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AMERICAN TITLE ASSOCIATION

TITLE NEWS

VOLUME XXXII JULY, 1953 NUMBER 7

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Official Publication of

THE AMERICAN TITLE ASSOCIATION

3608 Guardian Building — Detroit 26, Michigan

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STATE SPEAKERS' BUREAU

STEWART J. ROBERTSON

Vice-President, American-First Trust Co.
Oklahoma City, Oklahoma

Two years ago, the story of a statewide Speaker's Bureau was told for the first time. The place was Colorado Springs and the occasion was the September Convention of the American Title Association. Possibly some of you have been **curious** to know what time has done toward applying the acid test to this activity. That is the purpose of my being here. But, speaking of being curious—it reminds me of a story.

When Carlton Crosley was just a little fellow, he got on the street car one day with a box under his arm. At the next stop an elderly lady—a very curious elderly lady—boarded the car and sat down beside Carlton. Within the block, the lady noticed the box and said, "Sonny, what do you have in your box?"

Carlton only grunted. Need I say this only whetted the lady's curiosity.

A block further down the line, the lady nudged Carlton and said, "I'll bet I can guess what's in your box—it's cookies."

"Nope."

Not a bit miffed, the lady guessed again and said, "It's a cake."

"Nope."

This slowed her down for a couple of blocks, then she came back more determined than ever, "It's your lunch."

"Nope."

About that time the box sprung a leak and intending to satisfy her curiosity, the lady stuck her finger in the drip and popped her finger in her mouth.

"Ah! Now I know what it is," she declared triumphantly, "It's pickles!"

"Nope," said Carlton, "It's puppies."

A Look Back

The acid test of time, as applied to the Oklahoma Speaker's Bureau has been quite revealing. Let's take a quick backward glance and see what happened.

Our Speaker's group was formed in the fall of 1950. From the fall of 1950 to 1951 we had a new plaything,—a very useful toy. We had bugs to iron out—we had our state association membership to educate as to the advantages of what we had to offer. But, our speakers appeared before 40 odd groups that year—we "preached the gospel" to over 2,300 souls and those listeners literally "gobbled up" what we had to offer.

From the fall of 1951 to the spring of 1952—about six months—our Public Relations Committee was working on another project. That did not mean our Speaker's Bureau was being shelved—it simply was not being pushed as it had been. In this period of little activity we learned our speaking program was not being accepted

as a tool by the association members. It apparently was not uppermost in their minds—they did not associate this service as something the OTA had at their disposal—something useful and educational the state association was offering its membership.

Appeared Before 4,000

So, in March, 1952, the heat was turned back on. Part of that heat was applied indirectly by a person for whom we all have affectionate high regard—one James E. Sheridan of Detroit, Michigan. Jim, a lover of breakfasts, so I am told, bet my boss, Bill Gill, Executive Vice-President of the American-First Trust Co. of Oklahoma City, Okla. (and I hope you wil pardon this commercial—but he is my boss; he allowed me time off to come up here and most important, it is his signature that validates the payroll checks), but anyway, Jim bet Bill a super-duper breakfast that our Speaker's Bureau wouldn't make 75 speeches by March of this year. Well, whether Jim knows it yet or not, he lost a bet. We shaded that 75 speeches with several to spare. We appeared before well over 4,000 people which represented groups or individuals from every county in the state. Again the acid test has revealed that in its infancy, a Speaker's Bureau must be pushed if it is to be successful.

Word Getting Around

I would say that now, more than ever, the value of what we have to offer our association membership is being accepted at face value. Not only have we been able to enthuse our Oklahoma Title members, but the word is getting around elsewhere. When Hicks Epton, State President of the Oklahoma Bar Association of Wewoka, Okla., heard indirectly I had been invited to address this group, he wrote the following letter:

> "This is my impression of the effectiveness of the Speaker's Bureau of the Oklahoma Title Association. I have had the privilege of hearing several of these speakers. Without hesitation or doubt, I say that this is a most worthwhile activity. Actually, I think it does the legal profession about as much good as it does the title association. I have heard several lawyers express similar opinions.
>
> "The public generally is not informed as to the activities of abstracters or lawyers. Anything that provides information on the work of either is helpful to both. I trust you will see fit to continue the program in Oklahoma and elsewhere. Back of this suggestion is the basic belief that there is mutuality of interest between many related groups, such as insurance companies, title associations, real estate men and lawyers."

Enthusiastic Leader

I believe it would be a waste of time to go into the organizational set-up of our Speaker's Bureau. That story has been told before and has been preserved for posterity, Jim Sheridan would say, in the March, 1952, edition (Part I) of Title News. However, I would make one suggestion. When your state association elects to organize a Speaker's Bureau, and I recommend most strongly that you do, then get a good man to head up your Public Relations or Speaker's Bureau Committee—a man with plenty of jump and get-up-and-go, like the man who accomplishes the miracle in this story.

There was a man, a most methodical man (not our hero) who lived at the edge of town in a small house. Between this man's dwelling and the town, there was a cemetery. Our friend, being so very methodical, was a firm believer in the proven statement, "the shortest distance between two points is a straight line." Consequently, his path to town crossed the cemetery as straight as you could shoot a rifle bullet, and he never varied from that path.

"Wide, Long, Deep"

One afternoon when this individual was in the town, a grave was dug across his path. It was wide, long and deep. Later that night when the man was returning home, he fell into the grave. His cries for help

went unnoticed and finally he wore himself out trying to get out of the grave. Exhausted, and resigned to the fact he was "in" for the night, the man crawled over to a corner of the grave, hunched up and went to sleep.

Later that night, our hero was using the same path and fell into the same grave. Not at all happy about his predicament, he tried to jump out, tried to scale the walls and he too became exhausted. His struggles awakened the sleeping man in the corner, who watched for awhile—then volunteered this statement in a low eerie voice,—

"You're not going to get out of here!"

But, do you know that man did!

It Takes Planning

Seriously, a Speaker's Bureau is no different than any other association activity. It takes ability, it takes planning, it takes work—it takes money. It takes a man—one man—who is willing to shoulder the responsibility for the planning and execution of this function. Then it takes willing speakers who are ready to back him up in accepting speaking engagements. It is enough to ask the speakers to contribute their time. The mileage expense should be paid by the association. In Oklahoma, we have $400.00 set up in our budget for this activity, and we pay our speakers 5 cents per mile, which is little enough. Properly set up and operating, I know of no other public relations function that reaps as much reward—as much honest-to-goodness good will for the energy and money expended. And, that is the prime purpose of your Public Relations Committee.

Demand Grows

This map will tell the story of our effort much more graphically than I. Each green star represents a speaking engagement. The larger red stars show where we have our speakers spotted over the state. They, of course, catch "the duty" for speaking engagements in their sections. As you can see, the state has been pretty well covered by our speakers. Yet the demand for speaking engagements continues to come in. Why? Here is a letter from one of our association members at Poteau, Okla., that goes a long way toward explaining:

> "Mr. Hubert Smith of the Pioneer Abstract Co. at McAlester gave the Rotary Club a very interesting and informative talk at today's luncheon meeting.
>
> "A majority of the club members have made a special effort to inform me that they considered the talk one of the best they have heard at any of their meetings.
>
> "We are looking forward to the time when we may again have the pleasure of hearing him."

Here's another from an OTA member of Alva, Oklahoma:

> "..... was out and made a talk to the Alva Kiwanis Club last Wednesday.
>
> "The enclosed clipping was in the evening paper following the meeting. I sure had a lot of favorable comment on his talk. The members of the club called me all afternoon to tell me how much they enjoyed it."

I could go on and quote more letters along the same line, but our time is limited.

Building Prestige

We are after publicity—favorable publicity—or we wouldn't be expending our energy on an activity of this kind. Here is where it pays off again. On this sheet are only a few of the newspaper stories that have come to my attention. I am convinced there are many, many more I have never seen. I will let you be the judge of whether or not this adds prestige to our Speaker's Bureau program.

While it is true we have requests come in for speakers, it is just as true that we are actively looking for ways and means to appear before groups—select groups—with our story. To date, our effort has been about equally divided. We have been doing the seeking about 50% of the time—and we have been sought after through our association membership about 50% of the time.

Sought and Found

As for our doing the seeking, it was an Oklahoma Title man who suggested and promoted a series of regional meetings of the Oklahoma Real Estate Commission and Oklahoma Real Estate Association throughout the state. These meetings were for all real estate licensees where their problems were discussed. You may be sure one of our speakers had a spot on the program at each meeting to talk about the title business.

The Real Estate Commission also held two day schools in Oklahoma City and Tulsa in the fall of 1951 and the spring of 1952. Again title people were on the program and contributed much toward pertinent and interesting discussions on real estate titles. Today, the real estate profession is by far more sympathetic with the abstracter than at any previous time. And, in the same manner that realtors don't like everything the title people do, so abstracters and title people don't like everything the realtors do. We had a golden opportunity to solicit the cooperation of the real estate licensees. Needless to say, we used it. What do you think of a program of this nature in your state? If it worked so well in Oklahoma, why wouldn't it work equally well for you?

