OFFICIAL PUBLICATION
AMERICAN TITLE ASSOCIATION

TITLE NEWS

VOLUME XXXIV MAY, 1955 NUMBER 5

TITLE NEWS

Official Publication of

THE AMERICAN TITLE ASSOCIATION

3608 Guardian Building—Detroit 26, Michigan

Volume XXXIV May, 1955 Number 5

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POSSESSION OF REAL PROPERTY AS NOTICE OF RIGHTS OF OCCUPANT

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(The following address was delivered before the members of the New York State Title Association at their 1954 Convention. We are grateful to Mr. Friedman for permission to reprint his learned article. Ed.)

Any discussion of the effect of possession as notice should begin and end with *Phelan v. Brady*†[1] decided by the New York of Appeals in 1890.

In this case, Murphy was the record owner of real property. He borowed $2,000 from the plaintiff on the security of a mortgage on this property. The building contained 43 rooms, occupied by twenty different occupants or families. Mrs. Brady occupied a couple of rooms in this junior Empire State building. The mortgage went into default and plaintiff began to foreclose. Then he got some news—that when the mortgage was made, and thereafter, Mrs. Brady had been occupying her few rooms with an unrecorded deed to the entire property. The foreclosure was dismissed at the instance of Mrs. Brady. In reaching this conclusion the Court of Appeals wrote:

"At the time of the execution and delivery of the mortgage to the plaintiff, the defendant Mrs. Brady was in actual possession of the premises under a perfectly valid but unrecorded deed. Her title must, therefore, prevail as against the plaintiff. It matters not, so far as Mrs. Brady is concerned, that the plaintiff "in good faith advanced his money upon an apparently perfect record title of the defendant John E. Murphy. Nor is it of any consequence, so far as this question is concerned, whether the plaintiff was in fact ignorant of any right or claim of Mrs. Brady to the premises. It is enough that she was in possession under her deed and the contract of purchase, as that fact operated in law as notice to the plaintiff of all her rights.

"It may be true, as has been argued by the plaintiff's counsel, that when a party takes a conveyance of property situated as this was, occupied by numerous tenants, it would be inconvenient and difficult for him to ascertain the rights of interests that are claimed by all or any of them. But this circumstance cannot change the rule. Actual possession of real estate is sufficient notice to a person proposing to take a mortgage on the property, and to all the world of the existence of any right which the person in possession is able to establish."

Phelan v. Brady is law in New York and most of the states. It applies, of course, to a conveyance as well as to a mortgage. There are any number of possible circumstances in which the rule may arise, but any discussion of the point divides itself into two parts:

1. The effect of physical conditions as notice—usually of easements; and

2. Possession as notice of unrecorded rights of persons in possession.

1. *Physical Conditions—Easements*

As to physical conditions—a leading case in the New York Courts of Appeals is *Historic Estates, Inc. v. United Paper Board Co.*[2] which held that a spring house on property, accessible only with a neighbor's key, was notice of the neighbor's unrecorded right to draw water. Other authorities in point generally are legion.[3]

It is necessary, then, for any prospective purchaser or mortgagee not

*Mr. Friedman is the author of Contracts and Conveyances of Real Property, published in September, 1954, by Callaghan & Company of Chicago, Ill. This talk is based on "Inspection of Premises," §12 of this book.

only to examine deeds and other instruments of record, but to make a physical inspection of the premises and look, among other things, for rights-of-way, sewer connections, heating plants, party walls, fire escapes and means of ingress and egress which may be used in common with others.

A prospective purchaser of a private home may notice a driveway, located wholly on the premises, between the public highway and a garage on the property. If part of this driveway leads to a garage on neighboring property, the prospective purchaser is chargeable with knowledge of a possible easement in favor of the neighboring property. If the property is an urban multiple dwelling, with a party wall fire escape used in common with the adjoining building, the purchaser will be chargeable with knowledge of a possible right in the adjoining owner to maintain a drop ladder, for common use, on the property under inspection.

But if the buyer knows the law and takes reasonable care to make an inspection, and does not let a title company make him take "Subject to any state of facts which a personal inspection of the premises might disclose" or "Subject to rights of persons in possession"—if he does this the buyer has a reasonable chance of coming out with his whole skin. He has a better chance in New York than in some other states.

