tell me that it is already being done that way in your county.

The matter came to my attention through a mess that a title in Louisa County, Iowa, had become involved in because of the foreclosure of a mortgage by a testamentary trustee appointed by the court in my county. Expense in the matter ran nearly a tenth of the sale price of the land. I hope you will join me in my effort to have the practice changed. Those of you who are sincere in claiming that the purpose of our association is for the benefit of our customers, will be with me from the beginning. Unless I am drowned by a Niagara of cold water from you and from the bar, I shall press this until it is accomplished.

It will take a long time. Our most frequent case will be where a man dies, resident in one county or state, owning land in some other county or state. If he leaves a will the statutes that require that his will be transcripted to the county where the land lies will have to be amended to become permissive instead of mandatory.

But all these things we can get if we go after them, so let's endure the growing pains and grow up in spite of them. Let's have methods and practices that have caught up with today.

Sunday I talked to Garry Woodward, at Muscatine, the lawyer in charge of the Kohrs case out of which this idea originated. He told me that he had paid me $45.00 for telling my clerk what instruments to put in the transcript, had paid our clerk $95.00 for the transcript but had not had the transcript recorded in Louisa County, where the land is, but instead had turned the transcript itself over to the examiner—Charlie Rosenberger, who is also one of our good members. There is a discrepancy between the description of land, as contained in the mortgage and the foreclosure proceedings and the way it appears in the trustee's reports so Charlie wants an affidavit to the effect that the intention was to describe the same land.

But Woodward m a k e s another point. He says that the resulting expense is so much that he cannot charge his client a proper fee for his work.

A TREE GROWS IN THE TITLE COMPANY

HOWARD J. BURNHAM
President, Clark County Title Company, Vancouver, Washington

Address delivered by HOWARD J. BURNHAM to the Northwest Conference of the American Savings and Loan Institute.

With due apologies to Brooklyn, my subject tonight is: "A Tree Grows in The Title Company Office."

The logical laboratory for the study of Plant Life is, believe it or not, in the Title Company's Plant. If you'll visit it some time, you'll find it a veritable arboretum. You may hold—and with some small degree of justification—that my remarks this evening are only the fertilizer that is such an essential requirement for plant health. Nevertheless, if you have never yet delved in a Title Plant, you have a treat in store for you.

There you will find the Family Tree of each parcel of land within your county. Let's take a typical tree and examine its form and growth pattern.

The roots reach down into the original claims of sovereignty. The myriad rootlets, the capillaries of the whole circulatory system, are the rights of the original occupants of our land. They are comparatively weak because the Indian considered the earth as the mother who provides food for her children. Land was not regarded as property but, like the air, as something essential to the life of the race, and therefore not to be appropriated by any individual or group of individuals to the permanent exclusion of all others. Occupancy, therefore, was the only land tenure recognized by the Indians.

It mattered not, however, what form of land tenure was accepted by the rightful occupants of this vast land of ours. The coming of the white man brought to the Indian "the blessings of Christianity"—which is another way of saying that it resulted in forcing the original proprietors of plain and mountain and river and sea coast into a submissive role, and in the extinction of their property rights.

* * * *

Other, slightly stronger, feeder roots represent the claims of various nations to the rolling acres of the Northwest. England, of course, was among the claimants, working through the instrumentalities of the fur trade: the Hudson's Bay Company and the Northwest Company.

Spain was there, claiming the entire watershed of the Mississippi by virtue of the exploits of Hernando De Soto and his hardy contemporaries and succesors; claiming the American Southwest by virtue of the exploration and settlement following the travels of Coronado and subsequent conquistadores; claiming the Pacific littoral because of Balboa's discovery of the great South Sea. This was followed by numerous exploratory expeditions along the North Pacific shore, though partially offset by Britain's claims through the voyages of Drake, Cook and Vancouver.

France based a claim upon the accomplishments of Marquette and Joliet and, on the western shore, the journeying of LaPerouse, while Russia, pushing southward from the Alaskan archipelagoes, was also a claimant.

The young republic capitalized upon Robert Gray's discovery of the Great River of the West—although Don Bruno de Heceta had sighted it in 1775—and upon the epochal expedition of Meriwether Lewis and William Clark. But, more important than vested rights, was the unquenchable urge of a westering nation, dreaming and thinking in terms of the whole continent.

These roots are twisted by international negotiations, bombast and double-dealing and by almost inter-

minable diplomatic intrigue. Napoleon's French Empire forced Spain into a secret retrocession of Louisiana. Monroe and Livingston, without constitutional authority, bought for the United States a territory which more than doubled the nation's area.

* * * *

Finally, these large, gnarled roots join in the issuance of a Patent and, at long last, the land has ownership. Let Europe flaunt its dukedoms, its earldoms, its baronetcies—our nation has satisfactorily sufficed with its only titles being those to the land.

The Homestead Act, the Donation Land Act, Military Bounty Land Warrants all promised "free land"—yet as we look back on the trials and travail of the pioneer, the heartbreaking, backbreaking battle with the primeval wilderness, we can conclude that the land was fully paid for.

For no relevant reason whatever there comes to mind the experience of the grade school history teacher who kept little Johnny after school and said:

"Johnny, you ask me why I flunked you in history. Let's look at your last test paper and take, for instance, the question: 'Why did the pioneers go into the wilderness?' Now, Johnny, I'm perfectly willing to admit that your answer is very, very interesting from the standpoint of sanitation, but I still had to m a r k it 'wrong'."