Know the Subject

So far, we have been discussing a Speaker's Bureau from almost entirely the state level,—the association standpoint. Now I would like to get it more on an individual basis because that is where the work is actually done.

In Oklahoma, I can assure you we have no "silver tongued orators" among our title people. And, for our Speaker's Bureau we don't need them. As long as one knows what he or she is talking about, the delivery is relatively immaterial. When you talk about title matters you are talking about things seldom heard discussed and it is something **you** know.

"What Would You Say?" if you were called upon to make a speech before some organized group on behalf of your state title associations? It was just three years ago yesterday at Des Moines that one William Gill addressed the Iowa Title Association on that subject of "What Would You Say?" This booklet has been worth its weight in gold as a part of the Speaker's Kit furnished to the individual members of our Speaker's Bureau. Again, Jim Sheridan will tell you he has preserved this address for posterity. It is in the October, 1950, edition of Title News. In this booklet there is enough material for a variety of speeches.

Not Professionals

With possibly only one or two exceptions, our speakers were unpracticed and untrained. As for their nervously awaiting the time to fill a speaking engagement, I am reminded of another story.

Upon entering a room in a Washington, D.C., hotel, a woman recognized a well-known public official pacing up and down. She asked what he was doing there.

"I am going to deliver a speech," he said.

"Do you usually get very nervous before addressing a large audience?"

"Nervous?" he replied, "No, I never get nervous."

"In that case," demanded the lady, "What are you doing in the Ladies Powder Room?"

Sure we were nervous and we all have gone through the process of "sweating out" a speaking engagement, but I can truthfully report to you that seldom will you feel such a thrill of satisfaction as you will experience after successfully completing a speaking engagement you know has gone over.

A Public Service

Shortly before coming up here, I received a letter from M. M. Hightower, Jr., President of the Oklahoma Title Association. "High" has been active in our Speaker's Bureau from the beginning and his letter voices his opinion of this activity. Here it is:

"I find it very difficult to ex-

press in words the value of the Speaker's Bureau. There are so many good things to say about it and no criticism to make of it.

"If I were to single out one benefit to be derived from the Speaker's Bureau, I believe I would have to state that the personal satisfaction of the speaker in telling the public about titles would head the list. As you know, any speaker has a good feeling when he tells his audience about pitfalls to be avoided and complications of titles in buying or selling real estate. The speaker feels that his audience has been forwarned of possible title losses and therefore are now in a position to protect themselves in future real estate transactions."

What we say in Oklahoma is up to the individual speaker and he says it in his own way. We do have an outline of a suggested talk, but that must be varied to suit the group being addressed. For the average civic club, 4-H or FFA group, Chamber of Commerce, Veterans or High School Class, etc., remarks should be elementary. When talking to a group of attorneys, realtors, home builders or mortgage people, a different kind of talk is in order because these latter groups know something about our business.

Exhibits Help

It has been my experience a "surefire" way to hold your audience is to have something of an educational nature to show them and tell them stories. This old English deed, for example, is dated in 1693—270 years ago—and aside from being "an interesting old relic" shows the "why" of the statement "This Indenture" and "witness my hand and seal." Few people have even seen a Patent from the United States, so here are actual Patents from the USA, State of Oklahoma and Indian Agencies. Here is an old shirt tail abstract—not uncommon—but few people have seen them. Then here's an old abstract certified in June of 1899 which has the attorney's opinion written on its cover. The opinion states, "I hereby certify I have carefully examined the within abstract and find that title to said property is vested in Chas. F. Johnson in fee simple." I have never failed to get a laugh when I comment I would like to see more opinions like that.

Capture Their Interest

If what you have just seen has aroused your interest, it's running true to form. It has captured the interest of every audience it has been my privilege to address. And it paves the way for the discussion you want to develop. You can talk about deeds, mortgages, judgments, taxes, why you charge for your work as you do, your state title association. Caution your audience about dangers involved in a real estate transaction. The need for an attorney's opinion or title policy for a survey or lien waivers. This is what they want to hear about. It is why you were invited to address them.

And, very important, work stories into your talk. Don't go dry on them —keep them awake and stories are the best way to do it. The first real estate transaction of record as recorded in the 23rd Chapter of the Book of Genesis is a good one. It's in the booklet, "What Would You Say?" One of the most effective stories we use in Oklahoma is that of a "remarkable will." While I know this is repetition, I am confident there are some of you who have not heard it and I want to share it with you.

"Fix Oscar"

"I am writing of my will mineself that des lawyir wand he should have too much money he ask to many answers about the family. First think i want done i dont want my brother Oscar got a dam thing. I got he is mumser he done me out of four dollars foreteen years since.

"I want it that Hilda my sister she gets the north sixtie akers of at where I am homing it now I bet she dont get that loafer husband of hers to brake twenty akers next plowing. She cant have it if she lets Oscar live on

it i want i should have to back if she does.

Tell Mama that six hundret dollars she has been looking for is berried from the bak-house behind about ten feet down. She better let little Frederick do the digging and count it when he comes up.

"Pastor Licknitz can have three hundred dollars if he kisses the book he wont preach no more dumhead talks about politiks. He should a roof put on the meeting house with and the elders should the bills look at.

"Mama should the rest get, but want it so that Adolph should tell her what not she should do so no irishers sell her vaken cleaner, they noise like hell and a broom dont cost so much.

"I want it that mine brother Adolph be my executor and i want it that the judge should pleese make Adolph plenty bond put up and watch him like hell. Adolph is a good bisness man but only a dumkoph would trust him with a bested pfennig.

"I want dam sure that Schleimial Oscar done nothing get tell Adolph he can have hundret dollars if he prove to Judge Oscar dont get nothing; that dam sure fix Oscar."

I would like to develop the "What Would You Say?" theme much more, but being unlike Joshua, I cannot stop either the sun or the clock in this room. However, I do have a limited supply of two papers—one of which contains an outline upon which many of our Oklahoma speeches have been based,—and the other is an address of Bill Gill's to the Kansas Title Association given last fall on "How a Speaker's Bureau Operates." You are welcome to help yourselves as long as the supply lasts.

Much Left Unsaid

Ladies and gentlemen, the purpose of my being with you is to report on what our Speaker's Bureau has accomplished. Actually, much more has been left unsaid than has been said. Using any yardstick or standard you wish to measure the value of this activity—I am confident you will not find it wanting. It has improved our relationship with the general public, with related groups such as attorneys, home builders, mortgage companies, the oil fraternity and realtors. It has strengthened our Oklahoma Title group because it has made our association more "association-minded." It is actual proof that our association has something beneficial to offer the association members at large. It has "Sold" all those participating in the program on the worth of the activity. I say that because our speakers go out and "drum up business" on their own hook.

Ladies and gentlemen I will close with this statement. A Speaker's Bureau program can be likened pretty successfully to an automobile. With enthusiastic, willing speakers and proper programming—with the association membership informed and supporting the activity—you have gas in the gas tank and power in the motor. You can cover plenty of territory. But, anytime that car loses its power and starts to coast, it inevitably will coast to a halt. More power to you!

INTRODUCING TITLE INSURANCE IN DOWNSTATE COUNTY

JOSEPH TOLSON

Secretary, Kankakee County Title and Trust Co. Kankakee, Illinois

My subject today is "Introducing Title Insurance in a Downstate County," and for the purposes of brevity I will not attempt to cover the nature of a title policy, but will limit my remarks to title insurance as a tool that works in any county.

Perhaps at the outset I should tell you a bit about my home county. Kankakee lies 60 miles south of Chicago and has a population of about 75,000. Our local Chamber of Commerce will tell you that we are the second fastest growing community in the United States and they can quote the book and page of Fortune Magazine to prove it, but I want to assure you that we are essentially a rural community. I want to emphasize that point for we, too, are allergic to change. There are still an overwhelming majority of our people who are happy with abstracts.

"Doing All Right"

To establish a common ground of understanding, I am going to assume that your present attitude toward title insurance is exactly the same as ours was at the conclusion of the spring meeting in 1949. To be brutally frank, we listened to the eloquent talks on title insurance and when we returned home, we talked it over and concluded that title insurance was fine for metropolitan areas, but that we were doing all right with abstracts, that to take on a new line of work would require a lot of training and might possibly disrupt our regular routine. We finally decided that we didn't know the difference between a title policy and a bale of hay and didn't care if we ever learned.

Looking Back

What then, you may ask, brought about the change in our thinking? We are all familiar with the history of the transition of titles in our county. Our forefathers went to the court house in person to see if John Brown owned the 80 acres he was offering for sale. Later attorneys undertook the job of checking the records at the court house and submitted a combined abstract and opinion as to the condition of title. And still later groups, such as ours, established abstract offices to furnish a professional service in the form of abstracts of title.