In *Goldstein v. Hunter*[4], for instance, the New York Court of Appeals held that a sub-surface common sewer implied no notice because the arrangement was not visible. A Georgia case holds the same in the case of subterranean gas pipes.[5] The *Heatherdell* case[6], decided at Special Term, Westchester County, this year, refuses to charge a buyer with knowledge of the right of an adjoining owner to maintain a septic tank on the premises. The only indication of this right was a concrete slab 12 feet by 18 feet set flush in the ground of a 120-acre tract and obscured by grass, leaves and underbrush.

In the *Goldstein* case the Court of Appeals laid down a requirement that the condition be "open and visible." There are other states which make no such requirement. A leading exampl of this is *Wiesel v. Smira*[7] decided in Rhode Island in 1928. Here, an owner demolished his house and excavated in preparation for putting up a new building. He thereby discovered a common drain serving a group of houses. These houses, as you suspect, had been in common ownership and had been sold off to different owners. All the various owners, excepting the plaintiff, asserted a right to continue this situation, claiming easements created either by grant or reservation upon severance of the common ownership. It was undisputed that the drain was invisible without digging up the land. This did not impress the court. The court ruled it unnecessary that the condition be visible, so long as it was apparent. This distinction between "apparent" and "visible" is recognized by many courts, but not very frequently in a situation as extreme as this. The court concluded that the drain would have been apparent to a plumber—an astute plumber, I presume. This was followed by a Minnesota case[8] in 1943 and was approved in principle by a Mississippi case[9] this year. In these jurisdictions, then, the rule might be called "the rule of the astute plumber."

In *Goldstein v. Hunter*, the New York Court of Appeals said it was rejecting this line of cases and that the situation must be "open and visible." Quaere, however, as to how thoroughly New York really rejected this?

The Rhode Island case and the *Goldstein* case cannot be reconciled. Yet both cite with approval the New Jersey case of *Larsen v. Paterson*.[10] The *Larsen* case involved two adjacent houses, in single ownership, which were sold simultaneously to different buyers. Both houses obtained water from a well located on one of the properties. At the time of the conveyances, neither the seller nor the buyers knew where the well was. Defendant happened to get the property with the well. He was held bound by an implied easement in favor of

the plaintiff to draw water from the well on his property. Defendant knew there was a pump in his house. The court ruled that under the circumstances the defendant was charged with knowledge there was a pump on plaintiff's tenement and that it might connect with the well on the premises conveyed to the defendant.

The rule might be called the "slight clue" doctrine and is pretty generally followed among the various jurisdictions. Most jurisdictions hold that the fact that a thing is hidden does not negative its character as an apparent condition when the appliances connecting and leading to it are obvious.[11] Inasmuch as the *Larsen* case was approved by the New York Court of Appeals, it is difficult to say how safe we are in New York unless we are dealing with a situation which is buried without trace.

2. *Parties in Possession*

And now back to *Phelan v. Brady,* which is a leading American case. There is a wealth of authority in accord with this case.[12] A case in 9 N.Y. Supp.[13] involved a vendee who found a third person in possession collecting rents. This person had loaned money to the former owner and was in possession under an agreement permitting him to collect rents until reimbursed. The new owner was held bound by this agreement. This year the Texas Court of Civil Appeals[14] decided a case virtually identical with *Phalen v. Brady.* In *Kashner v. Kapilow*[15], decided by the Appellate Division, 1st Department, last May, plaintiff learned that when he bought realty the livestock was included. His grantor's wife insisted on remaining. Summary proceedings against her were dismissed on two grounds: (1) lack of a landlord-tenant relation; and (2) the wife's possession charged the grantee with notice of a separation agreement giving her free rent so long as she resided in the premises. The buyer learned that when he bought the house he had stepped into the husband's shoes.

An Idaho case[16], decided this year, involved a rectangular parcel running north and south. Defendant bought the northerly half, after the seller had pointed out the property to be conveyed, including its southerly line. Defendant occupied all the property which the seller had pointed out. But his deed did not convey this far south. Neither had the contract of sale provided for a deed that far south. When the mistake was discovered defendant and his grantor corrected matters by an understanding. I am not sure if you would describe what they did as a parol boundary line agreement, or occupation by defendant with his grantor's acquiescence. At any rate, the grantor recognized defendant's right to occupy more land than was conveyed to him. After this, plaintiff bought the southerly half of the original plot. Plaintiff lost his case, on the ground that defendant's possession of property south of his record line was notice of the boundary line agreement with the common grantor.