* * * *

The sturdy trunk stretches upward toward the sky. In cross-section its growth is shown by annular rings, each of which marks a further pushing back of the wilderness. They memorialize the felling of the virgin forest, the erection of the homes and barns and fences, the tilling of the fields, the development of flower beds and shaded yards.

Mayhap we descry the scar of a wound occasioned when wire was twisted tightly about the youthful trunk. Time and Nature have all but obliterated visual evidence of what still lies beneath the bark. That was probably an unduly restrictive covenant in an early conveyance, or some eccentric's attempt, by the terms of his last will and testament, to regulate the lives of his survivors for a generation following his demise.

Here's a little example which was recorded in Deschutes County, Oregon, in 1942. Mr. Gless and his wife conveyed certain property to The Bend Company of Jehovah's Witnesses as trustee. The conveyance states that "the property conveyed is to be held in trust by the said Bend Company of Jehovah's Witnesses for Abraham, Isaac and Jacob, the prophets named in Hebrews, Chapter II, of the Holy Bible, until such times as the said prophets shall return unto this earth."

In the exercise of the power of eminent domain, who should be listed as parties defendant, and what is the last known mailing address?

* * * *

And now the limbs spread out from the parent trunk. This is where your savings and loan associations come into the picture, for these are partial rights attaching to the land. Leases, navigation rights, m i n e r a l rights, mechanics liens, and—don't smile so smugly—mortgages sprout out from the c e n t r a l trunk. Many of the branches have been pruned by recorded satisfactions. But once in a while, we see the trunk withered and dead, while a principal branch turns upward toward the sky and becomes the main stem. That was a mortgage foreclosure.

Sometimes the wood shows knots and twisted grain, mute evidence of unprobated estates, divorce, tax foreclosure or bankruptcy. Some of the w i e r d e s t combinations of circumstances can shape a tree more radically than all the forces of wind and weather combined.

* * * *

Let me momentarily digress with a little something to demonstrate the infinite variety of our title problems. Only the names have been changed to exclude the possibility of libel or slander.

The current classic for discussion falls into the **Cherchez la femme** file and is in two parts. Part One, or the Prelude, was an order in connection with a sale by Julia DeCamp, former-

ly Julia Schink. Examination disclosed that Julia Schink acquired title in November, 1938, and that her then husband, G. M. Schink, quit claimed to her at that time. On July 30, 1943, a deed from Julia Schink to Florence Johanson, unmarried, was filed for record.

Thereupon, Mrs. DeCamp told us that Florence Johanson was an alias of hers, and that she had executed a deed **from** herself **to** herself so that some future husband wouldn't claim an interest therein. On closer inspection was discovered that the deed was recorded at the request of Julia DeCamp, so told her that **if** she could prove that she was, in fact, Florence Johanson, then the conveyance only accomplished the transformation of the property f r o m her **individual estate** to **community property.** Incidentally, we found that she had taken on Ray DeCamp as a life partner in April, 1943.

Finally, she dug up one Claus Freeberg, whom we had known for years and whose reputation was above reproach. He deposed that he had lived in Devils Lake, North Dakota, from 1885 to 1919; that during that time he knew Julia Florence Schimstad who resided with her stepfather, the Rev. Carl Johanson; that she was commonly known as Florence Johanson; and that she was our friend, Julia DeCamp. After the gathering of further evidence, and getting Ray DeCamp to join in the conveyance, we insured the title.

So much for the Prelude. In passing, it might interest you to know that Julia DeCamp thinks it's seven times she's been married—she wasn't quite sure. Three of them, I understand, have graciously shuffled off their respective mortal coils s o o n after taking out life insurance policies naming Julia as beneficiary. The greater portion of her accumulated assets stemmed, however, from her industrious plying of the bootlegger's trade throughout the dark days of prohibition.

Which brings us to the second phase of our personality sketch. This involves the contemplated sale of other property by Julia DeCamp. Examination disclosed that the record owner was Doris Steelman, marital status unkown.

Mrs. DeCamp claimed that Doris Steelman was another alias; that her attorney told her she could acquire property in the name of John Doe if she so desired; and that she's bringing her predecessor in title (whom we knew well and favorably) to prove that she was the actual purchaser.

The transaction was consummated on March 24, 1941, subsequent to Mr. Schink's ascent to glory—and prior to Mr. DeCamp becoming entangled in a connubial knot. We didn't know, however, whether some other spouse was serving out an interim appointment. We could not but wonder when the ubiquitous Julia would order title evidence re the sale of Hyde Park, claiming that she acquired it under the alias of Eleanor Roosevelt. We also wondered how far we should venture in this instance—what we must demand—or whether we'd better just call all bets off.

We also learned that Mrs. DeCamp was currently operating an a u t o court on the Oregon coast, which she had just acquired in the name of Julia Schink. So we asked ourselves, "Why didn't Adam keep that extra rib?"

Then Thomas Charles, from whom "Doris Steelman" acquired the subject property, dropped in and told us that Julia Schink was buying under contract; that she "assigned it back to him"; that she asked him to deed it to her daughter, Doris Steelman; and that she was curious as to how long he retained such evidence as the assigned contract. We figured that this ended the story which, as we fitted the pieces, disclosed that Julia entered into the contract while she was espoused to Mr. Schink, who shortly thereafter fell b e f o r e the Grim Reaper. Final payment a n d transfer took place, luckily, prior to the entry of Mr. DeCamp into the realm of connubial bliss. Be that as it may, the deed purported to pass title to Doris Steelman, of undetermined marital status.

At this juncture the real estate broker wrote to Mrs. DeCamp in this wise:

"Mr. Charles states that Doris Steelman is your daughter. Why did you make the statement in the abstract co. office that you were Doris Steelman?

