

**DIRECTIONS FOR
DRAWING
ABSTRACTS OF TITLE**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649443185

Directions for Drawing Abstracts of Title by William Gardener

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WILLIAM GARDENER

**DIRECTIONS FOR
DRAWING
ABSTRACTS OF TITLE**

DIRECTIONS

FOR DRAWING

ABSTRACTS OF TITLE :

WITH

Observations

ON THE

NECESSITY OF REQUIRING A SIXTY YEARS TITLE, NOTWITHSTANDING
THE RECENT STATUTE OF LIMITATIONS :

TOGETHER WITH

A COLLECTION OF PRECEDENTS,

WHEREBY

A YOUNG MAN MAY GAIN SUFFICIENT KNOWLEDGE TO ENABLE HIM
TO DRAW EVERY KIND OF DOCUMENT, WITHOUT THE
ASSISTANCE OF THE PRINCIPAL.

BY

WILLIAM GARDENOR,

ATTORNEY AT LAW.

LONDON:

E. SPETTIGUE, 67, CHANCERY LANE.

1840.

143.

TO
CHARLES BARTON, JUN., Esq.
BARRISTER AT LAW,

This Work

IS DEDICATED

AS A TRIBUTE OF RESPECT TO HIS TALENTS,

AND

A TESTIMONY OF PERSONAL ESTEEM AND REGARD,

BY HIS MOST OBLIGED SERVANT,

THE AUTHOR.

PREFACE.

IN preparing the following pages, the chief object of the Author has been to give all the information necessary to draw Abstracts of Title in as small a compass as possible, and therefore, has only given a few precedents, as a further explanation of what is laid down in the commencement of the work, and as neither time or labour has been spared to make it answer the purposes for which it was written, he trusts it will meet with as ready a sale as his former production.

THE AUTHOR.

DIRECTIONS

FOR DRAWING

ABSTRACTS OF TITLE.

What an Abstract is.] An abstract of title is defined by Mr. Stewart to be "a statement of the documents and evidence relating to certain particular premises, in which all that is necessary to enable counsel to judge upon the validity of the title is given at length, and all that is immaterial is retrenched." 3 Stewart's Conv. 1.

The mistaken notion prevalent amongst some professional men as to a 60 years' title.] I shall first point out the mistaken notion prevalent amongst professional gentlemen, who have not properly considered the subject, that in consequence of the new Statute of Limitations a purchaser will not be warranted in requiring the abstract of title to go so far back as under the old system, their idea being that the present length of

abstract is with reference to the limitation of 60 years, which is quite a mistake. It is with reference to the duration of human life: therefore an abstract should commence with an instrument of not less than 60 years' date, in order to cover the probable length of a man's life; because, for instance, a man may marry a woman seised of a freehold estate, and after issue born, the woman may die; whereupon the husband will be entitled to hold the estate for his life as tenant by the curtesy.^a The husband, at the time of his wife's death, may be only twenty years of age, and may live fifty years or more; upon his obtaining twenty-one, he may convey the property to another for a fee simple estate,^b which deed would form the foundation of a title of forty or fifty years, and bear all the appearance of a marketable title. But upon the death of the husband, the heir of the wife would enter upon the estate, and oust even a purchaser for a valuable consideration. The abstract should commence with a deed rather than a will, as the former is better evidence of ownership than the latter. A mortgage is the best deed to commence with, because it would be presumed a mortgagee would enquire into the earlier title; and not advance his money upon an unmarketable one.

^a As to what is a tenant by curtesy, see the "Articled Clerk's Assistant," p. 37.

^b *Ibid.* 9.

Commencement of the title.] The title should commence with the instrument exceeding, but coming nearest to the sixty years' date; but a deed in any way giving notice of earlier documents should be avoided, as the purchaser would then be entitled to an abstract of such earlier title, which might thus be carried back many years at a great expence. Should such a deed occur at the period of commencing the title, and a deed not having this objection should succeed, but not of sixty years' date, the conditions of sale, or a grant of purchase, should bar the purchaser requiring a title earlier than such deed. The first thing to be considered in forming the abstract is to give a heading or title to it, which is generally in the like form: "An abstract of the title of George Cochrane, Esquire, to a freehold, messuage, farm, and hereditaments, (or whatsoever the property may be) situate in the parish of Llandilofaur, in the county of Carmarthen."

The arraignment of the deeds.] In arranging title deeds into the form of an abstract, the most important points to be considered are the dates. The general rule is to give them in a *chronological order*. They are stated in the margin of the abstract; it is not necessary to state the king's reign in which the deeds are made, unless no other date appears. The names of the deeds

should be as, "By Indentures of Lease and Release," or by, "Indenture of Feoffment," or, "By Indenture of Assignment," &c.

The Parties.

Wherever the name of a party appears for the first time in the abstract, his or her place of residence, and his or her character, as heir, executor, and the like, should be fully set forth, in order to afford at one view an intimation of the character in which he or she conveyed and connects the title with the former part, (if any) of the abstract; and if there be not any former part, it may lead to an enquiry which may tend to elucidate the title, or will induce the production of evidence which will have that effect. The reason for adding the additions of the party or parties is either for the purpose of distinguishing them from other persons of the same name, or affording the information necessary to a search for their will, the birth of children, or the like circumstances connected with their residence. But in ancient deeds a statement of the names of the parties, without the place of their residence, will be sufficient. 1 Prest. Abs. 53. An informality frequently occurs in adding the character in which the party contracts, as it frequently appears in the abstract in a parenthesis; thus, "Robert Price Williams, of the county