As you know, there is some authority for the proposition that a parol boundary line is good and that the statute of frauds does not apply. This is on the theory that a boundary line agreement does not convey, it merely recognizes what is. Offhand, I do not know if this is true in New York. If New York does not recognize a parol boundary line agreement then that particular case perhaps could not happen here. But if the parties had entered into a written boundary line agreement, and had not recorded it, then substantially the same case could happen here.

We can pile up more examples but we may well consider some other points first.

It would appear that if I execute and deliver a deed to my property and that deed is recorded, and thereafter a third person acquires an interest in this property, for a valuable consideration and on the faith of the record, I ought to be estopped to set up against that third person a claim which is inconsistent with the deed I gave. The majority jurisdictions so hold. But there are others which do not. I do not know how New York might hold, but you will recall that in the *Kashner* case, retention of possession by the grantor's wife was held to be indicative of her unre-

corded rights. Typical of the minority rule is a Mississippi case[17], decided in 1952, which held that a grantor's retention of possession was indicative of the grantor's right to reformation of his deed. But the case that fascinates me is *Crozier v. Ange*[18], decided in Florida in 1923. There, a grantor received a purchase money mortgage on delivery of his deed. After three transfers this mortgage was acquired by plaintiff. When payments on the mortgage stopped coming in, he began foreclosure. Defendants prevailed, on the ground the mortgage was not an encumbrance. It was held that the grantor's continuance in possession was notice of his insanity. This made the deed and mortgage both nullities.

Some states which apply the rule that possession is a kind of notice, make a distinction based on the length of possession. One day's possession was held sufficient in a Michigan case[19] to put a prospective mortgagee on notice, in a case which the court deemed worthy of note, the fact that the occupants had been in possession long enough to have cooked and eaten supper at the premises; although the mortgagee might have easily been misled by the presence outside the house of a painter working for the owner of record. This case was decided in 1916 when meals probably took a little longer to prepare. Can openers were not quite as sharp and frozen foods did not exist. In *Schenectady Bank v. Wertheim*[20], a case which went to the Court of Appeals, a mortgage was given by the owner of record of a two-family house. The mortgagor's stepmother had an unrecorded life estate of an upper floor and part of the attic. Her furniture had been moved in the day before the mortgage was given; and she had had lunch at the premises. Stepmother, however, had not begun to sleep at the property because the place was being decorated. It was held that the mortgagee was not chargeable with notice of the life estate. The decision was not based on the time element

but on the skimpy nature of the occupancy. If the rule that possession operates as notice, has any justification—an assumption that I am unwilling to make—it would seem that possession at a time when a prospective purchaser is under a duty to inspect should be sufficient, even if the occupant was not in possession at some other time when the purchaser was under no duty to inspect.

I have been talking about "possession as notice" and the books use this expression, too. The expression is somewhat cryptic and may mislead. In *Phelan v. Brady* the Court of Appeals said actual possession "is notice." I do not think the Court meant all this, and I do not think the Court would so hold. Possession is not notice. Possession puts a prospective purchaser under a duty to investigate, and a bona fide effort to investigate the facts is protection against equities which diligence fails to unearth.[21]

There are many cases concerned with the nature of possession necessary to give rise to notice. Such possession must be actual, open and unambiguous. Occasional visits are insufficient.[22] Erecting a "For Sale" sign on the premises, with the name and address of the owner, is insufficient.[23] Plowing and piling manure on land has been held sufficient.[24]

Where the occupant is a tenant the cases are divided on whether his possession is notice merely of his rights as tenant or extends to all other rights that inquiry might reveal. Such rights may relate to a privilege to remove fixtures but may also include an option to buy the premises. In *Ritz v. Rubin,* a New York case, for instance, a buyer was held chargeable with knowledge of a tenant's option to buy although the lease and option were separate instruments.[25] Possession under several rights, one recorded, is generally not notice of the unrecorded rights.[26]

When title is recorded in the name of one spouse or member of a family, the possession of the other spouse or relative is generally deemed subordinate to that of the record owner. There is a recent New York case to this effect[27] and a more recent Illinois case contra.[28] The cases on this point are difficult to reconcile. Joint tenancy by several persons, one of whom is a record owner, does not generally charge third persons with notice of the rights of the occupants who do not hold record title.[29]

The rule of *Phelan v. Brady* has caused a lot of mischief. The rule antedates the recording system and should have gone out when the recording system came in. It never should have been loaded on the Mayflower. The fact that *Phelan v. Brady* has not caused more mischief than it has may possibly be due to the fact that there are a lot of honest people or, on the other hand, because not many crooks have heard of the rule.