"Now things are really in a mess. If you had told me to begin with that this was the case and had brought in a deed properly notarized from Doris Steelman we could have had the deal all closed up. Now it is doubtful if the abstract company will want to issue the insurance at all, because you didn't tell the truth.

"It is up to you to get this straightened out, and in a hurry too. Where is Doris Steelman? Can you get a deed from her in a hurry? Get busy on this and let me know right away what you are doing."

Julia promptly replied with this classic **billet-doux:**

"Sorry but I have know daughter Doris Steelman I just told that to Mr. Charles but you can call the sail of as I don't oww anyeything on it and you sold it for less than I asked for it and I did not say that the furniture whent with the place so give Mr. J. M. Cuppy beck his hundred dollers and let me know how much I owe you for your troubell

"Thanks for everything yours truly J. DeCamp

"P.S. and pleace send me back all my papers or ceep them till I come down."

By this time we were ready to accept a cancellation charge and step out of the picture. Our title problem was, however, destined, like Hope, to rise Phoenix-like from its own ashes. The redoubtable Julia straightway listed the property with another broker who procured a buyer and placed an order with us. Whereupon we regaled him with a brief synopsis of preceding installments, with the result that he induced Julia to pay us a personal visit.

Her story this time was: (1) She has a daughter Doris, but denied it to the first broker because she wanted to get out of that sale; (2) Doris was at Newport, Oregon, and she would get her to sign a deed and send it up; and (3) No, Doris couldn't come up personally because she was ill. For some strange reason we refused to accept anything without incontrovertible proof for every phase.

Another broker who had been in the local real estate and insurance business for half a century, and his wife, both evinced their willingness to depose and say that Julia had a daughter Doris, a tubercular blonde, whose surname they had forgotten as Julia flitted from husband to husband.

There matters stood momentarily until we received a power of attorney from Doris Steelmant (not Steelman) to Julia DeCamp, freshly executed in San Francisco where, according to Julia's current revised version, she had lived all along. We wrote to the attorney who had prepared the instrument and he verified the signature of Doris Steelman as authentic.

So we immediately sat down to go through a catechism containing the following interrogatories:

(1) Is there any interest, actual or presumptive, vested in the heirs of G. M. Schink?

(2) How can we bridge the hiatus between the various spellings of Doris' surname, and what proof must we require as to her marital status?

(3) Has the genuineness of the power of attorney been sufficiently established?

(4) Hadn't we better gather up our marbles and go home?

(5) Isn't there some easier way to make a living than in the title business?

Well, we collected a cancellation charge which almost defrayed the cost of stationery. And what, you ask, did Julia do? She willingly paid the charge because she'd learned what a title company demanded. She accordingly re-revised her story for the benefit of our competitor—the sale was completed and title insurance was issued.

So endeth the Saga of Julia.

* * * *

Now and then we can discern the marks of a graft—proof that fraud, though infrequent, is an ever-present hazard in the acquisition of a title to land.

Maybee, deep within the tree, are woodworms boring out their homes —a reminder of squatters and the whole field of adverse possession. And if you ever hear the triphammer of a woodpecker in the topmost reaches of the tree, start worrying about encroachments.

* * * *

With the complexities of modern existence, wherein we have to pay more and more to get government to do more and more—sometimes **for** us, sometimes **to** us—we encounter the police power of the state, the widening of the functions of government. The public interests in land have been augumented from the right to tax and condemn to the right to regulate the uses to which the land may be put in order to secure the greatest advantage to society. Zoning laws, building restrictions and fire prevention rules, for example, often create an espalier effect upon our title tree.

In all of the Northwest, developmentally it's springtime, and the tree of title puts forth rich green leaves, signifying the transformation of raw land into improved acreage. And with it the translation into wood and masonry of someone's dream of a home, to shut out the fears and cares of all the world. So, too, the change from tent cities to massive marts of commerce and trade, and industrial plants furnishing both payrolls and the ingredients for a fuller, richer life.

This is the consummation of that continuing effort down through the years to achieve proprietorship, for **ownership** of land is essential in providing incentive for development of land.

* * * *

Land's permanence, its indestructibility has made it the most acceptable security for lending. So, too, its permanence and immovability make possible its concurrent use by many people for many purposes. It becomes the object of many rights, the intensity of which increases in direct proportion to the land's value.

That is a typical tree growing in a typical title plant. Before we leave it, let us sample the fruit which it provides. This fruit is available only because of the daily, unremitting care given to each tree in the title company's forest—to the end that you and I may be furnished the evidence of title which protects our investments, our occupancy, our privacy and our security: The protection which makes pride of ownership a motivating force in our economy, and changes a house into a home because therein the occupant becomes the sovereign lord of his little share of earth.

FEDERAL TAX LIENS AND THE FORECLOSURE OF MORTGAGES

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THE LAW

For a period of almost twenty years mortgage foreclosures have been so relatively infrequent that most lawyers have had little or no practice in that field. At this time, however, the volume of foreclosures is increasing, and indications are that this trend will continue.

During this period when the volume of foreclosures was small, there have been significant developments with respect to the procedures for handling subordinate federal tax liens which should be carefully considered by foreclosing mortgagees. It is the purpose of this article to cover in a general way the legal background of these developments and to consider what actions foreclosing mortgagees should take in connection with such federal tax liens.[1]

Most lawyers, in the past, when foreclosing under powers of sale where state law permitted, assumed that there was no need to search for federal tax liens or any liens subordinate in point of time to the mortgage, except ad valorem taxes and public assessments, and similar matters, on the theory that the foreclosure of the mortgagor's equity of redemption (or whatever property interest remained in the mortgagor under appropriate state law) cut off all subsequent conveyances thereof and all subsequent liens attaching thereto, including federal tax liens. This theory is illustrated by the decision in *Trust Company of Texas* v. *U.S.*,[2] in which the court held that, under both Federal and Texas laws, foreclosure of a mortgage under power of sale extinguished all liens subordinate of record to the mortgage, including federal tax liens.