Looking Ahead

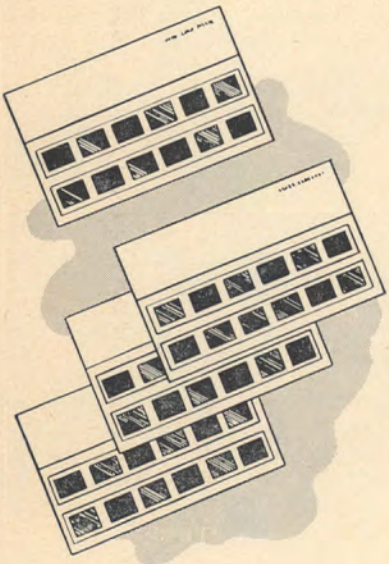
Finally, title insurance came into being. We are having a centennial in Kankakee this year, and I am happy to report to you that on June 28 of this year our company, when you link back all of the predecessors, will be 100 years old. Our charter runs to perpetuity. It dawned on us that some day, maybe five or ten or twenty years from now our own customers would demand some evidence of title other than a bulky abstract, and that if we didn't provide it, someone else would.

The Model T Ford made Henry Ford a billionaire. And it nearly broke his heart before he could be persuaded to change with the times. As Mr. Sheridan has told you, nothing is static. You either move forward with the times, or you are left behind.

A Liberal Education

Therefore, with deep reluctance—and I mean with deep reluctance—we concluded that even our small company would have to quit dodging the impact of title insurance and get in it ourselves before somebody else did. To bring this about, we met with Jack Binkley and Harry Frey of the Chicago Title and Trust Company in the fall of 1949 to discuss the matter. It was indeed a liberal education.

Above all . . . ECONOMY!



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The heart of title insurance is the examination. It serves no purpose to set up a dozen or more objections to a title and compel your customer to spend his time cleaning them up. That's what you do with abstracts. The kicker in title insurance is to wipe out all objections except those that are fatal. In other words, you make it easier to effect a transfer of land by means of a title policy.

An Education

Since no attorney in Kankekee County was familiar with this type of examination, your speaker was delegated to go into Chicago three days a week, for four months, to learn what he could about the Chicago Title and Trust approach and, above all, to recognize what could be waived as a business risk.

At this point some of you may say, "That lets me out. We have no one in our company who can go into Chicago for training." If at the conclusion of my remarks you feel more interested in the subject, talk to Jack and Harry. They are the men who do the difficult today, and the impossible tomorrow, and I will wager that they can develop a program tailor-made for your particular county.

It Is Profitable

My basic premise today is that title insurance is a profitable undertaking, and if we at Kankakee had not found it so, I would not be here today urging you to adopt it.

With sincere apologies to my friend Johnny Parker—since January 20, 1953, it is my understanding that you cannot only admit that you believe in the capitalistic system, but you can go so far as to say, "When I tie up my life savings in an abstract plant and work like a dog, I expect to make a profit."

Share the Benefits

During the past ten years real estate values have reached an all-time high. Sellers have enjoyed the astronomical rise; r e a l t o r s have tacked their 5 per cent on the balloon and what about abstracters? They have charged substantially the same for each entry and certificate that they did before the war. Whenever you put title insurance in your plant, you, too, can share the benefits of a boom period, for your charges are based on valuation.

Now, up to this point I still haven't put title insurance in your home plant, and to bring this about I would like to give you just a few illustrations as to how this works.

The Lost Abstract

My first situation is a lost abstract. When a customer says he lost an abstract and orders a new one, this piece of business is a mixed blessing. True, you can dig up your copy books and reproduce the abstract, but it is a time consuming proposition to type out a new abstract and then compare it word for word. If you apply a cost accounting figure to it you may be shocked to know that it is virtually a labor of love.

Under title insurance your examiner would work directly from the copy books and deliver the policy in one-fourth the time.

You may ask, "Can I charge this transaction for the use of my records?" The answer is emphatically, "Yes." You can charge half the price of a copy job and probably include the cost of the policy and still be under the charge you would have to make for the copy job alone. Your customer is delighted with the saving in money and time and, believe me, you are way ahead.

Tax Titles

The second situation is so-called scavenger sales and tax foreclosures. In 1943 the Illinois legislature passed the so-called Scavenger Act, whereby lands that were hopelessly delinquent for taxes could be sold for an amount less than the total tax due and thereby get the lands back on the books for current taxes. The theory is sound, but the machinery for perfecting a tax title is hopelessly complex. As a result, most lawyers will not approve a tax title.

Strange as it may sound, we from the downstate are in a better position to accept this kind of title than the Chicago office. We know our people. We know that John Jones moved

away twenty years ago and abandoned that vacant lot and hasn't been heard of since. The business risk of John Jones ever returning and trying to regain title to the vacant lot is insignificant. And please don't underestimate the worth of these small policies. Half of our business the first year was small policies, and now owners are building homes and we are re-issuing the policies for substantial amounts.

A Modest Estate

The third situation I would like to talk about is the modest estate where there is no probate. In this case, suppose John Jones dies intestate owning a $12,000 house, leaving a widow and an adult child. They do not probate the estate, but several years later they want to sell the house. The examining attorney sets up the objection that the title is not merchantable.

Again, being downstate you probably knew John Jones and are satisfied that he had no assets that would be subject to state or federal taxes. Therefore, upon receiving an affidavit of heirship and valuation, together with assurance of payment of the expenses of the last illness or other bills you can write this policy as a business risk.

Best Friends

The next situation is a minor defect in title, and to my fellow lawyers, I hope you will not take any offense from this example. In every community there are one or more lawyers who have heard that there is no such thing as a perfect title and when they set out to examine an abstract, they set out to prove it. As a result, they write a four-page opinion that is loaded with good objections that are not necessarily fatal. These are the same lawyers that drive you crazy by sending you back to the court house to find the due date of a $700 mortgage, executed in 1857. Forgive them for their sins. Next to your mother, they are now your best friends. The seller's attorney, instead of writing to someone in St. Louis who can get the name of a person in Saskatchewan who can furnish an affidavit, will probably ask you for a guarantee policy and, needless to say, you accommodate him promptly.

Only An Acre

The fifth situation is the sale of small tracts. In this case, a man owning acreage asks for the cost of a copy job in order to sell off an acre or two. In many instances the abstract is enormous and when you tell him the price, he "blows his top." He tells you that he is only selling an acre, not the entire farm, and that he has always suspected that you were a near and dear friend of the James Brothers and now he can prove it.

Under title insurance you can handle the whole transaction for as little as one-third of the cost of a copy job and deliver the policy in a few days instead of several weeks.

Subdivisions

The sixth situation is subdivisions. Sales of subdivision policies offer the abstracter greater opportunities for increasing his profit. The developer receives his title insurance at a very low rate so use of the policy is attractive to him. On the other hand, the abstracter makes money through commissions on increases in insurance and commissions on re-issue—all in addition to his abstracting charges for bringing the individual lot titles to date each time a new policy is ordered. Subdivision policies place large tracts of land under title insurance and thus provide the abstracter with an assured future income.

Fast Service

The final situation that I would like to mention is the matter of expediency. This is the greatest single factor in selling title insurance. After you have been in business for a year or two, your lawyers and realtors will have learned that if they want to close a deal in a hurry to ask for a title policy.

Again we downstaters enjoy another privilege of meeting our customers on the streets, for lunch or over a cup of coffee. Invariably we talk "shop" and hardly a day goes by that someone doesn't ask if we

could write a policy on a given set of facts.

Never Say "No"

One of the rules of the game that I had to learn from experience is that you never say "No." Let me repeat that. If someone asks you for a policy you **never** say "No." If it's just a plain stinker you take it on as a business risk. If it really galls you, you stall for time and phone Chicago or write in a letter for authority. The reason I emphasize that point is that in the past three years—we have only been turned down once on an application. The people who own and operate the pile of granite on West Washington Street have surrounded themselves with the best legal talent available. They "eat" and "sleep" Illinois law. Somehow, and in some manner, they come up with a solution for nearly every problem. And experience has proven that we and the Title Company have mutual interests. With the company's assistance, we sell title policies and it underwrites the risk. Our records are as necessary for a title examination which culminates in a policy as they are for the making of abstracts. The Title Company has cooperated 100 per cent in maintaining the business of selling title policies at the local level, and they can do the same for you.

Volume Growing

By this time you may have concluded that we in Kankakee are happy with title insurance. Here is the reason: We opened our doors on March 1, 1950. I wish that I could tell you that we had to beat off our customers with a club, but that didn't happen. People took it quite calmly. But in spite of that fact, the first year we sold 240 policies; the second year, we sold 378 policies; the third year we sold 526 policies. We have now reached the point where our title insurance business represents about 10 per cent of our gross. We sincerely believe that in twenty years title insurance will be our major source of income.

Think It Over

Ladies and gentlemen, I am not trying to turn this into a revival meeting. I am not asking you step forward and "be saved." I do urge you to re-examine the whole proposition and consider how our small office in a downstate county, who started from scratch three years ago, and by just stumbling along, has seen a seedling grow into a respectable young tree.