Some states have abolished the rule by statute.[30] The Committee on Real Property of the Bar Association of the City of New York is now giving thought to a possible statute of this kind for this State. This statute would not affect easements, which are indicated by physical conditions on the premises, but concentrates its fire on the greater evil. The statute would not completely abrogate the effect of possession, because that would necessarily require the recordation of every short term lease — a result which should be avoided. Yet even a short term lease may give a tenant an option to buy at some small price, or a right to remove substantial fixtures, or some other right of sufficient importance to make it undesirable to exclude even short term leases from any corrective statute. For this reason the proposed statute uses the phrase "right to possession" instead of the broader terms "tenancy" or "lease."

With this in mind, the following is under consideration for the basis of a new statute:

> "No possession or occupation of real property shall operate as notice of any rights in such real property other than an easement or a right to possession, without more, for no more than five years."

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1 119 N.Y. 587, 23 N.E. 1109 (1890).
2 285 N.Y. 658, 33 N.E. 2d 866 (1941).
3 Patton, Titles (1938) §367; (1926) 41 A.L.R. 1442; (1939) 58 A.L.R. 824; (1931) 74 A.L.R. 1250; (1948) 174

A.L.R. 1241; (1908) 13 L.R.A. (N.S.) 49, 132-135; 28 C.J.S. 712; 9 R.C.L. 805, Easements, §61.

4 257 N.Y. 401, 178 N.E. 675 (1931).

5 Rome Gas-Light Co. v. Meyerhardt, 61 Ga. 287 (1878).

6 Heatherdell Farms, Inc. v. Huntley Estates Corp., 130 N.Y.S. 2d 335 (Sup. Ct. 1954).

7 49 R.I. 246, 124 Atl. 148, 58 A.L.R. 818 (1928).

8 Romanchuk v. Plotkin, 215 Minn. 156, 9 N.W. 2d 421 (1943).

9 Hutcheson v. Sumrall, Miss., 72 So. 2d. 225 (1954).

10 53 N.J. Eq. 88, 30 Atl. 1094 (1895).

11 17 Am. Jur. 985. Cf. 28 C.J.S. 691.

12 Hinners v. Banville, 114 N.J. Eq. 348, 168 Atl. 618 (1933). The most elaborate discussion and collection of cases appears in (1908) 13 L.R.A. (N.S.) 49-140. And see generally 3 Tiffany, Real Property (3rd ed. 1939) §§1287-1291; 2 Pomeroy, Eq. Juris (5th ed. 1941) §614 et seq.; Patton, Titles (1938) §366; 55 Am. Jur. 1087-1101; (1931) 74 A.L.R. 355. For possession of co-tenants as notice see Tiffany, supra, §1289; (1908) 13 L.R.A. (N.S.) at 124; (1946) 162 A.L.R. 209. For possession by vendee under contract of sale as notice, see 13 L.R.A. (N.S.) at 103-105; (1933) 87 A.L.R. 1505, 1529 et seq.

13 Gaylord v. Howes, 9 N.Y. Supp. 627 (City Ct. 1890).

14 Brown v. Moss, 265 S.W. 2d 613 (Tex. Civ. App. 1954).

15 Kashner v. Kapilow, 823 App. Div. 929, 130 N.Y.S. 2d 427 (1st Dept. 1954).

16 Paurley v. Harris, Idaho, 268 P. 2d 351 (1954).

17 Crawford v. Brown, 215 Miss. 489, 61 So. 2d 344 (1952); 10 Minn. L. Rev. 359 (1926).

18 85 Fla. 120, 95 So. 426 (1923).

19 Fraser v. Fleming, 190 Mich. 238, 157 N.W. 269 (1916).

20 Schenectady Sav. Bank v. Wertheim, 237 App. Div. 311, 261 N.Y. Supp. 193, aff'd 263 N.Y. 585, 189 N.E. 710 (1933). See generally 105 A.L.R. 845, 875 (1936); Ibid. 892, 895.