The Metropolitan Case

The Bureau refused to recognize the doctrine of this decision and, in later cases, persuaded several federal courts to hold to the contrary. Probably the leading case among these decisions is *Metropolitan Life Ins. Co.* v. *U.S.*,[3] which will be hereafter referred to as "The Metropolitan case." In that case the majority, over a vigorous and persuasive dissent by Arant, C. J., held that a federal tax lien was not subject to extinguishment by state law, but could be released or removed only in the manner provided by federal law, that is, either by suit by the United States or by a lien or property holder, in the manner provided by federal statutes,[4] or by release by the Commissioner. Certiorari was denied by the U.S. Supreme Court.[5] The doctrine of the Metropolitan case has been followed in *U. S.* v. *Cox*,[6] *Miners Sav. Bank* v. *U.S.*,[7] and *Bensiger* v. *Davidson*.[8] The case of *Miners Sav. Bank* v. *U. S.*, supra, is one of the most carefully written and considered of the cases in this group. However, the court's basic rationale was as simple and unadorned as that of the majority in the Metropolitan case. The court's decision, based principally on *United States* v. *Kensington Shipyard & Drydock Corp.*,[9] stated starkly that the federal tax lien is immune to state action, and, once established it may only be removed as federal laws permit.

Necessarily, these decisions held further that at any time after foreclosure of the mortgage under power of sale, and within the statute of limitations, the Government was entitled, as a matter of law, to a subsequent foreclosure of its subordinate tax lien. The same reasoning applied to a foreclosure in state or federal courts to which the United States had not been made a party on

account of its tax lien. Most lawyers will not quarrel with the latter conclusion for obvious reasons. The former seems to be a definite judicial invasion of property rights in states whose laws recognize the grant of the power of sale and the right of foreclosure thereunder. There is little or no analysis or reasoning contained in this line of decisions justifying this sweeping result, and their doctrine has been adversely criticized in articles in 53 Harvard Law Review 888, 49 Yale Law Journal 1106, and 38 Mass. Law Q. 55. In 1954 the federal district court of Minnesota in *U. S.* v. *Ryan,* 124 F. Supp. 1, approved, by way of dictum, the doctrine of *Trust Company of Texas* v. *U. S.,* supra.

U.S. vs. Boyd

The recent case of *United States* v. *Boyd,* decided by the Fifth Circuit on June 28, 1957 (U. S. Tax Cases Par. 9791) is squarely in point and diametrically opposed to the holding in the Metropolitan case. In the Boyd case the court had before it a bill, filed by the United States under Section 7403 I.R.C., to foreclose subordinate federal tax liens. The bill was filed while a foreclosure of the first mortgage (deed of trust) on taxpayer's real estate was in progress, and came to trial after that foreclosure had been completed. While the Government was apprised of the foreclosure proceedings under the power of sale, it took no part therein, nor did it seek to stay them. On the trial of its suit the Government sought to have its tax lien foreclosed, and to have the property resold. It contended, among other things, that, the United States having filed suit for foreclosure under 7403, the federal tax liens be disposed of in no other manner.

The court carefully reviewed all of the authorities, and, disagreeing emphatically with the opinion of the majority of the Sixth Circuit in the Metropolitan case, held that the foreclosure under the power of sale cut off and destroyed the subordinate tax liens. The court reasoned that since a mortgagor can validly grant the power of sale, and, thereafter the mortgagor owns nothing to which the subsequent federal lien can attach except the equity of redemption, a foreclosure under the power, cutting off the equity of redemption which was all that the federal lien attached to, extinguished the Government's lien, not by the state action against the federal lien itself, as concluded by the court in the Metropolitan case, but by state action which legally forecloses upon and takes away the property or property right to which the federal lien attached.

Bare Claim

While no legal question on which respected courts disagree is free from difficulty, the position of the Fifth Circuit seems sounder than that of the Sixth. Certainly, the Fifth's opinion is more practical, for, as its opinion in the Boyd case points out, to recognize the Government's bare claim, made in that case (and in most of the cases cited above) that the Government is absolutely entitled, at any time short of the statute of limitations, on a suit filed under Section 7403, to a subsequent resale of property already disposed of under power of sale would lead to uncertainty of titles, hardship, and confusion.

The Government has filed a petition for a writ of certiorari in the Boyd case. Since the existence of a conflict between the two Circuits on the same matter seems clear, it may reasonably be anticipated that the Supreme Court will grant the writ. If the question were controlled by state law, such conflict would not of itself be a reason for granting the writ. However, while there are some differences in theory among the states as to the nature and characteristics of the mortgagor's "equity of redemption," mainly between the so-called "title theory" and "lien theory" states, this apparently did not enter into the basis of the decision in either case. The Metropolitan case came up from Michigan, and the Boyd case came up from Mississippi. Michigan is a lien state and the cases

indicate Mississippi is also. As noted above, the decision in the Boyd case was grounded, not on the nature of the mortgagor's equity of redemption, but upon the fact that after his grant of the power of sale, whatever estate remained in him was subject to divestiture by foreclosure of the power. It is true that in *Miners Sav. Bank* v. *U. S.*, supra, which followed the doctrine of the Metropolitan case, the court apparently thought (see footnote 18, p. 570 of 110 F. Supp.) that the contrary holding in *Trust Company of Texas* v. *U. S.*, supra, was based on the fact that Texas was a title state. But, it seems that the court was under a misapprehension, for Texas is, and was at the time, a lien state. We doubt, therefore, that it would be held that the conflict arises because of state law, and it is to be hoped that the Supreme Court will grant the writ and settle the conflict so far as is possible under the facts and issues in the Boyd case.