I have tried to point out just a few of the situations where title insurance is the best answer for your title problems downstate. I have deliberately injected the profit motive, for I feel sure that you wouldn't make the effort if you couldn't anticipate a reasonable return.

Title insurance is a tool. It is in your office now in the form of tract books and records. It is ready to go to work for you, just as it did in Kankakee, whenever you say the word. Title insurance is the cream in your abstract coffee. Title insurance is wonderful!

OPEN END MORTGAGES

J. CHANNING ELLERY, Esq.
Attorney, Philadelphia, Pennsylvania

Mortgage loans and mortgage lending has, during the lives of most of us, changed more than any other field of lending. Prior to the First World War and the depression of the early thirties, the only kinds of mortgages of which most people have ever heard were conventional term mortgages due "within," or "at the termination" of a definite period of years, or Building and Loan Association mortgages. Of course, Title men had some contact with construction loans, second mortgage loans and an

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occasional installment loan. In recent years however, we all have heard of innumerable kinds of mortgages.

Many Types

Mortgage lending has been good business, many companies have been trying to insert in their lending plans additional gimmicks to have something which they could point to that the other lender did not have. We have, as a result, all become more or less familiar with installment mortgages of all types including Government insured loans, both F.H.A. and V.A. loans under all their various odd and sundry sections. We have learned about fixed monthly payment plans; plans on which the payments on principal are fixed but the over-all payment is reduced because the amount of interest is less, plans which carry with them and require term life insurance so that if the owner dies the property in his estate is in effect clear and the loan is paid off. We have had the package mortgage, under which home buyers have included in their term financing stoves, washing machines, refrigerators and many other appliances and now we come to the open end mortgage.

Ever Changing

As the mortgage business changed it was necessary for us attorneys to prepare new forms, keep track of how our clients practices and procedures were changing and try to keep ourselves familiar with the ever changing V.A. and F.H.A. Regulations, including the so-called 608 Loans. Fortunately, however, the legal principles applicable to a large degree on all these new types of loans were similar to the law covering the old conventional loan. So, we as lawyers, were not placed in the position that we had to research in unfamiliar territory and you as Title men had very few changes to make in your search and title insurance practices.

The "Open End"

However, we have recently been hearing about this so-called "open end mortgage" and this we may not be able to dismiss as readily as we have each of these new plans as they have laws regulating Veterans Administration guaranty of home loans specifically spell out the privilege of additional advances where the veteran borrower has not used up his maximum guaranteed amount on his original loan.

Legal Considerations

Under an open end mortgage the borrower specifically offers his real property as security for a subsequent loan or advance. It may very readily be profitable business to grant these subsequent loans and thus can be quite beneficial to both mortgagee and mortgagor if such loan can be secured by the original mortgage instrument. With these factors in mind the lending institution is confronted with the problem as to whether it is legally safe to make such loan, and how they should be handled. This leads us to an examination of authorities as to the basic principles involved. In the time we have today come along. The open end mortgage was and is generally used as a plan for additional advance financing. Under this plan home owners who desire to improve, modernize or remodel their homes get the money to cover these alterations from the holder of the original mortgage on their home, which mortgage has been reduced by interim payments on account, but which mortgage has not been paid in full. The practical advantage of such a scheme was that the property owner could pay for his alterations over the entire remaining period of his mortgage loan instead of through short term financing such as the maximum three year limit permitted under F.H.A. Title I Improvement Loans.

Big Obstacle

It is interesting to note in passing that plans of this type have been used far more in many other states than they have been used in Pennsylvania. One of the biggest obstacles to its wider use, solely aside from the legal questions involved, has been the fact that the standard mortgage form accepted by F.H.A. for mortgage insurance does not provide for future advances in addition to the original loan. On the other hand the

I will not attempt to make an exhaustive study of all the cases bearing on this subject, but will attempt only to review an adequate number of cases in order for us to reach certain conclusions.

Local Cases

First, let me point out that I am limiting the cases which I will discuss to the State of Pennsylvania. In other jurisdictions entirely different results and conclusions would result, first, because in a substantial number of states there is legislation specially dealing with the problem and secondly, in my opinion Pennsylvania does not always follow the doctrine of the majority of states.

Different Patterns

Before getting down to Pennsylvania cases however, I must point out that throughout the country there are in general three different types of clauses or patterns used to take care of future advances. The first plan merely names a sum in the original mortgage in excess of the amount being loaned. In the areas where this plan is used the mortgagee can subsequently loan amounts equal to the difference between the original advance and the amount named in the mortgage. In a second group of states the mortgage merely states that it is given to secure future advances. In most states where there is no enabling statutes the third type of clause is used which states that future advances are covered but sets a maximum limit on the total amount which will be secured by the mortgage at any time. In every state care should be taken in the selection of the type of clause to use, to see that proper protection is afforded by the authorities or statutes in effect in each such jurisdiction.

Lienholders Rights

The big question to answer in determining whether future optional advances are safe, is to find out what rights, if any, exist in the hands of the holders of liens which have come into existence between the giving of the mortgage and the making of the advance. By optional advance, we mean herein subsequent lendings and not items paid by the mortgagee that should be paid by the mortgagor and are paid because of mortgagor's defaults and the payments are to protect the mortgagee's security, such as real estate taxes or fire insurance premiums.

Subordinate Lien

In most jurisdictions in this country, as well as England and Canada, where the problem has been decided, the Courts have held that the additional advance is subordinate in lien to a lien intervening between the date of the mortgage and the making of the advance if the advance was made with actual notice or knowledge of the intervening encumbrance. This, for example, is the law of our neighboring states of New York and New Jersey. A few states, however, mostly in the South, reach an opposite conclusion.

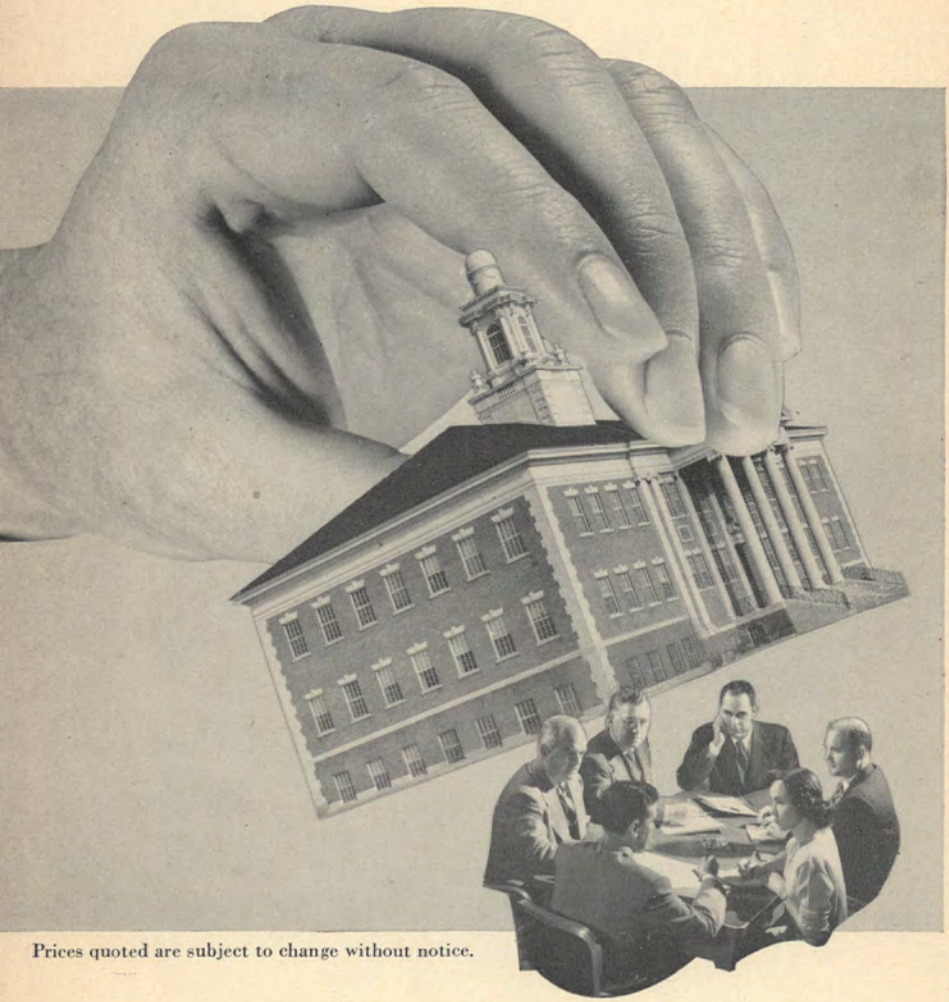
Notice Important

Where the optional future advances however, are made without actual notice or knowledge of the intervening lien, the courts of the majority of states hold that the lien for the future advance is superior to the lien which intervenes between the date of the mortgage and the making of the advance. Here again, our neighboring states of New Jersey and New York follow this majority view except for the exception of a mechanic's lien in New York. We must also note that this opinion prevails regardless of the fact that the intervening lienholder could not tell from the recorded mortgage without inquiry from the mortgagee the true amount of the debt or future optional advances secured thereby. Also the recording of the intervening lien does not constitute such notice as will subordinate the lien of the optional future advance under the antecedent mortgage of which the intervening lienholder had record or other notice.