21 3 Tiffany, Real Property (3rd ed. 1939) §1287; 13 L.R.A. (N.S.) 49, 68 (1908); but see Diotautio v. Puskas, 134 Conn. 349, 57 A. 2d 726 (1948) noted in 23 Conn. B.J. 203 (1949).

22 Holgerson v. Gard, 257 Ala. 579, 60 So. 2d 427 (1952); Anderson v. Barron, 208 Ga. 785, 69 S.E. 2d 874 (1952); 13 L.R.A. (N.S.) 49, 90 (1908).

23 Ballona v. Petex, 234 Mich. 273, 207 N.W. 836 (1926), noted in 24 Mich. L. Rev. 867 (1926).

24 Miller v. Green, 264 Wis. 159, 58 N.W. 2d 703, 37 A.L.R. 2d 1104 (1953). For the nature of possession deemed to give notice, see 9 Washington & Lee L. Rev. 292, 294-295 (1952); 6 Miami L.Q. 595 (1952).

25 Ritz v. Rubin, 201 N.Y. Supp. 99 (Sup. Ct. 1923). Accord: Dengler v. Fowler, 94 Neb. 621, 143 N.W. 844 (1913). And see generally 17 A.L.R. 2d 331 (1951); 13 L.R.A. (N.S.) 49, 96-100 (1908). The majority cases hold that a tenant's possession changes a subsequent purchaser with notice of the tenant's right to buy under a contract of sale. See 37 A.L.R. 2d 1112 (1954).

26 3 Tiffany, Real Property (3rd ed. 1939) §1289; 13 L.R.A. (N.S.) 49, 76 (1908); 18 Harv. L. Rev. 218 (1905); 25 Mich. L. Rev. 812 (1927); 47 Harv. L. Rev. 359 (1933); but see 22 U. of Cin. L. Rev. 469 (1953).

27 Doreo v. Doreo, 198 Misc. 445, 98 N.Y.S. 2d 755 (Sup. Ct. 1950); 3 Tiffany, Real Property (3rd ed. 1939) §§1290-1291; 13 L.R.A. (N.S.) 49, 88, 126-132.

28 Ambrosius V. Katz, 2 Ill. 2d 173, 117 N.E. 2d 69 (1954).

29 See 2 A.L.R. 2d 857 (1948).

30 Pomroy v. Stevens, 52 Mass. (11 Metc.) 244 (1846); 2 U. of Pitt. L. Rev. 89 (1935); 9 Washington & Lee L. Rev. 292, 296 (1952); 13 L.R.A. (N.S.) 49, 112-114 (1908); 87 A.L.R. 1505, 1539 (1933); 105 A.L.R. 845, 869 (1936); 153 A.L.R. 1209, 1211 (1944); 55 Am. Jur. 1101.

THOUGHTS WHILE RAMBLING AROUND

WILLIAM GILL

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Treasurer, American Title Association

As I start "rambling around," first, let's understand—I do not speak as the official representative of any group.

Second, there was a man who spent $1,000.00 to cure himself of halitosis and later discovered he had no friends anyway. Some of my best friends are members of the Association and certainly I do not seek an opportunity of alienating friends.

It happens, I am one of those individuals never satisfied with existing conditions. To be satisfied in a personal, business or organizational way means that "staleness" exists. One thing that makes America great — that makes America grow—is, our people are never satisfied. We seek to excel in everything we do.

Down in Florida, the owner of a race horse, knowing his entry had some stiff competition, gave his horse a pint of corn whisky before the race.

A friend hearing about the incident later asked the owner if his horse won. "Nope," said the owner, "but he sure was the happiest horse in the race."

It's interesting to note the things Americans do to surpass one another —that helps make life interesting.

This, like other trade associations, is blessed with unlimited talent and ability from which full benefits are not received because so many members are content to sit on the side line, not actively participating in important deliberations and activities. You can be proud of the finest state organizations in the nation—even so, you begin to slip any time you become content with your accomplishments.

Standing Together

Believe me, you have unlimited man and woman power in your Association and can do about anything you want to do to better promote your business and gain added prestige, more public confidence and respect.

