THE HISTORY AND DIRECTION OF TITLE EXAMINATION STANDARDS: NATIONALLY AND IN OKLAHOMA

By: Kraettli Q. Epperson, Esq.
COOK & EPPERSON
6520 N. Western, Suite 300
Oklahoma City, OK 73116
(405) 842-7545
FAX (405) 840-9890

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By: Kraettli Q. Epperson, Attorney at Law
Oklahoma City, Oklahoma

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AUTHOR'S BIOGRAPHY

KRAETTLI Q. EPPERSON

POSITION:	Partner with the law firm of Cook & Epperson, Oklahoma City, Oklahoma
PRACTICE:	Real Property Litigation; Complex Contract Negotiations; Corporate Records Management
EDUCATION:	University of Oklahoma [B.A. (Poli.Sci.) 1971]; State University of New York at Stony Brook [M.S. (Urban and Policy Sciences) 1974]; and Oklahoma City University [J.D. (Law) 1978].
MEMBERSHIPS:	Oklahoma County, Oklahoma State and American Bar Associations.
POSITIONS:	ABA Conveyancing Committee (current vice chairman); OBA Real Property Section (current member, former chairman, former director); OBA Title Examination Standards Committee (current chairman); and The Oklahoma City Title Attorneys Association (current member, former president, former director).
SPECIAL EXPERIENCE:	Oklahoma City University School of Law adjunct professor: "Oklahoma Land Titles" course (1982-Present); and previously served as title examiner and commercial loan closer with Lawyers Title of Oklahoma City, Inc., Oklahoma City, Oklahoma, and as General Counsel of American First Land Title Insurance Co. (now American Guaranty Title Co.) of Oklahoma City, Oklahoma.
PUBLICATIONS:	"*Federal Money Judgment Liens Under the Federal Debt Collection Procedure Act: A 40-Year Super-Lien*", 64 Oklahoma Bar Journal 3195 (October 23, 1993); "*Local Real Property Recordings Required for Federal Money Judgments*," 63 Oklahoma Bar Journal 2697, (September 30, 1992); "*One Step Beyond: Judicial Creation of a Judgment Lien in Divorce Decrees*," 62 Oklahoma Bar Journal 2631 (September 1991); "*Title Examination Standards in America: A Status Report*," Probate and Property, ABA Real Property, Probate and Trust Magazine, Sept./Oct. 1990 (Co-author); "*Oklahoma Title Examination Standards and Curative Acts Relating to Oil and Gas Interests*," 24 Tulsa Law Journal 548 (Summer 1989) (Co-author).

SPECIAL HONORS:

Who's Who in American Law, Sixth, Seventh and Eighth Editions (1990-1991, 1991-1992, and 1992-1993)

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Oklahoma Bar Association 1990 Earl Sneed Continuing Legal Education Award; and

Oklahoma Bar Association 1990 Golden Gavel Award: Title Examination Standards Committee.

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I. INTRODUCTION

The question has arisen whether a set of uniform title examination standards should be adopted for this state. If the pain from title examiners fly-specking each other's titles and from clients complaining about how the last attorney who examined their abstract either did an unnecessary quiet title suit or passed a title that is now being challenged, then its probably time to seriously consider developing and adopting some bar sponsored standards.

What are standards? Simes and Taylor in their 1960 Model Title Standards suggested:

> *A uniform title standard may be described as a statement officially approved by an organization of lawyers, which declares the answer to a question or the solution for a problem involved in the process of title examination.*

In the following materials you will read about why there was, and still is, a movement to adopt both local and statewide title examination standards across the nation. In addition, the best uses and the limits on using standards and the suggested means to develop, adopt and maintain standards are also explored.

The commentators whose works are quoted frequently herein include the following:

1. Lewis M. Simes and Clarence B. Taylor, Model Title Standards, the University of Michigan Law School, Ann Arbor, Michigan (1960) (herein "Model Title Standards");
2. John C. Payne, "Increasing Land Marketability Through Uniform Title Standards", 39 Va.L.Rev. 1 (1953) (herein "Increasing Marketability");
3. John C. Payne, "The Why, What, and How of Uniform Title Standards", 7 Ala.L.Rev. 25 (1954) (herein "The Why of Standards");

4. Harlan B. Strong, "Title Standards Come of Age", 30 Fla. Bar J. 371 (1956) (herein "Standards Come of Age");

5. Rufford G. Patton and Carroll G. Patton, Patton on Titles, 2nd Edition (herein "Patton");

6. Richard R. Powell, The Law of Real Property (herein "Powell"); and

7. Paul E. Bayse, Clearing Land Titles (herein "Bayse").

II. IMPETUS FOR STANDARDS: PROBLEMS WITH SEEKING PERFECT TITLE

The attorney who undertakes to examine a title to real property as part of a sale or a loan transaction has a significant responsibility. As noted in Patton:

§45. Importance of Title Examination

In distinction from the abstracter's duty to search the records and to merely report the facts as he finds them, it is the province of the attorney to examine these facts either from the abstract or, using it as a guide, from the records themselves, and to formulate a legal opinion thereon. He is therefore commonly called a title examiner (in distinction from a searcher or abstracter of the records, though, if he is a lawyer admitted to practice in the state, he may be both abstracter and examiner). Having received an abstract which he considers to be "good and sufficient," or to otherwise satisfy his client's contract upon the subject, the latter is now ready to examine the title. This is of great importance, for the reason that, aside from covenants of warranty, all questions of title after acceptance of conveyance are at the risk of the vendee. His only protection against defects is to investigate the title beforehand, or to look to the express warranties of his vendor's conveyance afterwards. He wishes to know, therefore, before completing his purchase, that the title is not only free from defects which would be covered by the warranties of his deed, but also free from those minor defects for which he would have no recourse but which would make it unmarketable on a resale.

§52. Responsibility of Examining Attorney

Though an attorney must be held to have undertaken to use a reasonable degree of care or skill, and to possess to a reasonable extent the knowledge requisite to a proper performance of his duties, and will be held liable to his client for injury resulting as a proximate consequent from the want of such knowledge and skill, or from a failure to exercise such care, he is not a guarantor of the titles which he approves and is only liable for negligence or misconduct in their examination. He cannot be held for damages resulting from an opinion rendered in good faith which proves to be erroneous either as to the law or as to its application to the particular facts involved. He is of course liable for injury arising from his negligence, such as omitting in his report to a purchaser liens shown in the abstract, or in certifying in his report to others as to the subsistence of a lien which has ceased to exist or which never attached. But, unless there are circumstances to take the case out of the general rule, his liability, like that of an abstracter, extends only to those by whom he has been employed.