Minority View

The view of a minority of states is exactly contrary and the courts adopting the minority view specifically hold that the lien of the future op-

Just like moving the



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tional advance, even though made without actual notice or knowledge of an intervening encumbrance is subordinate to such intervening lien if it is recorded.

Mortgages covering future advances, even though not in substantial general use until quite recently in Pennsylvania, have had the sanction and approval of our Pennsylvania Courts. Thus open end mortgages have been possible in Pennsylvania from its very early days. Some of the cases to which I will direct your attention are only contained herein because of statements made by the Court, while others are important because of their facts and findings.

Early Case

In the early case of Garber v. Henry, 6 Watts 57, at 58, Justice Sergeant stated: "A mortgage is always good to secure future loans when there is no intervening equity. It is necessary that the agreement, as contained in the record of the lien, should give all the requisite information of the extent and certainty of the contract, so that a junior creditor may, by inspection of the record, and by common prudence and ordinary diligence, ascertain the extent of the incumbrance."

From Date of Mortgage

Moroney's Appeal, 24 Pa. 372. In this case A gives B a mortgage and bond in ordinary form. B agreed in writing to loan A the amount set forth in the mortgage in sums specified as work progressed on certain buildings. Some of the builders, not having been fully paid, entered liens. The property was subsequently sold at Sheriff's Sale and the money brought into Court for distribution. The mechanic's lien creditors claimed priority to the mortgage creditor on the theory that the mortgage became a lien only as the advances were made and not as of the date of the mortgage. The Court held that the mortgage loan dated from the date of the mortgage and not the date the advance was actually made and the Court stated in effect, that this was the Law of the State of Pennsylvania, even though the contract to loan the money was not referred to in the mortgage itself.

After Second Mortgage

In the case of Bank of Montgomery County's Appeal, 36 Pa. 170, a mortgage was made, executed and delivered to secure all notes and obligations that exist at the present time or "may exist at any time hereafter." A second mortgage was made, executed and delivered and recorded. Subsequent to the recording of the second mortgage, the holder of the first mortgage made additional loans and took notes to cover the same. The property was sold at Sheriff's Sale and a fund created for distribution. At the time of the Sheriff's Sale, Appellant Bank, which was the holder of the first mortgage, was the holder of notes which were unpaid, but all of said notes bore dates subsequent to the date of the recording of the second mortgage. The Court held that the holder of the second mortgage was entitled to receive the fund, since a second mortgagee has priority over the future advances made by the first mortgagee because the first mortgagee was bound to take notice of a junior, intervening, recorded encumbrance at the time it made each future advance. The Court pointed out, however, that the Bank had not shown that it was under obligation to make the future advances.

Kerr's Appeal, 92 Pa. 236 is a similar case in which a similar decision was rendered.

Different Advance

Mitchell vs. Coombs et al, 96 Pa 431. On June 20th, 1869, a Bank loaned a mortgagor $1,000.00 and took a two month mortgage to cover the same. This mortgage contained no future advance clause. The loan was paid shortly after it fell due, but was not satisfied, but retained by the Bank with the acquiescence of the mortgagor to cover future advances. On February 10th, 1871, the mortgagor owed the Bank $1,000.00, at which time the mortgagee Bank assigned the mortgage to another Bank. Four months later, on the 13th of June, 1871, a second mortgage was made, executed, delivered and record-

ed. On October 17th, 1873, a sci. fa. was issued on this second mortgage and the property was bought in by the holder of the second mortgage.

Thereafter a sci. fa. was issued on the first mortgage and the terre-tenants intervened. The lower Court entered a judgment in favor of the terre-tenants and this was affirmed on appeal. The Court held that as to the mortgagor, his acquiescence in the arrangement would estop him from setting up the payment on the original bond to defeat the rights of the holders of the first mortgage, but as to his judgment creditors the transaction was of no legal force. As to them the mortgage was satisfied and no arrangement not apparent on its face could avail to continue the lien.

Back to Original Mortgage

Land Title and Trust Company vs. Shoemaker, 257 Pa. 213. On September 9th, 1909, an owner of a certain real estate gave a mortgage for $40,000.00 to the Bank which at that time loaned him $32,000.00, for which amount the Bank received a collateral note containing the usual provision that securities pledged were applicable to any future obligations. On August 5, 1912, the owner gave the Bank his bond for $150,000.00 in order to induce the Bank to insure a mortgagee of a different tract completion free of liens of a building to be erected on said second tract. On May 28, 1913, the owner made, executed and delivered a second mortgage on the first tract. On May 14, 1914, the Bank paid $16,000.00 to pay off mechanic's lien claims on the second tract and $6,892.62 to the mortgagee on the second tract because of noncompletion. A fund was created by the foreclosure of the mortgage on the first tract. The Court held that the Bank was entitled to receive the entire fund as its liens for payments in 1914 related back to the date of the original mortgage and that its rights were superior to the rights of the second mortgagee.

Outside the Rule

Moats vs. Thompson, 283 Pa. 313. A principal maker of certain notes, which notes were signed also by others, gave a mortgage on his own real estate as security for these notes. The mortgage on its face stated that it was to secure the notes and any other notes or obligations payee might thereafter hold. Thereafter the holder of the mortgage made additional advances to the mortgagor and in this case the question for determination was whether the holder of the mortgage had a right to apply the proceeds of the mortgage to the future advances which were made to the mortgagor alone, or if the joint obligors on the original notes had a right to insist that the proceeds of the mortgage be applied to the obligation under the original note. The Court held that the holder of the mortgage could apply the proceeds thereof to the future advances and said that the rule that voluntary advances relate in lien to the actual date of the advance instead of the date of the mortgage and are subject to all intervening incumbrances, had no application; that a joint maker of a note was not within the purview of the class of intervening lienholders.

A Volunteer

Wardman vs. Iseman, et al, 99 Pa. Sup. 551. This case held that when a mortgage is to secure future advances, if the mortgagee is not bound to make advances and does so, he is a volunteer and the lien of the mortgage relates in lien only to the date of the advance, but if the mortgagee is bound to make advances, they relate in lien to the date of the mortgage. This, of course, is the ordinary rule, as we have seen by some of the former cases. One important element in this case, however, is the fact that in addition, the Court held that extrensic evidence of an oral agreement to advance is admissible to show that the mortgagee was bound to make the advances in question.

Effect of Recording Acts

Batten vs. Jurist, et ux, Northwestern National Bank, Appellant, 306 Pa. 64. This case held that a mortgage to secure a specified sum and future advances, unlimited as to time or amount, was valid as against sub-

sequent lien creditors for an amount exceeding the specific sum named and interest thereon and that this result was not changed by any of our Recording Acts in the State of Pennsylvania. This case is particularly interesting because of the fact that it specifically considers the effect of Recording Acts, which many of the previous cases did not consider. In addition, in this case, we have an example where the amount claimed by the mortgagee as against subsequent lien creditors was, in fact, in excess of the sum specified in the mortgage. The case also is interesting because of the fact that it considers the question as to whether or not, in order to be valid, a limit must be established as to the time or the amount of the future advances. This case, however, deserves even further comment because of the fact that some members of the Bar have studied the Syllabus, which is set forth in the Report, more thoroughly than they have studied the Opinion itself. The Syllabus states, in its second paragraph: "When a contract for advances or the assumption of future obligations accompanies a mortgage, it is not essential to its validity that the engagement governing the advances be placed on record, **or even expressly referred to in the mortgage.**" And, in the third paragraph states: "When such a contract obligates the mortgagee either to make advances or assume future responsibilities on behalf of the mortgagor, this lends a sufficient consideration to the mortgage, and the lien of payment under such an agreement relates back to the date of the mortgage; and this is true even though the advances or liquidation of assumed responsibilities occur after the date of a subsequent or junior encumbrance placed on the mortgaged premises." In reading this case, we should note that the Appellant's judgment, which was its only lien, was after the date of all of the advances made by the mortgagee; that the mortgage contained this language "Whereas, the said party of the second part may hereafter, during the continuance of these presents, make further advances to the said Louise S. Jurist, one of the parties of the first part, and it is intended that the same, with interest, shall be secured thereby," and that at no time was the mortgage paid off in full.

Fundamentals Only

This analysis of the cases in Pennsylvania does not purport to cover all the cases in this State on the subject, and it is not an attempt to answer all the questions which can arise concerning open end mortgages. It is merely an attempt to show you enough of the Pennsylvania Law so that you will have an understanding of the fundamental principles involved and so that we can arrive at some conclusions.