Down in southeastern Oklahoma, a teacher of a mountain school told her pupils, after the examination, to sign a statement that they had neither received nor given help. One big, older, overgrown country boy who had squirmed in dismay and mopped his bewildered brow during the ordeal wrote: "I ain't received no help from nobody and God knows I couldn't give any."

In an attempt to say something worthwhile, no one better than myself fully appreciates what that country boy meant. If I can stimulate your thinking, I am repaid for my efforts.

The membership of this Association, contrary to remarks I have heard outside Texas, is not badly divided. You have your differences—that is expected. You have rather spirited arguments and a few "verbal explosions"—that's wholesome.

The big thing is your ability to forget differences of opinion and continue to work in harmony. Many of us have a reputation of being "rough and ready"—but no one can say you are lacking in good sportsmanship.

I suspect some activities or lack of activities have been criticized by a few members—that's true of all trade associations. The right to criticize is inherent—it's a right we want to keep and a right I am quite sure will be preserved. Criticism is wholesome, but no member has that privilege until and unless he or she has made a contribution in personal service, even though it be small.

The payment of dues is essential because dollars are needed to keep the association axle greased and the wheels from squeaking. Personal service, however, is also important.

I don't want to be disagreeable when I say "too many members of the American Title Association"—and only by casual inference do I include anyone from any state — but "too many of us engage in the unprofitable pastime of speaking in unfavorable terms of competitors." It isn't always true, but a great many times the competitor is as good or maybe better than the "knocker." We dislike to hear anyone "cussing" those engaged in the same line of business. It's poor salesmanship — it's poor association membership, and it's lousy public relations. Derogatory remarks do not stimulate nor inspire public confidence whether made by a realtor, a doctor, a merchant or a title man or woman.

The ethics of the title industry should be maintained at such a high level that no customer, no competitor and no one else would have cause to complain. The members of any profession set the standards, and those standards can be maintained on as high a level as the members desire. Any time we lower the high standards, we undermine those things which we publicly proclaim we seek to maintain.

Reputation to Sustain

Recently you have heard a few of our members criticized for engaging in practices believed to be injurious to the title industry. It was a blight upon the good name of the American Title Association and its members when it became necessary to create a Grievance Committee and provide

ways and means of disciplining and even expelling a member who fails to conduct his operations in a high-class businesslike manner.

Let me make it perfectly clear—such action was not prompted by the conduct of the many. I have heard, however, by the grapevine, that perhaps a few members are not always entitled to "wear a halo and angel wings and are not wholly without sin." Good reputations are not acquired overnight but a good reputation can be lost in a few seconds by a thoughtless act or a business blunder.

I heard of a fellow who was exceedingly jealous of his presumed fine character and reputation. He was traveling by train from back east to California and overheard conversation in the pullman which went something like this: "In my home town I am a community leader—I have a splendid reputation—I do not drink, gamble, smoke or swear. I am a pillar in the church. I cannot afford to do anything which would reflect upon my community standing or my character which is free from taint, suspicion or blemish. Therefore, I must insist that one of you girls get out of this berth."

Yes, Ladies and Gentlemen, the title industry has a good name to protect and a good reputation to sustain.

Our Service

Those who should hear "sermons" seldom go to church, and certainly I do not pose as a "preacher." There isn't a person in America more proud of the title business than myself. It's a great business. No real estate transaction can be safely consummated without our services. We do play a very important part in our respective communities. I'm proud to be one of the thousands of good men and women rendering such a valuable public service. No finer people can be found on the face of this globe than the title men and women whether they be abstracters, title insurors or title examiners.

By far the best years of my life have been enjoyable years and the good Lord has been good to me. I have pounded the typewriter, indexed, checked court and taxes, compiled and closed abstracts, processed and written title policies, handled escrows and closed loans. I've talked shop, traded ideas, discussed mutual problems, attended national, regional and state title conventions and "shot the bull" for more than thirty-five years. It has been a happy experience. I've even enjoyed a few highballs, gone night-clubbing, played cards, told a few risque jokes, and danced with some of the lovely wives of our horrible looking title men.

Being so deeply wrapped up in the title business, we should be concerned with the customs and practices of title people regardless of where they live. Why shouldn't we take notice when a few of our members engage in any practice injurious to the title industry?