Aside however from the financial responsibility to a client for any loss resulting from negligence or lack of knowledge and skill, a title examiner feels the same personal responsibility for making a complete and accurate title report which is implicit in the relationship of a lawyer and his client. As in almost no other field of the practice of law, carefulness is the prime requisite. Knowledge of the subject is a close second. Skill then comes with experience. Knowledge alone is not substitute for the latter, the same in title examination as in playing a musical instrument, speaking a foreign language, or using new tools and machines. Given equal knowledge of real property law, an attorney well versed in trial procedure may be as inadequately equipped to examine a title as may an examiner to conduct a jury trial. The two lines of practice require different types of skill; and the latter, in both cases, is acquired mainly from experience.

In addition to studying the matters contained infra relating to title in his own state and supra in relation to methods of examination, such reader is urged to supplement his familiarity with this text by reading any local work which may have been prepared for his state and any list of standards which have been adopted by the lawyers of his state or district. He should procure an index of the curative and limitation acts applicable to titles in his state, either a published list where that is possible, or one prepared and kept up by himself. Unless the examiner or student has already had a course in surveying or has otherwise acquired a considerable familiarity with drafting and construing land descriptions, he should give particular attention to Chapter 4 hereof and should acquire from engineering literature or from a surveyor at least a moderate familiarity with surveying terms, drafting terms and instruments (not necessarily transits and levels, but steel tapes, chains, protractors, scales, etc.). (emphasis added)

The title examiner is required by logic and common sense to first determine what quality of title is being sought by her client-buyer or client-lender before undertaking the examination. According to Am Jur 2d:

An agreement to sell and convey land is in legal effect an agreement to sell a title to the land, and in the absence of any provision in the contract indicating the character of the title provided for, the law implies an undertaking of the part of the vendor to make and convey a good or marketable title to the purchaser. A contract to sell and convey real estate ordinarily requires a conveyance of the fee simple free and clear of all liens and encumbrances. There is authority that the right to the vendee under an executory contract to a good title is a right given by law rather than one growing out of the agreement of the parties, and that he may insist on having a good title, not because it is stipulated for by the agreement, but on his general right to require it. In this

respect, the terms "good title," "marketable title," and "perfect title" are regarded as synonymous and indicative of the same character of title. To constitute such a title, its validity must be clear. There can be no reasonable doubt as to any fact or point of law upon which its validity depends. As is sometimes said, a marketable title must be one which can be sold to a reasonable purchaser or mortgaged to a person of reasonable prudence. (77 Am Jur 2d §115 Title of Vendor: Generally; Obligation to furnish good or marketable title)

While, in the absence of any provisions in a contract for the sale of land indicating the character of the title to be conveyed, the law implies an obligation or undertaking on the part of the vendor to convey or tender a good and marketable title, if the contract expressly stipulates as to the character of the title to be furnished by the vendor, the courts give effect thereto and require that the title offered conform to that stipulation, it is immaterial that it may in fact be a good or marketable title. A contract to convey a specific title is not fulfilled by conveying another and different title. On the other hand, when the title which the vendor offers or tenders conforms to the character of title stipulated in the contract of sale, the vendee is bound to accept it although the title may not be good or marketable within the meaning of the obligation or undertaking to furnish such a title which the law would have implied in the absence of any stipulation. Refusal to accept title tendered in accordance with the terms of sale constitutes a breach by the purchaser of land of his contract to purchase. If a contract for the purchase of real estate calls for nothing more than marketable title, the courts cannot substitute a different contract therefor. (77 Am Jur 2d §123 Special Provisions as to character of title: Generally.)

The terminology which is used to define the quality of title to real property has apparently changed over time. Patton notes:

In the early law courts, titles as between vendor and purchaser were either good or bad; there was no middle ground. No matter how subject to doubt a purchaser might prove the title to be, he was under obligation to take it, unless he could prove that it was absolutely bad. But the courts of equity coined the expression "marketable title," to designate a title not necessarily perfect, or even good, in the law sense, but so free from all fair and reasonable doubts that they would compel a purchaser to accept it in a suit for specific performance. Conversely, an unmarketable title might be either one that was bad, or one with such a material defect as would cause a reasonable doubt in the mind of a reasonable, prudent, and intelligent person, and cause him to refuse to take the property at its full or fair value. Therefore the term "unmarketable title" includes both "bad titles" and "doubtful titles." Though originally there might have been a difference between a "good title" and a

"marketable title," now the terms are used interchangeably. Other equivalent terms appear in the notes. A perfect record title may not be marketable, because of apparent defects, which cause reasonable doubts concerning its validity, and a good or marketable title may be far from perfect, because of hidden defects. In fact, under either the English system of unrecorded conveyances, or under the system afforded by our recording acts, "it is impossible in the nature of things that there should be a mathematical certainty of a good title." While examiners should be cautious in advising clients as to the acceptance of a title, neither should they frighten them by advertizing these relatively infrequent dangers; and they must remember that a purchaser cannot legally demand a title which is absolutely free from all suspicion or possible defect. He may require only such a title as prudent men, well advised as to the facts and their legal bearings, would be willing to accept. Many courts further hold that a doubt sufficient to impair the character of marketableness must be such as will affect the selling value of the property or interfere with the making of a sale.

If unmarketable, the doubt which makes it so may be based upon an uncertainty either as to a fact or as to the law. If objection is made because of doubt upon a question of law, this does not make the title unmarketable unless the question is fairly debatable -- one upon which the judicial mind would hesitate before deciding it. Likewise as to a question of fact, there must be a real uncertainty or a difficulty of ascertainment if the matter is to affect marketability. A fact which is readily ascertainable and which may be readily and easily shown at any time does not make title unmarketable. For instance, where a railway company reserved a right of way for its road as ***now*** *located and constructed or hereafter to be constructed, the easement depended on the fact of the* ***then*** *location of the line; and as the evidence showed that no line had then been located, and as the matter could be easily and readily proved at any time, the clause did not make plaintiff's title unmarketable. But where there are known facts which cast doubt upon a title so that the person holding it may be exposed to good-faith litigation, it is not marketable.*

Recorded muniments form so generally the proofs of title in this country, that the courts of several jurisdictions hold not only that a good or marketable title must have the attributes of that term as used by the equity courts, but also that it must be fairly deducible of record. This phase of the matter will be considered further in the ensuing section.

Determination of questions as to the marketability of titles is peculiarly within the province of counsel for buyer or mortgagee. Counsel for the owner will not only endeavor to remedy the condition of the title as to any requirements which he concedes to be proper, but usually finds it easier to do so than to contest the matter, even as to matters not so conceded. In the main

it is only when compliance is impossible or when time for compliance is lacking or has passed that the question reaches the courts. Even then a decision is not always possible. This is because courts usually will not undertake to determine doubtful questions involving the rights of others who are not parties to the action. (Patton: §46. Classification of Vendor Titles)

In essence, it appears that "marketable title" means the record affirmatively shows a solid chain of title and the record does not show any claims in the form of liens or encumbrances, and this "good record title" is buttressed by the presentation to the vendee of a deed containing sufficient warranties to ensure that the vendor must make the title "good in fact", if non-record defects or liens/encumbrances surface later.

