

Abstracter—Bond of—Continuation Certificate.

Abstracters are required to file a new bond each year, and those who have issued certificates upon a continuation of their original bond are required to procure new bonds for the balance of the year.

J. W. Walker, Esq.,
State Treasurer,
Helena, Montana.

My dear Mr. Walker:

This office heretofore ruled in answer to your question that a continuation certificate attached to the bond of a person, firm or corporation authorized to engage in the compiling of abstracts, conditioned

that the company's liability under the bond and continuation should be limited to a liability not exceeding \$5,000, did not meet the requirements of Section 4143 of the Revised Codes of 1921. You now ask whether abstracters who have been issued certificates upon a continuation of their original bond limited as above indicated should be required to procure new bonds for the balance of the year.

An abstracter is required to file a new bond each year. If he engages in business without filing his bond he is guilty of a misdemeanor. (Sec. 4146, Rev. Codes of 1921). If an abstracter has incurred a liability on his bond he may be required to file a new bond without regard to time and on failure to do so his certificate of authority shall be annulled. (Sec. 4143, Rev. Codes of 1921). The question then is what authority has the Treasurer to issue a certificate under the circumstances, and what effect would it have if issued. That it would have no effect is apparent, since everyone is required to take notice of the extent of authority conferred by law on a person acting in an official capacity, and this is true for the reason that the Government is not bound by an act of its agent unless the agent was acting within the scope of his authority.

22 R. C. L. 120;

Hunter v. United States, 15 Pet. 173, 8 L. Ed. 86;

Hawkins v. United States, 96 U. S. 689, 24 L. Ed. 607.

Abstracters who have received certificates issued on conditional bonds, limited to a total liability of \$5,000, should be required to furnish new bonds, such bond to date from the expiration of the old bond, as the law contemplates a bonded liability of at least \$5,000 for each year's business.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.