Please understand—I do not level this verbal broadcast at any particular state—I am speaking in general terms and what I say applies to title people anywhere who may take more lightly than myself the obligations and responsibilities of title men and women.

A woman sued her husband for a divorce alleging he had been untrue. The judge, not willing to accept such a broad allegation, asked her to be specific. She hesitated and replied: "Well, Judge, I have good reasons to believe he was not the father of my last child."

Personal Responsibility

As individuals, we cannot escape responsibility for our own acts. We are judged by what we are—not what we think we are or what we intend to be. When we sow an act, we reap a habit; when we sow a habit, we reap a character; and when we sow a character, we reap a destiny.

Who, Ladies and Gentlemen, can claim a higher calling than the thousands of men and women engaged in the title business? Who should more earnestly and jealously guard the good name of the title industry than those engaged therein? Every title transaction we handle creates a good or bad impression in the mind of the

customer and that impression results in a good or bad name for the title man or woman.

Oklahoma's beloved Will Rogers once said: "I don't have time to speak ill of anyone."

Whenever I hear competitors talking about one another—and it doesn't matter what profession or business they represent—I think of the judge who was hearing a hotly contested lawsuit. After the evidence was in he told the jury it was his duty to give certain instructions. "If," the judge said, "you believe the plaintiff has told the truth, your verdict should be for the plaintiff. On the other hand, if you believe the defendant told the truth, then your verdict should be for the defendant."

Continuing in a dignified manner, "But, Gentlemen of the Jury, if you agree with me that they both are liars, then, frankly, I don't know who in the hell your verdict should be for."

Good People

In rambling around the country, I have discovered title people are about the same everywhere—no better in one locality than in another, and certainly no worse. We have about the same kind of families, homes, offices and records; the same type of customers and competitors; we experience the same sorrows, joys, disappointments and business problems. We dress about the same, enjoy the same kind of sports and recreations. We get married, have kids, become grandparents or get divorced, pay alimony, live, die and eventually are carted away to the cemetery.

This nation, and especially the title industry, is made up of plain, ordinary, everyday, good people. The existence of an imaginary state line means little or nothing.

Recently, I saw a sign in front of a shoe repair shop which pictured a new brand of rubber heels and a beautiful girl who was saying: "I'm in love with America's greatest heel." Underneath was scribbled in small feminine handwriting: "Too bad, Sister, I married him."

In the title business, you seldom find a "heel." We have many progressive, honest, ethical, capable, efficient, hard-working, Christian men and women. Likewise, you find a few in each state — and they are overwhelmingly, hopelessly, in the minority — who are complacent and feel that they have no community or association responsibilities. For some reason, they can't realize the importance of living a more active and effective life.

Two black crows were sitting on a telephone pole sunning themselves when a jet airplane thundered by at several hundred miles per hour. "Brother," said one of the crows, "I wish I could fly that fast."

"Well," said the other, "if you had two exhausts and they both were on fire, you could do the same thing."

Sometimes I wonder if a few additional exhausts wouldn't create better citizenship.

Out in west Texas, a county fair had as its chief attraction a grand champion bull. An Oklahoma farmer and his family of eleven children traveled all day and night to see the bull which had been widely advertised. The admission was 50c per person or $6.50 — the farmer didn't have that much money. He found the manager of the fair and explained the difficulty. The manager was impressed with the size of the family and inquired: "Are those eleven children yours?" Proudly, the farmer admitted they were. "OK," said the manager, "you can go in free. I want the bull to see you." The moral of that story is "Texans can't always get top honors."

Getting Together

It is the policy of our company to carry our part of the load—association-wise and otherwise; it is important that we get along with our competitors, and it's just about as important to do that as it is to please our customers. If a competitor has a "gripe"—I want to know it. Our five competitors are good men. They too, are interested in making a profit. We sometimes have minor differences but can visit back and forth in each other's homes and offices without the

slightest degree of hesitancy or embarrassment, and that is the way it should be.

We should give the customer the best possible service and do not and should not run our respective offices as "charitable institutions." For a reasonable fee, go the limit in giving a customer whatever he needs or even more or better service than expected. Take the time and explain to the customer "what he gets when he buys an abstract, a title guaranty or insurance policy, and what he doesn't get." It is good public relations and tends to elevate the title industry.