Points to Take Home

Now, what conclusions can we reach? First, no particular form of language is required to cover future advances in Pennsylvania. Care should be taken however, to see that the language is adequate and that there is no limitation which prevents the particular advance from being covered. Second, a mortgage once paid in full should not be used to cover another loan even if the mortgage is not satisfied of record. Third, a search should be made before every voluntary future advance is made, to determine if there are any intervening liens of record, as they will take preference over the voluntary advance. Fourth, an obligation should be obtained for the amount of the future advance when it is made. This is particularly true in view of two old Acts of Assembly, namely the Act of 1823, Pamphlet Laws 216 and the Act of 1889, Pamphlet Laws 166, which are still in full force and effect as shown by the recent case of Conn vs. Hudson et al 350 Pa. 626.

Title Search Necessary

Since I have pointed out that searches should be made, of course, this means that many mortgagees making future advances will want title insurance and should have it. You gentlemen, as title men, should see that mortgagees are informed of the dangers of open end mortgages as well as the advantages and par-

ticularly if you have not done so already, you should see that your customers understand that they need title insurance each time a voluntary future advance is made in Pennsylvania, even though the mortgage form they use specifically states that it covers future advances.

REPORT OF JUDICIARY COMMITTEE

RALPH H. FOSTER, Chairman
President, Washington Title Insurance Co. Seattle, Washington

Conveyance Pending Divorce—

Where divorce action is pending in county where real property involved is located, purchaser from one of the parties during the pendency of the action acquires no title if on tfinal disposition the property is not awarded to his grantor, because such a purchaser is not an innocent purchaser for value without notice. Pearson v. Logan (Okla.) 225 Pac. 2nd 255.

(Reported by John W. Warren, Newkirk, Okla.)

Heirs at Law—

Where, in providing for his "heirs at law" after a life interest, a testator indicates his intention that such heirs should be determined at the date of the expiration of such life interest, then a child adopted long after testator's death will take under the statutory law existing on such date of expiration, even though such adopted child would not have taken under the statutory law as existing at testator's death. Tiedtke vs. Tiedtke (Ohio) 157 O.S. 554.

(Reported by Thomas J. McDermott, Mansfield, Ohio.)

Mineral Rights—

Adverse possession of surface is not possession of minerals the title to which has been separated from the surface title but is possession of minerals not separated. King v. Hester, 200 Fed. 2nd 807.

(From "Title Decisions" by McCune Gill, St. Louis, Mo.)

Granting Clause and Habendum—

. . . it is universally conceded that when the estates given in the granting clause and the habendum of a deed are so repugnant to each other as not to be susceptible of any reasonable reconciliation, the granting clause will control and the habendum will be rejected as void . . . Glasgow v. Glasgow (S. C.), 70 S.E. 2d 432.

From South Carolina Title News (submitted by Herman H. Higgins, Columbia, S.C.)

Leases—

A covenant in a lease for a new lease, as distinguished from a covenant for renewal, is too indefinite to warrant a decree for specific performance. Jamison v. Lindblom, 92 App. 324 (Ohio.)

(Reported by Thomas J. McDermott, Mansfield, Ohio.)

Tax Title—

Plaintiffs were owners of land in Section 5. For many years they paid taxes on land carried on the tax rolls as located in Section 6, intending to pay taxes on their own property. They brought action to quiet title against a tax deed issued on their land in Section 5. The New Mexico Supreme Court directed a decree for plaintiffs, quoting from a prior decision "payment in good faith of taxes, although the assessment erroneously describes the land to be assessed, is a defense against a tax deed based upon a second assessment of the same land with a proper description." Pratt v. Parker, 255 Pac. 2d 311.

(Reported by W. P. Bixler, Las Cruces, N.M.)

Joint Tenancy—Community Property—

In New Mexico property may be held by husband and wife as community property, or by joint tenancy

with right of survivorship. In a contest as to whether property was part of the estate of a deceased husband, or the property of the wife as surviving joint tenant, the Supreme Court held that the property was community property, despite recitals in the deeds of acquisition that title was in joint tenancy. In re Trimblis Estate, 253 Pac. 2d 805.

(Reported by W. P. Bixler, Las Cruces, N.M.)

ABSTRACTS, METHODS OF CHARGING FOR SERVICES

From remarks given on panel discussion at Abstracters Regional Conference held at Mason City, Iowa, May 22-23, 1953.

By JACKSON HOSPERS

Secretary, Sioux Abstract Co., Orange City, Iowa

In giving the remarks to follow, I want to call your attention to the fact that I speak as an Iowan. Some of what I say may be "all wet" when applied to specific situations in certain other states. Our subject is a very interesting one. There is only one thing wrong with it and that is that it involves a good many other things. It may well have been entitled "What Can Be Done to Make the Abstract of Title System Profiitable?"

This is a very difficult question. In fact, it is so difficult that, in trying to answer it, I feel like the man who said, "My ambition is to be a little sunbeam in this dark world and right now I am trying to design for women some shoes that are larger inside than they are outside."

Our Habits

It seems that we also, in our business, need more room on the inside. Certainly many of our pressures are internal. These arise, to a great extent, from our own ingrained habits, prejudices, and lack of imagination as abstracters. One man said, "I have never seen such a wonderful group of people as the abstracters, collectively, but with such a blindness for progress in their own businesses individually." We might well approach this subject in the mood of the darky preacher who, in giving a sermon on "Wisdom," concluded as follows: "Remembah, my good people, it ain't de things yo' **don't** know datt gets you into truble; it's de things you **think** you know dat **ain't** so."

Identical Twins

Today, in the abstract of title business, we should fundamentally question everything we thought we knew. Fortunately, all over the country, abstracters have begun to question their practices, both of showings and charges. Time seems to be proving abundantly that these two problems are identical twins.

The methods, themselves, of charging for our services, are easily outlined—we either charge by the entry and by the page, or we use valuation charging, entirely or in part. If we then add the problem of showings, we can put ourselves into an obvious field of cause and effect. It is made complex only by prejudice and custom.

Time to Change

Here in my hand is a Recorder's Abstract, made in 1869, a few years after our county began. Other than the original entry, it has four simple entries. It was probably ordered over the Recorder's counter by a customer who waited while it was being written up. What is more natural than to fix a charge for such work on a per entry basis? This Recorder

had no personal plant, investment, equipment, or records to capitalize. He asssumed very little responsibility. His abstract was simple. He was a clerk. As soon as the job became a little harder, attorneys and conveyancers did the work. Special record searchers, or abstracters, soon followed. With simple and rudimentary books, little thought was given by the abstracter of that day to items of capital expense. His charge system quite naturally fell under the shadow of the charge system used by the Recorder. He simply charged by the entry. This was 75 or 100 years ago. **The tragic fact is that some abstracters believe that this method of charging, without modification, and with the same method of showings, is the proper one to use today.**

Added Revenue

I don't believe it is necessary at this time to document the need for added revenue in the abstract system by specific revenue figures, or to document the need for briefer showings. The abstract system is pressed for revenue, and in some cases the results are nearly tragic. Let me give an example:

Recently a good businessman from the southern part of our state was in our office. He is the owner of a real estate, insurance, and abstract business. He has a fine set of abstract books which he would ordinarily value at $30,000.00. In the course of our visit he said:

No Progress

"My competitor is one who believes $4.00 or $5.00 is enough for a continuation showing a deed, a mortgage, and an affidavit. He just barely gets along. He drives a 1932 car. He lives with his folks. It seems he never gets a new suit. His office is a hole in the wall. His appearance is about what you would expect to fit into what I've told you about him. My abstract business will never be worth anything to me as long as he is there."

I asked, "Could you buy him out, or bring him into your business?"

My friend replied, "I have tried that—I offered to buy him out, or consolidate firms and give him an interest in the whole set-up, or to employ him for more than twice what he is making now. He just isn't interested in any kind of a proposition. I really don't know what to do with my abstract books—they seem too good to give away or to burn, but I wouldn't give you anything for them. In fact the whole abstract business is a big puzzle to me."

A Clerk?

I would like to add a little incidental note to this example. The firm that my friend owns, being highly reliable, not so long ago paid out several thousand dollars on a second mortgage which was missed in making an abstract.

The question is this. Is the abstracter just a clerk? If he **is** responsible, why isn't he selling and charging for that responsibility?

Rural County

The gentleman I have just quoted comes from a rural county. Of course, all abstracters are not country abstracters. But just as the little town having nothing in it but the country store, the gas station, and the elevator are even more representative of America than Chicago, so are the rural counties, in Iowa, more representative of our state than counties having places like Des Moines, Mason City, Sioux City, Council Bluffs, or any of the other larger places that could be named.

Population

May I draw this point a little finer. Rural areas are predominant in many states. In a survey conducted by the Iowa Title News this past year, it was clear that in Iowa there is a developing pressure in our business upon counties of less than 30,000 population. Now please note this: Out of Iowa's 99 counties, only 16 counties have a total population over 30,000 people. To say this again, this means that out of 99 countries, 83 are UNDER 30,000 population. (1950 census). This same survey showed, of all owners who answered the questionnaire, that over 50% did not have enough revenue to pay decent wages and still net 10% on their investment. In other words, regardless of isolated instances or special circumstances, the predominant group of abstracters in Iowa is making little or no profit under present methods of charging.