Unless and until the conflict is decided decisively by the U. S. Supreme Court, it is apparent that, whatever the individual's opinion of the relative merits of the viewpoints of the two Circuits may be, it is desirable that a mortgagee intending to foreclose under power of sale will: (1) make examination for subsequent federal tax liens, and, (2) if any are discovered, give consideration to whether it is desirable either to follow the comparatively new release procedures which have been established by the Bureau, hereafter discussed, or to foreclose by action—preferably under the provisions of 28 U.S.C 2410.

In Practice

Where foreclosure is by Court action, either as required by applicable state law, or for reasons inherent in a particular case, it is standard procedure, in most of the states, at least, to search the subsequent title in order that all parties having or claiming an interest in, or a lien upon, the land may be joined as parties to the foreclosure bill. In such cases the Government's tax liens will be discovered in due course.

An interesting situation has developed as a result of the Bureau victories in the Metropolitan case and the later cases in the district courts which supported the Government's view. In recent years many mortgagees who were preparing to foreclose under power of sale, discovered the existence of subsequent federal tax liens, and thereupon elected to foreclose by action and joined the United States as a defendant. Many other mortgagees, preparing to foreclose by action in the normal course, and who discovered subsequent federal tax liens of record, joined the United States as a defendant as a matter of course.

The filing of such suits brought a sharp reaction from the Bureau and the Tax Division of the Department of Justice, who, finding themselves faced with a flood of such future litigation, announced that consideration was being given to the adoption of a policy of rejecting all applications either for "no value" discharges or for release of the Government's one year right to redeem against any mortgagee who joined the United States as a defendant in such proceedings. (Technical Information Release 7-10-56; TIR-10).

At the same time the Government, as an alternative, instituted a procedure to alleviate the situation as much as possible with the Government's view of its rights in connection with such liens. The same Technical Information Release advised that, in all cases where the mortgagee discovers a subordinate federal tax lien, he may apply to the District Director for the release of the lien; if the mortgagee's application shows no value, and the District Director, after investigation, concurs, then, within thirty days after the receipt of such application, the Director will issue a "Conditional Commitment to Discharge Certain Property from Federal Tax Lien." As a matter of practice in our District (Birmingham, Alabama) the release procedures have been facilitated, and

releases may be obtained in cases where no difficulties arise sooner than the thirty day period.

There was some doubt on the part of tax practioners, even under the 1954 Code, of the authority of the Revenue Service to give a valid release from a tax lien unless some payment was made. In order to remove this doubt the Tax Division of the Department of Justice recommended to Congress, and promptly obtained, an amendment to the 1954 Code to make this authority clear, which is now embodied in the Code as Section 6325 (b) (2).

The outline of the release procedures is set out in Technical Information Release; TIR-10; 7-10-56. A more complete discussion is contained in CCH Fed. Tax Rep. '57, Vol. 4, Pars. 5364-6; CCH Fed. & Gift Tax Rep. Vol. 1, Par 4353 et seq; PH Perm. Vol. 2-A, Pars. 19,902 and 19,-902-E.

Advice for Mortgagee

In the event that a release is desired in a case in which the mortgagee admits there is excess value over the mortgage debt, the application will so show, and, if the matter is to be settled without litigation, agreement must be reached as to the amount of the excess value with the District Director, who will release upon payment of the agreed amount.

Where agreement cannot be reached in such a case, or in a case where a "no value" application has been filed and the question of no value disputed by the District Director, and agreement cannot be reached on the amount, there seems to be no alternative to litigation.

If the mortgage being in disagreement with the District Director, elects to sue, or if, for his own reasons, he elects to sue without first resorting to the release procedure, he will probably elect to file suit under Section 2410 of Title 28, U.S.C., mentioned above. He may, of course, proceed under the provisions of Section 7424 of the Internal Revenue Code, but, as noted hereafter, the provisions are burdensome.

Section 2410 waives the Government's immunity to suits to quiet title or for foreclosure of a mortgage or other lien upon real or personal property on which the United States has or claims a mortgage or other lien. The statute prescribes certain conditions and procedures, the one of the chief interest here probably being the provision that when real estate is sold thereunder to satisfy a lien prior to that of the United States, the United States shall have one year from the date of the sale to redeem. It should be noted that it has been held that this statute does not confer jurisdiction on the United States District Courts (or any other courts), it merely waives the immunity of the United States from suit on the prescribed subject matter in cases validly filed in courts, having jurisdiction of the subject matter and the parties. It follows that the statute does not require such suit to be filed in the federal courts, as has sometimes been indicated, as dicta, in some cases.

It is apparent, therefore, that in those states whose laws do not provide any right of redemption after foreclosure, consideration should be given by the mortgagee who intends to foreclose by the court action to filing a "no value" application for release of the federal tax lien, and to withhold suit until the application is acted upon.

Even if the mortgagee recognizes excess value, if there is hope of a reasonably quick and satisfactory settlement with the District Director, there will doubtless be many situations, particularly in states which do not provide for a right of redemption, in which it would be more desirable to file application for release prior to suit than to sue under Section 2410 of Title 28 and be saddled with the right of redemption.