However, to the extent a contract provision providing that one must have and convey marketable title is interpreted to require title to be free from "all reasonable doubt" it opens the door to differences of opinion between reasonable persons. As noted in Bayse:

Time cures certain errors in conveyancing by means of statutes of limitations. The healing effect of curative legislation removes other defects of conveyancing. But operation of these kinds of legislation neither defines nor declares what constitutes a marketable title. The usual definition of a marketable title is one which is free from all reasonable doubt. This negative approach is not now satisfactory, for it is a rare title concerning which an examiner cannot entertain some doubt with respect to some transaction in its history. (Bayse: §8. Legislation)

Short Forms vs Long Form Ack.

It is this preoccupation with looking for a defect, any defect, whether substantive or merely a technical one, that causes the system to bog down. If there are hundreds of potential examiners within a community, there is also the possibility of there being a wide range of examination approaches. In Increasing Marketability the problems caused by each examiner exercising unbridled discretion are noted:

When the examiner, upon the basis of these decisions, has found that the present vendor can convey a title which is good in fact, he must then ask whether the title has the additional characteristic of marketability. What

constitutes a marketable title? Here again legal definitions are subordinate to functional meaning. What the purchaser of land wants is a title which not only can be defended but which can be presented to another examiner with the certainty that it will be unobjectionable. It is small comfort to the owner that he has not been disseized if he is unable to sell or mortgage. If one and the same examiner passed all titles in a given locality, the title which the examiner considered good as a practical matter would, of course, also be merchantable. But such is not the case, and the present examiner must anticipate that his client will in the future attempt to either sell or mortgage and that the same title will come under the scrutiny of some other examiner. In each of the decisions which an examiner has made in determining the validity of a title he has had to exercise sound legal and practical judgment. Will a second examiner, vested with the same wide discretion, reach the same conclusion? If his conclusion is different and he rejects the title, the professional reputation of the first examiner will be impaired and his client may suffer substantial financial loss. Faced with this uncertainty, many examiners have adopted a solution which emphasizes individual security rather than the general facility of land transfers. This is the practice known as "construing against title," or more picturesquely, as "flyspecking." These terms indicate that the examiner indulges in a minimum of presumptions of law and fact, demands full search of title in every instance, and places no reliance upon the statute of limitations. As a consequence he considers all errors of record as substantial. The result of even a ***single examiner*** *in a community adopting this practice is to set up an increasingly vicious spiral of technical objections to titles which are practically good in fact. Examiner* ***A*** *rejects a title on technical grounds. Thereafter, Examiner* ***B****, to whom the same problem is presented, feels compelled to reject any title presented to him which exhibits a similar defect. Examiner* ***A*** *is thereupon confirmed in the wisdom of his initial decision, and resolves to be even more strict in the future. It is sometimes said that the practice of construing against title reduces an entire bar to the standards of its most timorous member. This is an understatement, for the net effect is an extremity obtained only by mutual goading.*

The consequences of construing against title are iniquitous, and the practice itself is ridiculous in that it is predicated upon a theoretical perfection unobtainable under our present system of record land titles. Many titles which are practically unassailable become unmarketable or the owners are put to expense and delay in rectifying formal defects. Examiners are subjected to much extra labor without commensurate compensation, and the transfer of land is retarded. As long as we tolerate periodic re-examination of the same series of non-conclusive records by different examiners, each vested with very wide discretion, there is no remedy for these difficulties. However, some of the most oppressive results may be avoided by the simple device of agreements made by examiners in advance as to the general standards which they will apply to all

titles which they examine. Such agreements may extend to: (1) the duration of search; (2) the effect of lapse of time upon defects of record; (3) the presumptions of fact which will ordinarily be indulged in by the examiner; (4) the law applicable to particular situations; and (5) relations between examiners and between examiners and the public. Where agreements are made by title examiners within a particular local area having a single set of land records, such agreements may extend even further and may embrace the total effect of particular specific records. For example, it may be agreed that certain base titles are good and will not thereafter be examined or that specific legal proceedings, normally notorious foreclosures and receivership actions, will be conclusively deemed effective. Although such agreements may not be legally binding upon the courts, they may go far toward dispelling the fear that if one examiner waives an apparent defect of title it may be deemed a cloud upon the title by a subsequent examiner. The result is an increase in the marketability of land and a reduction of the labor imposed upon the proponent of the title. The obvious utility of such an arrangement has led to the adoption of uniform standards for the examination of titles by an increasing number of bar associations.

The problems arising from this search for perfect title involve the examiner and their clients in several ways:

1. The legal fees charged to the public are higher because each examination for a parcel must always go back past the last conveyance or mortgage all the way back to sovereignty (or, in some states, back to the root of title);
2. The costs to cure minor defects are often relatively large compared to the risk being extinguished;
3. The unexpected costs to remedy problems already existing when the vendor came into title, which were waived by the vendor's attorney, are certainly not welcomed by the public; and
4. The prior examiner looks inept and/or the subsequent examiner looks unreasonable, when a preexisting defect is waived by one attorney and "caught" by the next.

(The Why of Standards)

In addition, friction and lowering of professional cooperation increase between the title examining members of the bar as they take shots at each others work. This process of adopting an increasingly conservative and cautious approach to examination of titles creates a downward spiral. As noted in Bayse:

> *Examiners themselves are human and will react in different ways to the same factual situation. Some are more conservative than others. Even though one examiner feels that a given irregularity will not affect the marketability of a title as a practical matter, he is hesitant to express his opinion of marketability when he knows that another examiner in the same community may have occasion to pass upon the title at a later time and would undoubtedly be more conservative and hold it to be unmarketable. Under these circumstances he is inclined to be more conservative himself and declare the title to be unmarketable. People do not like to be required to incur expense and effort to correct defects which do not in a practical sense jeopardize a title when they have already been advised that their title is marketable. The public becomes impatient with a system that permits such conservative attitudes.*
>
> *If the same examiner passed judgment upon all title transactions, this situation would remain dormant. Unfortunately such is not the case. Or if all examiners would hold the same opinion as to specific irregularities in titles, this complication would not arise. But this also is not the case. The result in many communities has been greatly depressive, sometimes tragic.* (Bayse: §7. Real Estate Standards)

The State of Oklahoma apparently has one of the most strict standards for "marketable title" which was caused by the language of several Oklahoma Supreme Court cases. The current title standard in Oklahoma which incorporates the court's holdings provides:

> ***4.1 MARKETABLE TITLE DEFINED***
>
> *All title examinations should be made on the basis of marketability as defined by the Supreme Court, to wit:*
>
> *"A marketable or merchantable title is synonymous with a perfect title or clear title of record; and is one free from apparent defects, grave doubts and*

litigious uncertainty, and consists of both legal and equitable title fairly deducible of record."