Large Counties Too

It might be inferred from this that the abstracters in the larger places are doing well. Have a visit with them. They will be just as frank with you as you are willing to be with them. Many of them will tell you that they wonder just what is wrong, revenuewise, in the abstract business. The group we should not forget, however, is the predominant group of country abstracters. Title insurance will eventually solve many of the problems in urban areas. The country abstracter, however, is only compounding his problems, not for himself alone but for the business as a whole, in following age-old practices. I believe, nevertheless, that he is eventually going to be the finest illustration of what the abstract system can be in terms of a clean, efficient, pleasant, and profitable business.

Many Won't Wait

Today, however, the truth is that the abstract system, in many places has failed to keep pace with its increasing complexities. In fact, many look upon it as only a stopgap until title insurance takes over. In many places this is going to be a long time in coming. This seems particularly true of Iowa, which is the only state in the Union which does not have enabling legislation providing for the issuance of title insurance policies. Some of our abstracters are not going to wait 20 or 30 years for title insurance to solve their problems. They simply can't hold their breath that long.

Profit Necessary

These same people, neverthless, are learning something from title insur-

ance, which is a successful product. They are beginning to understand that a profit is necessary. They are thinking of selling and charging for responsibility, rather than entries. They are seeking to solve their problems by creative thinking and research, rather than hanging on to procedures of diminishing value.

Overdue

Any investigation of the revenue problem indicates that a solution is long overdue. I read in the 1928 edition of convention proceedings for the Iowa Title Association, the following remarks by the speaker:

> "Trade Associations now represent every business and profession of any standing in the country. There are over 2,000 of them and they all function to make more money for those in their respective businesses. How many of you are making a good living considering the investment you have, and the responsibility you undertake? Nobody answers in the affirmative on that. How many of you are driving an automobile that cost over $1,500.00 that you made out of the abstract business? Hold up your hands. Nobody? There is nobody making any money. Why is not the business profitable? The business is being conducted on the same lines as 20 years ago."

In reference to the representation that the problems of charging and of showings are identical twins, this same speaker made the following statement:

> "Better abstracts have come about through the demands of the examiners, and not from the intiative or far sightedness of those in the abstract business."

Then came our good friend, Jim Sheridan, who time after time exhorted us to get on an adequate fee system. I can scarcely remember a meeting in which he didn't emphasize this point. Jim has been talking to us for a long time now.

Work for Nothing

We might also review an incident from the 1948 convention of the Iowa Title Association in Des Moines, in which the then American Title Association president, Jack O'Dowd, addressed the convention. In the course of his address he asked all those to raise their hands who were civic leaders in their communities—church groups, service clubs, town council members, chamber of commerce officers or directors, and other positions of leadership. About 70% raised their hands. Mr. O'Dowd then rejoined, "That's what makes me so impatient with you people—you are leaders in your communities, yet you work for next to nothing."

How?

The practical question today is, "HOW do we solve our charge problems? What must we do?"

The abstract system must fight for efficiency. Even though seriously pressed for revenue, it must eliminate its inequities. The objectives of its policy must be, primarily, the survival and improvement of the abstract system, and secondarily, more revenue, better service, better paid employees, and work techniques which employ more skill and less drudgery. Through research programs in individual offices we must develop more people in the business who know what they believe and why they believe it.

The implements of our policy are Valuation Charging and Briefer Showings.

Another Problem

I am not going to go fundamentally into the problem of showings because Mr. Earl C. Glasson gave the Iowa Title Association an address, which many of you heard yesterday, on the subject of Briefer Showings. This was handled far better than I could hope to personally, but there are some points in reference to charges that we should consider. Many attorneys are a problem to us. We know that many of them engage in a lot of nonsense in requiring such things as near transcripts of ancient rceords, or perhaps an affidavit that Susie Olafson and Susan B. Olafson were one and the same party, when

the date of such discrepancy in the title is 1878.

Progressive Influence

In reference to problems of this kind, Iowa is particularly fortunate. This blue book I hold in my hand, also illustrated by Earl in his talk yesterday, and well known to those of us from Iowa, is the official publication of Land Title Examination Standards of the Iowa State Bar Association. These standards have exerted a widespread and progressive influence. They are educating abstracters as well as attorneys in matters which are vital to all of us. When attorneys make unreasonable requirements, it is very helpful to quote some of the best thinking of the Bar to such attorneys, to say the least.

Highly Responsible

I would like to make a few statements in regard to the chairman of the Land Title Examination Standards Committee, Mr. Jesse E. Marshall. Mr. Marshall is well known to both abstracters and attorneys, and I would like to cite him as representative of the positive approach of the bar in title matters. Mr. Marshall is a friend of progress. As such, both abstracters and attorneys have benefited from many helpful influences created, formally and informally, by this brilliant and sensible title authority. He understands the abstract system. The thing I would like to point out is that he believes that the abstracter is a highly responsible member of the abstract-opinion method of title assurance, and not just an attorney's clerk. This is a conception which many abstracters themselves seem to have difficulty in comprehending. The least they could do is to look to authoritative sources, such as we have in this case. Mr. Marshall's qualifications are well recognized. He is a member of the American Bar Association's Committee on "Acceptable Titles to Real Estate," as well as various American Bar Association sections having to do with real property and trust laws. Under his chairmanship, as well as that of his predecessors, the Iowa Title Standards Committee has exerted a leading influence in establishing title standards not only in this state but in other states.

Title Standards

Perhaps the best way to illustrate to this Regional Conference just what is happening in Iowa with respect to title standards is to quote briefly from the 1952-1953 report to the Iowa State Bar Association by the Iowa Land Title Examination Standards Committee. Please note that efforts made by abstracters and by the Iowa Title Association to cooperate with the Title Standards Committee are registered therein. Also I would call to your attention the fact that one of our good hosts, our Mason City abstracter and attorney, Hugh Shepard, is a member of this committee. I quote the third, fourth, and fifth paragraphs of the Committee's report:

> "Iowa has now adopted a larger number of Standards than any of the seventeen States having such Committees. Our work has served as a model for like Committees in several other States and our Standards have had favorable recognition by the Supreme Courts of Iowa and South Dakota. (**Sidel v. Snider,** 241 Ia. 1227, 44 N.W. 2nd 687; **Grand Lodge v. Fischer,** 70 S.D. 562; 21 N.W. 2nd 213.)
>
> "It has been the opinion of the Committee for the past three years that its chief task is to assist in the education of the Bar in the use and value of Title Standards. We feel that we are making considerable progress. There is no doubt but what more and more Title Examiners are using and relying on the Standards. Title men generally, including Abstracters, have been keenly aware of the growing dissatisfaction among businessmen with the delays, red tape and expense of real estate transfers. One of the chief irritants has been the technical and often immaterial objections raised by Title Examiners.
>
> "Abstracters, represented by

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the Iowa Title Association, have shown a very active interest in the work of our Committee, and have been extremely cooperative. The members of the Committee have carried on an extensive correspondence with Title Examiners and with Abstracters, all indicating that the usefulness of the Committee extends far beyond the mere formulation of additional Standards."

Trying Hard

Certainly it is obvious that the Iowa State Bar Association is trying to do something to improve these matters. It is equally obvious that their work is fundamentally related to the problems of briefer showings in abstracts. In developing a system of briefer showings we are actually working with a leadership in the Iowa State Bar Association which needs our cooperation.

Principle and Custom

We ourselves must try to improve through our own progressive elements in the same way. And in all these things we should not forget principle. People who tamper with custom often do not get very far unless they are on sound moral ground. I believe that the abstract system is regenerating itself. But we should not allow the "little wizardry" of our detail to obscure our true course. We may well cite a principle given by Charles Malik, the brilliant international representative from Lebanon, who says that the countries of the United Nations must keep working in an open and above board manner for the truth.

A Challenge

This is just as important for us. We need more than an expedient. We must meet the challenge being thrown up to us. Arnold Toynbee, the English historian, says that groups and civilization which do not meet challenge, eventually decline. It is true for us also that the ability to change is the ability to survive.

Twin Aids

I have tried to make the viewpoint clear that the ailing part of the title system in the United States is the country abstracter. If you are one of them and are not averaging 10% on your investment after all expenses, salaries, taxes and upkeep, it is recommended that you investigate our subject of "Methods of Charging for Our Services." In the fight for efficiency, you will have to look to Valuation Charging and its twin brother, Briefer Showings.

Whatever you do, don't forget the twin brother.

HERE LIES WARREN T. DEED, ABSTRACTER, THAT'S ALL

CARLETON C. CORNELS, *Manager*
Beckham County Abstract Company Sayre, Oklahoma

The title profession is an honorable one, no question about it. Any titleman should be proud of his means of livelihood. But there are other things of importance and the above epitaph is not very flattering even though it refers to the decedent as a member of an honorable profession. It indicates Warren T. Deed may have been a good abstracter, but outside of that he was nothing.