The mortgagee preparing to foreclose under the power of sale, with outstanding subordinate federal tax liens, may, since the decision in the Boyd case, and particularly if the land is located in the Fifth Circuit, be tempted to rely on that decision,

and to foreclose under the power in disregard of the federal liens. The temptation to do so will be stronger if the value of the mortgaged property is less than, or no more than, the mortgage debt. No case has been found in which the United States, either on its own suit for foreclosure, or on counterclaim filed by it in a suit brought to quiet title or otherwise extinguish subordinate tax liens, has been successful in having the court order land resold where proof in such subsequent suit did not show that the land had a value in excess of the mortgage debt. This was true even in the Metropolitan case, and in the cited cases recognizing the doctrine of the Metropolitan case.

Red Tape and Confusion

It is distressing that every year that passes finds the real estate lawyer burdened with more and more details and red tape of every kind and variety, so that transactions which were once simple become increasingly more difficult. It is submitted, however, that unless and until the Supreme Court of the United States holds that ordinary foreclosure under power of sale, without more, cuts off subordinate federal tax lien, such foreclosure in disregard of such liens leaves open obvious and dangerous possibilities of costly future difficulty. In tax districts in which the District Director has set up efficient processes to handle release applications the outlay of work and the delay attendant upon filing and handling a release application seems good insurance against future trouble.

In passing, it should be noted that the court, in the Boyd case, touched on the question of appropriate notice to the government of the sale under the power, and concluded that the Government had actual knowledge of the time and place of the foreclosure sale in that case. There is a possibility of difficulty on this point, particularly in states like Mississippi, where there is no right of redemption after foreclosure, and the only notice usually given is by newspaper publication.

An intresting question of procedure, if suit is brought against the United States under Section 2410 of Title 28, seems now to be definitely settled. Section 7424 of the 1954 Internal Revenue Code (prior Section 3679) requires, stated briefly, that any person having a lien upon or any interest in real or personal property subject to federal tax liens, shall make application to the Commissioner to authorize the filing of an action by the Attorney General to enforce the Government's tax lien, and to take certain other procedures if the Commissioner refuses or neglects to do so.

There have been intimations in some of the earlier cases that compliance with 7424 of the Revenue Code would be a condition precedent to the maintenance of a bill against the United States to remove a tax lien under Section 2410 of the Judicial Code. The most recent cases hold that such action is not necessary where the plaintiff is a nontaxpayer, that is, not the taxpayer against whom the lien sought to be removed was filed. The theory upon which these cases is based is that the Revenue Code is for the regulation of tax assessment and collection, and relates to taxpayers and not to nontaxpayers. *Gerth* v. *U. S.*, (D.C. Cal. 1955) 132 F. Supp. 894; *Petition of Sills*, (D.C. N.Y. 1953) 115 F. Supp. 239; and see: *Szerlip* v. *Marcele*, (D.C. N.Y. 1955) 136 F. Supp. 862; *Miner Sav. Bank* v. *U.S.*, supra, Sections (24-27); *National Iron Bank* v. *Manning*, 76 F. Supp. 841; CCH '57 Vol 4, Section 5868; Law of Federal Taxation, Mertens, Vol 9, Section 54.52. In *Jones* v. *Tower Production Co.*, 120 F. 2d 779, the Circuit Court of Appeals for the Tenth Circuit reached what seemed to be a contrary conclusion. However, the same court, in a later appeal of the same case, *Jones* v. *Tower Production Co.*, 136 F. 2d 675, explained that the result in the prior case was reached without consideration of 28 U.S.C. 2410 (then 28 U.S.C.A. 901) because that statute, at the time of the former appeal, did not cover suits to

quiet title. *Jones* v. *Tower Production Co.,* supra, was followed in *Adler* v. *Nicholas,* 166 F. 2d 674, 679, and, while neither of these cases is as pointed on the exact question as the District Court cases cited above, both are direct authorities on the proposition that a non-taxpayer may maintain the suit under Section 2410 of Title 28, without in anywise conforming to Section 7424, I.R.C. (See the case note to 174 A.L.R. 1373, at p. 1405 et seq.)

The primary purpose of this article has been to point out, and discuss the possible traps into which a foreclosing mortgagee may fall in connection with subordinate federal tax liens. For that reason the treatment of the legal background has been considerably condensed. The citation of numerous cases and discussion of various subordinate legal points has been omitted. Perhaps the issues have been oversimplified. The justification for such treatment is the writer's belief that, unless and until the Supreme Court overturns the doctrine of *Metropolitan Life Ins. Co.* v. *U. S.,* supra, it is necessary, as a practical matter, that the foreclosing mortgagee recognize the status of subordinate federal tax liens established by the rule of that case and the later cases in harmony with it.

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1. The basic liens for federal income, estate and gift taxes are established by Sections 6321, 6322 and 6324 of the Internal Revenue Code of 1954 (See CCH Fed. Tax Rep. '57, Vol. 4, Pars. 5356; and 5358 CCH Fed. Est. & Gift Tax Rep. Vol. 1, Par. 4339.) The requirement that notice must be filed in the appropriate state recording office in order that the general lien created by Section 6321 shall prevail against subsequent mortgages, pledges, purchasers and judgment creditors is contained in Section 6323. (CCH '7, 5360) The basic lien for federal taxes originated in 1866.
2. (D. C. Texas 1933) 3 F Supp. 638.
3. (C. A. 6 Mich. 1939) 107 F. 2d 311.
4. I.R.C. 7403 (26 U.S.C. 7403). 7424. (26 U.S.C. 7424), or 28 U.S.C. 2410.
5. 310 U.S. 630, 84 L.Ed., 1400.
6. (D. C. Ga. 1953) 119 F. Supp. 147.
7. (D. C. Pa. 1953) 110 F. Supp. 563.
8. (D. C. Cal. 1956) 147 F. Supp. 240; (See Law of Federal Taxation, Mertens. Vol. 9, Section 54.42, p. 608, note 14, and same in 1956 Cumulative Supplement.)
9. (CCA 3 1948) 169 Fed. 2d 9.