Hopefully, other states' courts will have adopted a more "reasonable-man" test as their measuring stick. There is an effort underway within the Title Examination Standards Committee of the Oklahoma Bar Association Real Property Law Section to revisit the long list of State cases dealing with marketability of title to ask whether a Standard calling for a more "prima facie" approach, rather than a "perfect" approach, would be supported by a re-reading of the cases.

In response to this obvious need to avoid procedures that alienated the public and caused distance to grow between examiners, a movement began and mushroomed in a few short years to adopt uniform title examination standards. They were adopted first in local communities among the practicing bar and then on a statewide basis. Although there is some competition among local bars, it appears that the local bar of Livingston County, Illinois adopted a set of 14 standards on April 7, 1923. Thereafter, in 1933 or 1934, the Gage County Nebraska Bar Association formulated 32 title standards. The Connecticut Bar, in 1938, became the first state to have statewide standards by adopting a set of 50. (Increasing Marketability)

III. LIMITS OF STANDARDS: AREAS WHERE STANDARDS CAN BE USEFUL

As noted above, once the problems arising from the lack of a uniform approach to determining marketable title became unbearable, efforts sprang up across the country first locally and then on a statewide basis.

The various efforts to adopt standards took slightly different directions because these efforts were made initially in isolation and because the needs of local bars were often different than those of state bars. However, several commentators, who have studied the resulting work products, have identified certain areas of commonality.

In regard to the need to integrate state and local efforts, it has been said:

> *As we have seen, the standards may cover an almost indefinite number of problems. They have been created locally, in many cases without any reference to action elsewhere, and in part as a consequence of variations in legal doctrine prevailing in different jurisdictions. Moreover, the intelligence and enthusiasm of their proponents has varied greatly from place to place. As a consequence the standards show great disparity as to both quantity and quality. In one state they may take the form of a considerable body of well-integrated and carefully drafted rules of practice, while in a sister jurisdiction they may deal with entirely different subject matter and may be few in number and poorly drafted. Despite these differences, they may be classified generally under several headings. The most important distinction which should be made is that between statewide and local title standards. I have previously pointed out that in addition to the adoptions made by state bars, we find a body of standards put into force by city or county associations. Where there has been no statewide action, such local efforts are salutary and desirable; and the form of the local adoptions should be the same as that at the state level. It is argued that where the state bar association has taken the initiative, local action can only cause confusion and should not be permitted. The theory behind this contention is that legal norms are uniform throughout the jurisdiction and that a title good in one part of the state should be good elsewhere. Local action should not be allowed to vary rules designed to obtain statewide consistency of practice. This contention is undoubtedly correct when applied to the local standards which have been put into force up until now. In almost every case the local adoptions have substantially the same kind of content as the state standards -- that is to say, they have been expressed in terms of legal norms. These norms may be the same as those expressed in the state standards or may*

be in contradiction to them. In the former case the local standards have no utility and in the latter they are positively harmful. It seems to have been overlooked that the problems faced at the state and at the city or county level are essentially different. The state bar can only lay down general rules of practice. The local bar, on the other hand, is concerned with the effect of a specific set of public records. ("The Why of Standards")

The drafters of standards must decide the threshold question as to whether to cover topics on which there is little or substantial controversy or stick to the middle area. Simes and Taylor, in the introduction to the 1960 Model Title Standards, suggested as follows:

Should the question involved in a title standard be a controversial one, or should it be a question the answer to which would be agreed upon by all members of the bar? If on the one hand, the question is extremely controversial, there is danger that the standard will not be followed by those who disagree with it. On the other hand, if there is no possible question about the standard, it may be said that there is no point in declaring it, since the conveyancing practice which it expresses will be followed anyway. Thus, there is no particular point in having a standard which declares that a recorded deed is presumed to have been delivered, since every lawyer will apply that presumption anyway.

It would seem that a standard should represent the substantially unanimous opinion of the members of the bar who are experienced conveyancers, but it should involve a question upon which inexperienced conveyancers may be uninformed, or with respect to which overmeticulous conveyancers may take a position opposed to that of practically all competent, experienced conveyancers. In other words, it should not be a question which is controversial among competent, experienced conveyancers, but it should be one upon which the inexperienced may go wrong or the "fly specker" may reach an unreasonable conclusion. To find these problems, it may be suggested that there should be an organized conveyancing section of the state bar, and that a committee of this section should secure opinions on the appropriate matters for title standards from lawyers representing all geographical areas of the state.

Payne has identified four areas where uniform title examination standards are typically useful, which are as follows:

1. The presumptions of facts which will support the record, such as:

    a. Identically named people are the same people,

b. There's no forgery,

c. The granting parties are competent, and

d. The documents were delivered;

2. The legal rules applicable to the facts to be presumed;

3. The period of search necessary to establish a good title; and

4. The effect of the statute of limitations upon substantial defects appearing in the record under examination.

(Increasing Marketability)

Bayse came up with a slightly different list of general areas that can be successfully addressed by uniform standards. He suggested:

> *Title standards have encompassed several different areas. These include (1) attitudes and relationships between examiners themselves and between examiners and the public; (2) the duration of search; (3) the effect of lapse of time on record title defects; (4) presumptions of fact which should ordinarily be applied by examiners; and (5) the law applicable to commonly recurring situations. Some have specified the form and content of abstracts and their certificates, the form of certificates of title, the effect of wild deeds, and sometimes the effect of legislation itself. Such is particularly true of Marketable Title Acts which have recently appeared on the scene with far-reaching application to titles and their appraisal.* (Bayse: §7. Real Estate Title Standards)

The Model Title Standards developed by Lewis M. Simes and Clarence B. Taylor in 1960 included chapters on these topics:

CHAPTER I. THE ABSTRACT

CHAPTER II. THE TITLE EXAMINER

CHAPTER III. USE OF THE RECORD

CHAPTER IV. MODEL MARKETABLE TITLE ACT

As noted by Simes and Taylor in their 1960 Model Title Standards:

In conclusion, in setting up title standards, the members of the bar should never lose sight of their basic function, which is to declare and establish officially the practice of conveyancers. In spite of its limitations, this so-called practice of conveyancers is probably the most potent element in the process of title examination. For essentially it is nothing less than the recognized practices

of the conveyancing bar in determining what risks of fact or of law, actual or theoretical, are to be assumed by the title examiner on behalf of his client in approving a title.

In order to have a set of Standards that will be truly useful and which will not flounder during their initial adoption period or during their use, the commentators have suggested several steps to follow which appear to improve the chances of success. These adoption steps and the best form for the standards booklet, and each Standard, to follow are discussed in the next chapter.

IV. DEVELOPING STANDARDS: THE ADOPTION AND FORMAT OF STANDARDS

A. ADOPTION

The scholars who have studied the 20 year period during the '40's and '50's when the standards sprang onto the national scene have, in retrospect, identified certain suggested steps to follow to develop and to adopt an initial set of standards, and also to ensure the successful maintenance of state level uniform title standards.