Warren T.'s neighbors would readily admit he was good at his job, but in the next breath they were apt to remark, "he didn't contribute much to the community, though."

Worked Hard

That was the sort of person the late Warren T. Deed was. His work was reasonably good. He worked hard and worked his employees hard, but there his contributions to posterity ceased. He was not active in any of the civic clubs, was a frequent grumbler about the cost of chamber of commerce activities, went to church only when the spirit moved him (a feat the spirit usually accomplished after a great struggle on Easter), never served as a public servant in the mayor, councilman or school board member capacities, and never helped conduct Red Cross, Boy Scout,

Community Chest and other drives that frequently arose.

"I Don't Care"

What was Warren T. Deed's philosophy? "I don't want any of those civic chores," he remarked once, "they take you away from your business too much and you lose friends and customers. You can't handle one of those jobs without stepping on some toes occasionally.

"As for religious activities, I belong to a church and put a dollar in the plate every time I attend. I would go more often, but usually I have some odds and ends to clean up at the office Sunday mornings. A man has to take care of his business."

In short, as the epitaph so aptly states, Warren T. Deed was an abstracter, that's all.

Delegation

The average OTA member wants to be good at his chosen profession. He also senses an obligation to leave his community a better place for his having lived there. The very nature of his profession which calls for intelligence and performance of exacting work, amply qualifies him for civic leadership.

Just shed a tear for Warren T.
While being grateful you aren't he.

AN AMUSED SPECTATOR

Occasionally a different treatment is given to a legal entanglement and we believe this one is rather rare. It is authentic and appears in the official records of the Circuit Court of the County of Wayne, Michigan. All the names have been changed with the exception of the Burton Abstract and Title Co.

Thanks to Clarence Burton, first vice president-secretary of the Burton Abstract & Title Co., Detroit, Mich., who brought this to our attention, we are able to present it here. (ED.)

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE
IN CHANCERY

BURTON ABSTRACT & TITLE CO., a Michigan corporation,
Plaintff,
vs.
FRED N. WHITE, Executor Under the Will of Frank J. White, Dec., et al,
Defendants.

PRE-TRIAL STATEMENT

The above-entitled cause was heard before HON. ROBERT M. TOMS, Circuit Judge, May 29th, 1953.

There are more things wrong with the transactions involved in this case, then there were with the Treaty of Versailles. If any step was omitted to complicate the situation, it was by pure inadvertance.

A builder named Frank J. White, entered into a land contract dated July 24th, 1952, to purchase three adjacent parcels of land in Grosse Pointe Woods for the purpose of subdividing. The purchase was implemented by a real estate broker named Mary A. Winter, who took a down payment of $1,220 on the contract. The contract required a certified abstract showing marketable title or a Burton Title Policy. The land was platted, but the plot not recorded, because it was found that the title was not perfect, due to a three-foot lap-over on adjoining land disclosed by the survey. Under these circumstances Burton refused to issue a title policy. In spite of the fact that

the title had not been cleared, Mrs. Winter, as the selling broker for White, proceeded to sell some of the lots under descriptions from the unrecorded plat. One lot was sold to each of the defendants Daily and wife, and Edwards and wife, and a thousand dollars was collected from each purchaser. Meanwhile, White had contracted with defendant Morreli to install the improvements in the subdivision under an arrangement by which White was to create an escrow fund in the hands of Burton, in the amount of $15,000 to pay for such improvements. On this escrow fund White paid $1,200 to Burton and the $2,000 received from lot purchasers Daily and Edwards also found lodgment in the escrow fund, making a total of $3,200 therein. This amount, less $100 costs, has been deposited in the County Clerk's office by Burton, subject to the final adjudication in this case.

A Loan?

Somewhere in the midst of the turmoil Mrs. Winter repaid to White the sum of $465, evidenced by a canceled check marked Pre-Trial Exhibit 1, which is conceded to be admissable. On the face of this check is a statement "In full of commissions." Mrs. Winter claims that this money was paid under an agreement to split commissions, and that she therefore has only $755 of the $1,220 down payment originally paid to her by White. White takes the position that this was a naked loan and that the best that Mrs. Winter has is a claim against White for money owed.

Look Out!

Now it comes! White thoughtlessly died in September, 1952, leaving an insolvent estate. Before his death the original vendors of the acreage forfeited the land contracts to him for non-payment of the balance specified to be due in six months. White resisted the forfeiture on the ground that marketable title was not shown by either an abstract or title policy. The defendant Morreli put about $6,000 in improvements into the land and then stopped when the promised escrow fund was not created.

Two Without Worry

The only fortunate party to the litigation is Burton who seems to be in the clear and sits by as an amused spectator. It is obvious that White isn't worrying, either, but everybody else is.

Take It Away

Daily and Edwards, who paid $2,000 for a pair of lots (5 and 13), seek to impose a constructive trust on the funds in the County Clerk's hands. Morreli wants that fund, because he claims that it was an escrow fund for his benefit in putting in the improvements. White's executor wants the fund, because he needs it to pay the debts of the estate. The trial judge can take it from there.

PERSONALS

JOSEPH H. SMITH

Secretary, American Title Association, Detroit, Michigan

• ERNEST J. LOEBBECKE, Vice President, Title and Trust Co., Los Angeles, Calif., is busy General Chairman of ATA National Convention set for BILTMORE HOTEL, SEPT. 14 THROUGH 17.

• JOHN F. GRIFFITH, formerly Controller for Reynolds Metals Co., joins the Phoenix Title and Trust Co., Phoenix, Arizona, as Assistant Vice President and Assistant Treasurer. WILLARD B. FLEMING, former Chief Attorney with VA regional office joins same firm as director of examining dept.

• Idaho Title Association elected LEX H. KUNAU, Cassia County Abstract Co., Burley, President for 1953-54. FRANK SPARKS, of Idaho Abstract and Title Co., in Nampa was

elected Secretary-Treasurer and JEANNETTE EPENETER, Secretary-Treasurer of The Title Insurance Co., Boise, continues as Executive Secretary.

• The Board of Directors of Burton Abstract and Title Co., Detroit, Mich., elected EDSON BURTON as President of the firm to take the place of his father, RALPH BURTON, who died suddenly last June.

• GEORGE C. RAWLINGS, Executive Vice President, Lawyers Title Insurance Corporation, Richmond, Virgina and member of ATA Board of Governors, has article appearing in July issue of Mortgage Banker on "Why MBA Membership is Valuable for Title Insurance Companies."

• Michigan Title Association re-elected all officers for another year. President HAROLD A. PRESTON, owner of Isabella County Abstract Co., Mt. Pleasant; Secretary, CLARENCE W. DILL, Vice President, Burton Abstract and Title Co., Detroit; Treasurer, S. K. RIBLET, Mgr., Newaygo County Abstract Office, White cloud.

• GORDON M. BURLINGAME, Vice President, Bryn Mawr Trust Co., was elected President of Pennsylvania Title Association at convention in June. CARL P. OBERMILLER, Title Officer of Land Title and Trust Co., Philadelphia, Pa., will serve again as Secretary and T. R. DEADY, Title Officer of Broad Street Trust Co., Philadelphia, Pa., was re-elected Treasurer.

• At June Convention of California Land Title Association, FLOYD B. CERINI, Western Title Insurance and Guaranty Co., San Francisco, was elected President. Harvey HUMPHREY, Title Insurance and Trust Co., Los Angeles, were elected Treasurer. RICHARD E. TUTTLE continues as Executive Vice President, and MRS. HAZEL PARKER as Secretary.

• MRS. LINDA NYE, Manager, San Juan County Abstract and Title Co., Aztec, is new President of New Mexico Title Association. Elected to office of Secretary is GORDON G. WOODS, Manager of Woods Title and Insurance Service, Farmington.

IMPORTANT ASSOCIATION EVENTS

Date	Meeting	Where to Be Held
Aug. 28-29	Montana Title Association Convention	Great Falls, Montana
Sept. 14-15-16-17	**ATA - National Convention**	**Biltmore Hotel Los Angeles, Calif.**
Oct. 5-6	Missouri Title Association Convention	Hotel Phillips Kansas City, Mo.
Oct. 5-6	New York State Title Association Cenvention	White Face Inn Lake Placid
Oct. 9-10	Wisconsin Title Association Convention	Mead Hotel Wisconsin Rapids
Oct. 17	Arizona Land Title Association Convention	El Conquistador Hotel Tucson, Arizona
Oct. 25-26-27	Ohio Title Association Convention	Hotel Hollanden Cleveland, Ohio
Oct. 29-30	Oregon & Washington Land Title Association Convention	Multnomah Hotel Portland, Oregon
Nov. 5-6-7	Florida Title Association Convention	Orlando, Florida
Nov. 9-13	Mortgage Bankers Association Convention	Miami Beach, Florida