THE EQUITABLE OUTLOOK

J. L. BOWMAN

President, Rogers County Abstract Co., Claremore, Oklahoma

Last year I heard an abstracter say: "When in doubt, copy it in full." We all know that an abstracter's duty, or job, or both, is to show the record and I guess that when an abstracter shows the record in full he has fulfilled his duty, or job, or both, and if anyone has been hurt, it is our customer, because he has paid for more abstract than needed.

It seems to me that there is a small comparison here, which in legal terms is called law and equity. Equity must stay within the confines of law, to be sure, but comes into play because of hardship or some other recognized legal aspect.

I now want to single out some illustrations in abstracting that I think call for an equitable outlook. I am not saying that what we do in our company is the right way. No one has told us to abstract in this fashion. We only feel that we are giving the customer a showing of the record without padding his abstract.

Divorce Cases—If there is a pending divorce sase on record and these parties are now triyng to sell the property, it is evidence that, perhaps, the divorce suit will not be completed; so we talk to the plaintiff's lawyer to see if it can be dismissed from the record so it won't have to be shown in the abstract. If it can't be dismissed, but will be concluded after the sale, we will then set up the style of the case on one page, list the instruments filed, show the case pending and not copy any one of the proceedings. If the divorce suit has been completed, and there is on record in the office of the County Clerk a deed from one party to the other made at the time of or during the pendency of the divorce action, we show only the Jour-

nal Entry, together with property settlement agreement if there is one, and feel that the deed passes the title and the divorce decree only serves to decide the marital status of the party now owning the title.

There have been a few times though that we have been requested in an attorney's title opinion to put in the necessary proceedings (petition and summons or waiver) but this requirment is not made enough times to make us feel ew have compiled the abstract incorrectly. Also on all divorce cases that we do show, all answers, replies, cross-petitions, and other type pleadings (except the petition and summons or waiver(are only listed as filed instruments and not shown in full, the exception being when such instruments specifically plead (in relationship to title or real estate) and it takes that link in order for the examiner to understand the decree.

Determination Of Death To Terminate A Joint Tenancy — The regular statutory form, which is most commonly used, or if it is made a part of a quiet title suit, we handle in the usual manner. It is the third method set up by law, which is that Letters of Administration in a regular probate case will terminate a joint tenancy, that I am now discussing.

When this occurs in our office, if we can determine whom the examining attorney will be, we ask him for instructions. We find sometimes a difference exists. For instance, one lawyer will say a showing of the Letters of Administration only is sufficient; another will ask that all proceedings leading up to the Letters of Administration be shown. We will show only the Letters of Administration unless otherwise instructed, and except the proceedings of the probate case in our certificate. The main point being thta we do not copy the probate case in full. If the Final Decree should list the particular land in question and determines that the joint tenancy has ended, we will show those portions of the Final Decree affecting our particular tract of land.

Mortgages S u b m e r g e d in Judgments—If the mortgage holder on record in the County Clerk's office becomes the judgment creditor in a foreclosure of mortgage case, whether execution is issued on that judgment or not, so long as it is not sold and sale confirmed, there arises the question of how much of the proceedings should be used. We have cases here where the judgment is paid and then the mortgage holder (who was the person paid by the judgment creditor) will file a release of mortgage in the County Clerk's office. In such case we show nothing. In this instance the title examiner relies entirely on the release of m o r t g a g e without the knowledge of the judgment. If the mortgage is not released in the County Clerk's office, then we examine the petition and the Journal Entry, and if they are referring to the same mortgage, and the Journal Entry has sufficient information contained in it to identify the mortgage without the necessity of getting teh information from the petition, we show only the journal entry. In such cases, if the judgment is paid and siatisfied, we show such release if it is instrument form, or show the notation of such from the Appearance Docket, or if the judgment has been put on the pudgment docket, the release of same on the judgment docket.

If the judment does not show paid, but has become dormant for lack of execution, we then show no execution was issued, or if one, the date of the lats execution so that the examiner can determine that the judgment is now dormant. In other words, we try very hard not to show all proceedings in that foreclosure case, but only such as is necessary to allow the evaminer to determine that the mortgage has been satisfied. Last week we had one examiner who took the position that the Journal Entry must be supported by notice and that it had to be in the abstract. One case we lost on, but we arent' changing our system on that one example.

Condemnation Proceedings—In this category we are referring to those condemnation proceedings for highways, which either cut through a man'e property or form one boundary line of same, and not to those cases where a title is dependent on the suf-

ficiency of condemnation proceedings. We have both in this country. New highways adnutnpkri coLf eb hikgb highways and turnpikes cutting property into tracts and mand-made lakes built on condemned property. We only show the Report of Commissioners if it gives a complete description of the property condemned, even though mineral rights may be left with the landowner. We feel that for all practical purposes the examiner needs to know what caused this demarcation line, whether the landowner will have access or not to his property, and the true description of the property line.

I have written at too great length now, but in these four examples of showing court cases, I feel that we should have some feeling for our customer and his pocketbook.