Payne suggests:

> *Assuming that sufficient local support is already latent, what steps have been necessary to insure the success of the standards adopted? It has been suggested that seven conditions are essential to a successful program:*
>
> *(1) initial recommendation of a sufficient number of standards to attract wide interests;*
>
> *(2) inclusion in the initial recommendations of a number of the small, troublesome matters which are constantly causing difficulty in everyday practice;*
>
> *(4) publication of the standards in advance of adoption;*
>
> *(5) reiterated requests to the practicing bar to submit problems of actual practice;*
>
> *(6) wide geographical distribution within the committee; and*
>
> *(7) the impressing of individual lawyers with the proposition that it is as convenient to have uniform practice as to ignore irregularities.*
>
> *In addition it has been suggested that the committee contain some of the most meticulous title examiners in the community, or at least, those whose opinions are accepted as authoritative by the entire bar.* ("Increasing Marketability")

Haste in drafting standards -- especially the first set for a state -- can be disastrous to both the initial effort to get a set approved as well as to their continuing acceptance by the practicing bar. You should make every effort to avoid earning the following condemnation:

> *It is likewise impossible to make any qualititative comparisons between the several adoptions. In general it can be said that none of the adoptions indicates a rational and comprehensive functional attack upon the problems faced by the title examiner. Without exception the standards represent piecemeal solutions of particular problems brought to the attention of bar association committees by individual practitioners. Moreover many of the standards appear to have been drafted with the haste and lack of attention that might be expected in the case of an expression of nonbinding principles.* ("Increasing Marketability")

B. STANDARDS BOOKLET

While form should not rule over substance, a reference booklet can be structured in ways to make it more user-friendly.

Payne in Increasing Marketability suggested these attributes would make for a better Standards handbook:

1. Good index and table of contents;
2. Contents collected topically;
3. Substantial quality for the cover and the individual pages;
4. Printed rather than using poor quality reproduction techniques; and
5. Low cost availability.

Other authors also suggest: (a) inclusion of other related articles and hints on examination, (b) effective dates provided on each page to facilitate piecemeal copying of the handbook's content and (c) adding a quick reference index on the outside of the back cover directing the reader to a topical chapter noted with a black bar on the edge of the pages.

C. INDIVIDUAL STANDARDS FORMAT

The usefulness of the standards will be influenced by whether they are stated in general enough language to fit many situations rather than a unique set of circumstances, but specific enough to be applicable.

It is suggested in the introduction to the 1960 Model Title Standards:

> *What form should title standards take? First, except insofar as they are concerned with Federal statutes, they should deal with state law and with state conveyancing practices. One of the most valuable things which a bar standard can accomplish is to inform the bar generally of some decision or statute, which is well known to experienced conveyancers but which is likely to be overlooked by other members of the bar. It is true, a very considerable number of title standards are about the same in all states because, as to the particular problems involved, the title practices are practically identical throughout the country. What these often seek to do is to crystallize a liberal practice as opposed to a strict and overmeticulous practice. Of course, the only justification for a set of model title standards such as is presented herein, is that either the same standards can be used in all states, or that the same problems arise in all states and the solutions are similar.*
>
> *How specific or how general should title standards be? In this particular, wide variation is found in existing standards. A number of them state first a problem or question more or less concretely, and follow it with a specific answer, which is sometimes called a standard. Thus, Iowa Standard 4.8 is as follows:*
>
> *PROBLEM:*
>
> *If A and B, who have acquired title as joint tenants, make a subsequent conveyance or mortgage, is it necessary to include anything in the granting clause relating to the grantors except the names of the parties?*
>
> *STANDARD:*
>
> *No. Every outright conveyance of real estate passes all interest of the grantor therein.*
>
> *See § 557.3 of the Code.*

In other jurisdictions, each numbered standard consists merely in the statement of a more or less abstract proposition. Thus Oklahoma Standard 23 is as follows:

> *The absence of revenue stamps on a deed does not affect the marketability of the title.*

The format of the Michigan title standards is first an abstract statement of a standard, followed by one or more concrete problems which are expressly answered, after which comment may be added and local authorities listed. Thus Michigan Standard 2.3 on abbreviation of names is as follows:

> *STANDARD: ALL CUSTOMARY AND GENERALLY ACCEPTED ABBREVIATIONS OF FIRST AND MIDDLE NAMES SHOULD BE RECOGNIZED AS THE EQUIVALENT THEREOF.*
>
> *Problem: Blackacre was conveyed to L. Joseph Emery and Frederick Stephens. Later a conveyance thereof was executed by L. Jos. Emery and Fred'k Stephens as grantors. May identity of the grantees and grantors be presumed notwithstanding the discrepancies in spelling?*
>
> *Answer: Yes.*
>
> *Authorities: People v. Tisdale, 1 Doug. 59 (1843); Standard v. Jewell, 206 Mich. 61, 172 N.W. 407 (1919).*

Certainly it is desirable to have the standard stated in concrete and specific form. On the other hand, if the standard consists merely in a hypothetical fact situation, much of its value is lost because situations which may raise will vary slightly from the facts stated in the standard. But if a standard is stated in such abstract and general terms that it must be construed before it can be applied, it is practically useless. The Model Title Standards which follow begin with a statement of a general proposition, which is as concrete as practicable but is not ordinarily in the form of a hypothetical case. This is then followed by citation of authorities and by comment, which may include one or more hypothetical cases. It is believed that local authorities in the form of cases and statutes should be cited. Ordinarily it should not be necessary to cite also treatises or decisions from other states, although this may occasionally be done to convince members of the bar of the soundness of the standard.

Standards should be stated from the standpoint of the conveyancer who is passing upon the title, and should enable him to answer the question: Shall

I pass the title? Or if not, what else must be required? a quiet title suit? an affidavit? a certificate of death or birth?

My preference is for the Oklahoma approach which presents a general statement followed by comments and caveats that often include examples and warnings.

V. OTHER STANDARDS ISSUES: SIDE ISSUES RELATING TO STANDARDS

A. ENFORCEABILITY OF STANDARDS

1. General

The commentators who push the adoption of uniform standards for each state are able, once in a while, to step back and ask some challenging questions about their own handiwork. Payne in Increasing Marketability raises this query in 1953:

> *The use of title standards raises two major legal problems: (a) whether such standards will be adopted by the courts as the test for marketability; and (b) whether reliance upon the standards constitutes due care on the part of the examiner. Neither of these questions has yet been answered.*

In retrospect it has become clear that taking the following steps, when developing standards, help address these two questions and simultaneously give the Standards added weight:

1. Formal development, adoption and maintenance by the Bar, with guidance by recognized in-state experts and by reference to other states' experiences, with sufficient and timely input from a wide group of in-state practitioners;
2. Incorporation of the Standards into each land transaction by including an express reference to such Standards in the contract (see below);
3. Incorporation of the Standards into some or all transactions by statutory declaration (see below); and

4. Incorporation of the Standards into some or all transactions by court decision (see below).

2. Incorporation Into the Contract

Payne warns, in The Why of Standards:

> *One particular matter I should like to bring to your attention. I have pointed out that the standards have never been adopted as legal criteria of marketability by any court. It is not certain that when the question is presented to the courts that they will permit the law to be made, in effect, by the practices of conveyancers. In the past we know that such practices have had strong influence on the judiciary, but we cannot be sure whether they will have decisive force in the future. It is also apparent that an adverse decision by the courts would have a disastrous effect upon the movement as a whole. This has caused much uncertainty among even the most vigorous proponents of title standards. I will suggest, however, that this difficulty can be avoided if the committee can persuade the bar to include in every land sale contract a provision that the vendor shall proffer a title marketable under the tests created by the standards. As the parties may make whatever agreement they desire as to the nature of the thing to be sold and as the agreement implied by law as to marketability is subordinate to any express agreement made by the parties themselves, such a provision would undoubtedly be declared valid and binding.*

The Oklahoma Standards have addressed this issue through Standard 2.2, adopted in 1946:

> ***2.2 REFERENCE TO TITLE STANDARDS***
>
> *It is often practicable and highly desirable that, in substance, the following language be included in contracts for a sale of real estate: "It is mutually understood and agreed that no matter shall be construed as an encumbrance or defect in title so long as the same is not so construed under the real estate title examination*

standards of the Oklahoma Bar Association where applicable."

This language is incorporated into the metropolitan realtors' standard form contracts in Oklahoma City and Tulsa.

3. Statutory Declaration

There are at least two ways to secure Statutory support for the Standards. One is to make a specific set of standards become legislative enactments (as was done in Nebraska) and the other is to simply incorporate them in mass into the statutes by general reference to them as they not only exist now, but as they are changed in the future (as was done in Oklahoma).

While we often seek to hoist the standards onto a level above being simply a voluntary set of guidelines, in order to discourage any backsliding by our fellow examiners, the Nebraska experience of having their Standards approved by the state legislature showed that approach to be dysfunctional.

As noted in Patton:

Repeated reports from Nebraska lawyers have confirmed their conviction that this incorporation of title standards into a legislative act was undesirable. For a statement of this, see Report of Standardization Committee of the Real Estate, Probate, and Trust Section of the Nebraska State Bar Association, 36 Neb.L.Rev. 93 (1956); and Morton Title Standards, 31 Mich.St.Bar J. (No. 5), 7 at 15-17 (1952) where the author, who was former chairman of the Nebraska Committee on Title Standards, express regret concerning the enactment of the title standards into legislation, and mentioned the following disadvantages in doing so: lack of flexibility, the fact that documents and discussions concerning individual title standards cannot be included in the framework of the legislation itself, the fact that standards newly adopted by the Bar have no binding force until enacted by the legislature, and that certain other

features, such as the constitutionality of legislation, are not susceptible of statutory treatment.

The Nebraska statutes were finally repealed by Laws 1973, L.B. 517. (Patton: §50. Methods on Making Examinations, Note 29.1)

However, in Oklahoma a statute -- dealing with the marketability of oil and gas titles -- incorporates the State Standards as the measure of marketability and uses language which allows the State Bar to unilaterally change the standards and then those changes are automatically incorporated into the statute. The statute provides:

> *D. 1. Except as otherwise provided in paragraph 2 of this subsection, where proceeds from the sale of oil or gas production or some portion of such proceeds are not paid prior to the end of the applicable time periods provided in this section, that portion not timely paid shall earn interest at the rate of twelve percent (12%) per annum to be compounded annually, calculated from the end of the month in which such production is sold until the day paid.*
>
> *2. a. Where such proceeds are not paid because the title thereto is not marketable, such proceeds shall earn interest at the rate of six percent (6%) per annum to be compounded annually, calculated from the end of the month in which such production was sold until such time as the title to such interest becomes marketable. Marketability of title shall be determined in accordance with the then current title examination standards of the Oklahoma Bar Association.* (emphasis added)

The Oklahoma Supreme Court further endorsed the language of this statute by declaring in Hull, et al v. Sun Refining, 789 P.2d 1272 (Okla. 1990): "Marketable title is determined under §540 [now §570.10] pursuant to the Oklahoma Bar Association's title examination standards."

4. Court Incorporation & Construction

In interpreting the rights and obligations of vendors and vendees in a transaction -- which expressly or impliedly calls for marketable title -- there are several state level court cases giving the nod in varying degrees to numerous states' Standards which they used to help either condemn or to approve a title.

Here are a few instances:

1. Hughes v. Fairfield Lumber and Supply Company, 123 A.2d 195 (Conn. 1956)

   The state bar association drafted a form for a survivorship (i.e., Joint Tenancy) deed and incorporated it into the uniform bar standards; based almost solely on the existence and intent of the form, the court concluded the concept of survivorship was still alive in the state.

2. Siedel v. Snider, 44 N.W.2d 687 (Iowa 1950)

   The use of affidavits in lieu of probate administration proceedings is disapproved by the Title Standards of the State Bar Association, except in limited circumstances -- not present in this case -- therefore, title was deemed not marketable.

3. In re Baker's Estate, 78 N.W.2d 863 (Iowa 1956)

   The Court said it is of interest to note the Committee on Iowa Title Examination Standards held where two joint tenants entered into a contract for the sale of real estate, a severance was

effected; it held: the contract of the two now deceased joint tenants severed their joint tenancy interest.

4. Tesdell v. Hanes, 82 N.W.2d 119 (Iowa 1957)

   The Court said: ". . . we are disposed to give serious consideration to these standards." The Standards supported a Marketable Record Title Act that was under attack.

5. B. W. & Leo Harris Co. v. City of Hastings, 59 N.W.2d 813 (Minn. 1953)

   The Court found that the county auditor's records are not constructive notice, because that was the position in Standard No. 31 of the Minnesota Standards.

6. Hartley v. Williams, 287 S.W.2d 129 (Mo. 1956)

   The Court went along with the state's title standards which declared that Tax Deeds are not valid as a basis of title until the tax deed has been of record for at least 27 years.

In Knowles v. Freeman, 649 P.2d 532 (Okla. 1982), the Oklahoma Supreme Court unanimously held:

> *"While [the Oklahoma] Title Examination Standards are not binding upon this Court, by reason of the research and careful study prior to their adoption and by reason of their general acceptance among members of the bar of this state since their adoption, we deem such Title Examination Standards and the annotations cited in support thereof to be persuasive."*

In footnote 28 to §50. Methods of Making Examinations, Patton, these supportive cases are listed:

1. (main text of Patton on Titles): Campagna v. Home Owners' Loan Corp., 300 N.W. 894, 140 Neb. 573 (1941), reversed on rehearing 3 N.W.2d 750, 141 Neb. 429 (1942). See also, recognition by the supreme court of Minnesota: Harris v. City of Hastings, 59 N.W.2d 813 (815 n. 3), 240 Minn. 44, noted in 38 Min.L.Rev. 288. And see Siedel v. Snider, 44 N.W.2d 687, 241 Iowa 1227 (title standard followed).

and,

2. (pocket part of Patton on Titles): See also Riggs v. Snell, 350 P.2d 54, 186 Kan. 355 (1960), rehearing denied 352 P.2d 1056, 186 Kan. 725 (title standard followed and standards said to be "entitled to consideration as being the general consensus of the bar").

Title standards have been cited and followed in several other cases: Morrissey v. Achziger, 364 P.2d 187, 147 Colo. 510 (1961); Hughes v. Fairfield Lbr. & Supply Co., 123 A.2d 195, 143 Conn. 427 (1956); In re Baker's Estate, 78 N.W.2d 863, 247 Iowa 1380, 64 A.L.R.2d 902 (1956); Tesdell v. Hanes, 82 N.W.2d 119, 248 Iowa 742 (1957); Hartley v. Williams, 287 S.W.2d 129 (Mo.App. 1956); Grand Lodge of Ancient Order of United Workmen of North Dakota v. Fischer, 21 N.W.2d 213, 70 S.D. 562, 161 A.L.R. 1466 (1945).

Riggs v. Snell, 350 P.2d 54, 186 Kan. 355 (1960), rehearing denied 253 P.2d 1056, 186 Kan. 725.

Chicago & North Western Ry. Co. v. City of Osage, 176 N.W.2d 788 (Iowa 1970), citing Patton on Titles; Presbytery of Southeast Iowa v. Harris, 226 N.W.2d 232 (Iowa 1975), certiorari denied 96 S.Ct. 50, 423 U.S. 830, 46 L.Ed.2d 48, citing Patton on Titles.

Also, in footnotes 30 and 31 under §7. Real Estate Title Standards of Bayse, these cases are cited supporting the use of uniform standards:

Morrissey v. Achziger, 147 Colo. 510, 364 P.2d 187 (1961); Hughes v. Fairfield Lbr. & Supply Co., 143 Conn. 427, 123 A.2d 195 (1956); Siedel v. Snider, 241 Iowa 1227, 44 N.W.2d 687 (1950) (following Iowa Title Standard 9.18); In re Baker's Estate, 247 Iowa 1380, 78 N.W.2d 863, 64 A.L.R.2d 902 (1956); Tesdell v. Hanes, 248 Iowa 742, 82 N.W.2d 119 (1957), citing Bayse, Clearing Land Titles; Riggs v. Snell, 186 Kan. 355, 350 P.2d 54 (1960), rehearing denied 186 Kan. 725, 352 P.2d 1056; B. W. & Leo Harris Co. v. City of Hastings, 240 Minn. 44, 59 N.W.2d 813 (1953); Hartley v. Williams, 287 S.W.2d 129 (Mo.App. 1956); Grand Lodge of Ancient Order of United Workmen of North Dakota v. Fischer, 70 S.D. 562, 21 N.W.2d 213, 161 A.L.R. 1466 (1945).

See Hughes v. Fairfield Lbr. & Supply Co., 143 Conn. 427, 123 A.2d 195 (1956); Hartley v. Williams, 287 S.W.2d 129 (Mo.App. 1956); Johnson, Title Examination in Massachusetts, in Casner & Leach, Cases and Text on Property 886 (1951); Payne, The Future of Uniform Title Standards, A.B.A. Proc., Section of Real Prop., Prob. and Trust Law 4 (1953). That the custom of conveyancers has been a recognized source of the common law, see 7 Holdsworth, History of English Law 384 (1922).

B. IMPACT OF TITLE INSURANCE

To the extent that there are only a few title plant insurance companies in a community or a state (compared to the larger number of independent attorney title examiners), and if these companies apply consistent standards concerning a specific chain of title and a specific interpretation of law on various issues, these companies are, and have been, providing an increasingly larger influence in establishing uniform local and state standards. This is especially true due to the growing volume of titles that pass through their doors.

However, the specific language of the American Land Title Association standard form Owners Title Insurance Policy (1987 and 1992 versions) lends itself to being influenced by, and having to accommodate, state and local practices concerning what constitutes "marketable title", or as the ALTA policy calls it, "Unmarketability of the title". The policy language says it protects against loss or damage due to "unmarketability of the title", and the policy defines "unmarketability of the title" as follows:

> *"unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted*

from coverage, which would entitle a purchaser of the estate or interest described in Schedule A or the insured mortgage to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

This definition is a negative one and focuses on what defects will induce a local court to allow a buyer to refuse to buy the property. Rather than insuring against every minor cloud, the policy is leaning towards the "prudent/reasonable man" test. This definition does not set an objective nationwide standard, since it is still subject to local court decisions on whether a specific title is or is not marketable. If the ALTA were to modify its definition of "unmarketability of the title" to expressly incorporate the then-current statewide title examination standards (if they exist in that particular state), it would probably give a substantial push to the influence and further expansion of the development and use of such standards. Perhaps the appropriate committee of the American Bar Association Section on Real Property, Probate and Trust (probably the Title Insurance Committee) could be encouraged to consider such a project.

It should be noted that if the Bar fails to buckle down to undertake reforms to make the stream of commerce involving real property move more smoothly, they may be entirely replaced by title insurance companies.

As noted by Payne in Increasing Marketability:

You may interested to learn that in some sections of the country practicing attorneys have little or nothing to do in connection with land transfers. They may check the title insurance policy to find out what exceptions it contains and may prepare the deed and mortgage which are to be executed, but title practice, as it prevails here in Florida, is non-existent in those jurisdictions. This is not because of any radical difference in the law of those states. Their adjective and substantive rules are, for practical purposes, the same as those found in Florida. But in

those states title-plant companies have, within relatively recent years, so monopolized the examination of titles that no one now thinks of employing an attorney for that purpose. Although detailed and accurate information as to the spread of these companies is not available, a recent report of a committee of the American Bar Association's Section of Real Property, Probate and Trust Law indicates that in six entire states and in most of the more populous cities elsewhere they have largely taken over title practice. Undoubtedly in recent years there has been considerable increase in the number of such companies and in the size of the areas in which they operate. If this trend continues it will cause a revolution in title practice and will completely eliminate the ordinary practitioner from a field of activity which has traditionally been a major source of professional employment. It is not assured that the long range social effects of such a change would be beneficial, and it should be apparent that its immediate effects upon the legal profession would be disastrous. I suppose that many attorneys in large cities never see an abstract, but the great bulk of the profession elsewhere looks to the examination of title as a principal source of its support. This is one of the most serious threats ever presented to the profession, and curiously enough it is a threat as to which the great majority of the bar seem entirely unaware. Listening to these words, some of you may feel that I lay too great stress upon our own self-interest in a matter involving the public welfare. But for the past fifty or more years the social need for cheap, expeditious, and certain land transfers has increasingly been urged with but slight results. The reason has been that the task of reform is an excessively difficult and intricate one. The bar is the only group equipped with the technical know-how and the political sagacity necessary to frame and carry through an effective program. In the past it has lacked the strong incentive needed to undertake such an enterprise, and the demands of the public weal have been insufficient to sting more than a few lawyers into action. The potential economic loss now faced by the bar may, it is hoped, be sufficient to incite action which is admittedly long overdue. Before this can occur, however, the bar will have to be made aware of the danger which it faces. The attitude of complacency which now prevails must be overcome, and lawyers must be led to understand that reform is not a troublesome annoyance sought to be foisted upon them by busybodies but a way to their own economic survival. Furthermore, they must understand that if effective action is to be taken it must be taken quickly, for once

the title-plant companies have obtained a monopoly of title practice it will be almost impossible to break their hold.