INTERNAL REVENUE DOCUMENTARY STAMP INFORMATION

REVENUE STAMP LAWS (on deeds) as follows:

Oct. 1, 1862 to Oct. 1, 1872; July 1, 1898 to July 1, 1902; Dec. 1, 1914 to Sept. 8, 1916; Dec. 1, 1917 to March 29, 1926; July 21, 1932 to.....

Present law became effective July 21, 1932 and as amended, provides as follows: ". . . When the consideration or value of the interest or property conveyed, **exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds $100 and does not exceed $500, 55 cents; and for each additional $500 or fractional part thereof, 55 cents."**

More than	Not Over	Tax
$ 100	$ 500	$ 0.55
500	1,000	1.10
1,000	1,500	1.65
1,500	2,000	2.20
2,000	2,500	2.75
2,500	3,000	3.30
3,000	3,500	3.85
3,500	4,000	4.40
4,000	4,500	4.95
4,500	5,000	5.50
5,000	5,500	6.05
5,500	6,000	6.60
6,000	6,500	7.15
6,500	7,000	7.70
7,000	7,500	8.25
7,500	8,000	8.80
8,000	8,500	9.35
8,500	9,000	9.90
9,000	9,500	10.45
9,500	10,000	11.00
10,000	10,500	11.55
10,500	11,000	12.10
11,000	11,500	12.65
11,500	12,000	13.20
12,000	12,500	13.75
12,500	13,000	14.30
13,000	13,500	14.85
13,500	14,000	15.40
14,000	14,500	15.95
14,500	15,000	16.50
15,000	15,500	17.05
15,500	16,000	17.60
16,000	16,500	18.15
16,500	17,000	18.70
17,000	17,500	19.25
17,500	18,000	19.80
18,000	18,500	20.35
18,500	19,000	20.90
19,000	19,500	21.45
19,500	20,000	22.00
20,000	20,500	22.55
20,500	21,000	23.10
21,000	21,500	23.65
21,500	22,000	24.20
22,000	22,500	24.75
22,500	23,000	25.30
23,000	23,500	25.85
23,500	24,000	26.40
24,000	24,500	26.95
24,500	25,000	27.50
25,000	25,500	28.05
25,500	26,000	28.60
26,000	26,500	29.15
26,500	27,000	29.70
27,000	27,500	30.25
27,500	28,000	30.80
28,000	28,500	31.35
28,500	29,000	31.90

29,000	29,500	32.45	40,000	40,500	44.55
29,500	30,000	33.00	40,500	41,000	45.10
30,000	30,500	33.55	41,000	41,500	45.65
30,500	31,000	34.10	41,500	42,000	46.20
31,000	31,500	34.65	42,000	42,500	46.75
31,500	32,000	35.20	42,500	43,000	47.30
32,000	32,500	35.75	43,000	43,500	47.85
32,500	33,000	36.30	43,500	44,000	48.40
33,000	33,500	36.85	44,000	44,500	48.95
33,500	34,000	37.40	44,500	45,000	49.50
34,000	34,500	37.95	45,000	45,500	50.05
34,500	35,000	38.50	45,500	46,000	50.60
35,000	35,500	39.05	46,000	46,500	51.15
35,500	36,000	39.60			
36,000	36,500	40.15			
36,500	37,000	40.70			
37,000	37,500	41.25			
37,500	38,000	41.80			
38,000	38,500	42.35			
38,500	39,000	42.90			
39,000	39,500	43.45			
39,500	40,000	44.00			

(If upon sale of real estate an existing mortgage is refinanced, revenue stamps must be affixed on the basis of the full amount of the purchase price. If on the other hand real estate is sold subject to an existing mortgage, **the amount of stamps will be determined by the sale price less the unpaid balance of the mortgage.)**

COMING EVENTS

Date	Convention	Place
April 8-10	California Land Title Association	Biltmore Hotel Phoenix, Arizona
April 11-13	Oklahoma Title Association	Western Hills Lodge Sequayah State Park
April 13-14	Wisconsin Title Association Mid-Year Meeting	Raulf Hotel Oshkosh, Wisconsin
April 17-19	Texas Title Association	Brownsville, Texas
April 27-29	Arkansas Land Title Association—50th Anniversary	Arlington Hotel Hot Springs, Ark.
May 4-6	Iowa Title Association	President Hotel, Waterloo, Iowa
May 4-7	Atlantic Coast Regional Title Insurance Executives	Skytop Club Skytop, Pennsylvania
May 9-10	New Mexico Title Association	Alvarado Hotel Albuquerque, New Mexico
May 14-15-16	Illinois Title Association	Pere Marquette Hotel Peoria, Illinois
May 16-17	Pennsylvania Title Association	Claridge Hotel Atlantic City, New Jersey
June 9-10	Central States Regional	Drake Hotel Chicago, Illinois
June 13-14	Southwest Regional	Adolphus Hotel Dallas, Texas
June 16-17	South Dakota Title Association	Sheraton-Johnson Hotel Rapid City, South Dakota
June 19-21	Colorado Title Association	The Crags Estes Park, Colorado
June 29-30	Michigan Title Association	Grand Hotel Mackinac Island, Mich.
August 1-2	Montana Title Association	Placer Hotel Helena, Montana
Sept. 21-26	**Annual Convention—American Title Association**	**Olympic Hotel Seattle, Washington**
October 12-14	Nebraska Title Association—50th Anniversary	Town House Omaha, Nebraska
November 3-6	Mortgage Bankers Association Convention	Conrad Hilton Hotel Chicago, Illinois
November 5-6-7	Kansas Title Association	Broadview Hotel Wichita, Kansas