Unless the bars of the states reform the area of title examination, it may be that sooner or later the only attorneys involved in any title review will be those employed directly or indirectly by the title insurance companies.

C. ARBITRATION COMMITTEES

Several commentators have suggested that an additional technique for reducing the numbers of disputes between title examiners on opposite ends of the transaction is to establish local arbitration committees to offer voluntary non-binding assistance. When a review of the statutes, cases and standards fail to satisfy the disputants, perhaps a "third party" committee of respected examiners can help head off law suits, and thereby (1) improve the flow of commerce, (2) reduce the court's bulging dockets and (3), last but not least, improve the image of title examiners who are often known as a group as being "fly-speckers".

D. CURATIVE ACTS

Various nationally recognized uniform acts have been developed to arm the title examiners with statutory support for some of the thornier issues she faces.

The Marketable Record Title Act limits the period covered by the overall search (such as to the last 30 years). The Title Simplification Act further limits the period of search by requiring a review of fewer documents for older (e.g., 10 years) court related proceedings. Other lesser curative acts extinguish such claims as those that arise from "ancient" mortgage liens. Lists of the states with these uniform acts are listed in West Publishing Company's annotated versions of the states' statutes.

VI. STANDARDS HISTORY AND FUTURE: NATIONAL TRENDS IN THE ADOPTION OF STANDARDS

Contrary to the commentators predictions in the 1950's that uniform statewide title examination standards would blossom and cover the entire country in short order, the fact is that few new states have adopted them since the initial rush and several have allowed theirs to become obsolete.

As noted in the attached 1990 article on "Title Examination Standards: A Status Report", co-authored by the author of this paper, 27 states have had statewide standards at one time, with Connecticut and Nebraska leading the pact to adopt such standards in 1938 and 1939, respectively.

However, the following seven states have apparently allowed theirs to fall into disuse since their initial adoption: Idaho, Illinois, Montana, New Mexico, Utah, Washington and Wisconsin.

On the other hand, it should be noted that there are very active efforts afoot to develop statewide standards for the first time ever in the States of Texas, Vermont and Arkansas, and that bar committees are actively working to resurrect their standards in New York (old), Utah (abandoned) and Wyoming (old). Texas has prepared a draft set and is circulating it within the State to gain support for them.

A list is included herein to show which standards are in our Collection in Oklahoma City.

Except for isolated "islands" in the Northeast and the Southwest, the concentration of states with standards continues to be in the Great Plains area.

It is hard to pinpoint why the trend of the '40's and '50's, toward adopting standards, stalled, but it is possible the growth of title insurance might have reduced the proportion of active title attorneys within each of the state bars, and thereby dampened the enthusiasm of the standard's advocates.

However, numerous relatively new nationwide issues -- such as FDIC/FSLIC/RTC titles, drug forfeiture statutes, Limited Liability Companies, environmental liens -- will lend themselves to uniform efforts to address the related title issues.

The Conveyancing Committee of the American Bar Association Real Property, Probate and Trust Section has been cooperating since 1988 with the Oklahoma Bar Association Real Property Law Section to create and house a National Title Examination Resource Center at the Oklahoma City University School of Law in Oklahoma City. It seems ironic, but many of the projects planned to be conducted under the auspices of this Center were originally suggested in 1953 by Payne. He indicated that:

> *The standards adopted up until this time generally evidence a piecemeal attack upon some of the specific problems of practice. There has as yet been no systematic effort to meet the functional problems faced by the title examiner. Many title standards have been hastily and awkwardly drawn. In part this has been due to the limited talent locally available and in part to a lack of knowledge of what had been done in other jurisdictions. It is understood that an effort will be made at an early date to induce the Section of Real Property, Probate, and Trust Law of the American Bar Association to create a central clearing house for standards. It is to be hoped that this effort will be successful, and that a uniform edition of the standards, cross-indexed and so physically arranged as to allow subsequent amendment, will be produced. It is also hoped that the Section will undertake the drafting of uniform standards covering common problems not governed by purely local practice.* ("Increasing Marketability")

As noted in the attached 1990 article on the Status of Title Examination Standards, a multi-faceted effort is underway to establish a rejuvenated project to promote the development, adoption and use of title examination standards on a nationwide basis, including these steps:

1. STANDARDS COLLECTION UPDATE: Update the 1990 collection of Title Examination Standards at the Oklahoma City University School of Law known as The National Title Examination Standards Resource Center (Status: Completed; see attached list of Standards)

2. STANDARDS COLLECTION PROMOTION: Prepare and publish an article on the updated Standards Collection in the Probate & Property Magazine of the American Bar Association (Status: In rough draft form)

3. STANDARDS COMPARISON CHART: Conduct analysis and prepare chart comparing each State's T.E.S. to the 1960 Model Title Standards (Status: Seeking volunteer assistance)

4. STANDARDS COMPARISON CHART ARTICLE: Prepare and publish an article discussing the Standards Comparison Chart in the Probate & Property Magazine of the American Bar Association. (Status: To be prepared after Standards Comparison Chart is completed)

5. STANDARDS MONOGRAPH: Prepare and publish a Monograph on all States' Standards, also including the Standards Comparison Chart (Status: To be prepared after Standards Comparison Chart Article is completed)

6. STANDARDS NEWSLETTER: Initiate Quarterly Newsletter on on-going State projects among States with existing Title Standards and those drafting Standards (Status: To be started after the Standards Comparison Chart Article is completed)

7. STANDARDS DATABASE: Establish modem-accessible database containing Updated Standards Collection (each state to directly update its Standards as they change) (Status: To be started after the Standards Newsletter is started)

8. STANDARDS SEMINAR: 1994 and 1995 ABA Annual/Spring Meeting CLE: HOT ISSUES IN TITLE STANDARDS (Limited Liability Co.'s, Environmental Issues, RTC, Drug Forfeitures, etc.) (Status: To be proposed after the Standards Comparison Chart Article is completed)

9. STANDARDS MODEM NEWSLETTER: Establish modem-accessible newsletter to supplement Quarterly "Paper" Standards Newsletter (Status: To be started after the Quarterly Standards Newsletter and the Database is completed)