Business is largely dependent upon the goodwill of customers and potential customers. Misunderstanding and dissatisfaction do not create goodwill. To build goodwill is not essentially a question of high priced advertising, or publicity stunts. It's a question of right thinking upon the part of management in business, so it will anticipate the thinking of the public and at the same time conform to that thinking.

A program for creating public confidence, trust and good will must be a part of the entire organization—not a false front or a lot of hooey. One weak link in a public relation chain can upset the entire program. From the messenger to the president of the company — the entire organization must be mindful of good service and must constantly be aware of those things which constitute good or bad public relations.

How the telephone is answered—how customers are greeted, both in and out of the office—how employees dress and act—the neatness and accuracy of the service rendered—all of these things and many others constitute good or bad public relations. "An honest to goodness smile" is an effective "business getting weapon" in the business world, as much so as a woman's tears are at home.

A traveling man sat down at a lunch counter and ordered "ham, eggs, toast and coffee." He was impressed with the friendly good looking waitress and said: "Also, bring me a few kind words."

When the order was placed in front of him, he thanked her and inquired: "Where are the kind words?" She gave him a captivating smile: "Mister, don't eat those eggs."

Yes, you will find a few kind words passed out to employees and customers help to clear a "dusty atmosphere and a cloudy disposition."

Gain Approval

In the title business, production and the sale of a product are not sufficient. No matter how good the product or service may be, let us not overlook the value of educating the public that it may have confidence in the system of free enterprise which permits us to serve.

There is a vast difference between "acceptance" and "approval." Title service may be accepted, by necessity, but not approved. Giving the public more information concerning our business and what we have to sell, together with still better service and more title protection, may result in what we have to offer being both accepted and approved.

The title people in all localities have a wonderful opportunity coupled with a great responsibility. Many people in recent years have migrated from other sections of the United States. There is a considerable "chunk" of outside capital invested in various areas and more of it is on the way.

Those investors and prospective investors came from the four corners of this nation. The customary title evidence in their area may be entirely different from yours. It may have been the abstract, a simple title certificate, an attorney's opinion based upon a record search or abstract or complete or limited title insurance coverage. It's the job of the title industry to sell the public on the soundness of our title evidences.

What those investors think about the title business could well mean the difference between more and even larger future investments. The title industry everywhere could do a much better job of educating the public. What we think of ourselves means but little compared with what the public thinks of us.

I want the officers and employees

of our company to be public spirited and conscious of community responsibility. I want that, not primarily for business reasons, but because we do have community obligations.

We are active in various groups—the state and local bar, real estate, mortgage and home builders associations, the Chamber of Commerce, civic clubs, the Better Business Bureau, and other organizations.

We work in all kinds of worthwhile fund raising projects — the United Fund drive, Red Cross, YWCA, March of Dimes, YMCA, our respective churches, the Hi-Y Youth and Government Program, 4-H and FFA club activities, etc.

Employees are encouraged to take an interest in and vote at every election—national, state, county, municipal and school district. Bond issues and special tax levies are items of importance to all of us. I do not care how large or how small a company may be—how important or how unimportant we may think we are—we have a community obligation. It's a privilege to be exercised and not shirked. You have a stake in the problems of your community no matter what the nature of those problems, you likewise have a citizenship obligation.

More Than Money

Of course, we must make a living—money is an essential commodity. If we are "too busy grabbing the almighty dollar" and do not have time for any association or community activity, our citizenship value is problematical.

Most title men and women are busy people. When you want a job done, however, it's usually the busy person who does it properly. No one has a "monopoly on being busy."

The price of successful living comes high—the price isn't higher than we can afford. To take everything and give nothing in return doesn't seem quite fair or honorable. The public service we render pays good dividends in the form of "self-satisfaction." The amount of the yield depends upon the investment made.

To be truly successful in business or otherwise requires that management and employees be mindful of a good reputation, work hard, have a keen sense of humor, carry our share of community responsibilities—and, lastly, don't take ourselves or life too seriously because we won't live to see the end of it anyway.

There was a "beautiful blonde"—no, let's say a "beautiful redhead" cruising along, in a 45 mile zone, at 60 miles per hour. She already had two traffic tickets. In the rear view mirror, she spotted a Highway Patrol car and knew she couldn't talk herself out of getting another ticket. She stepped on the gas, shot the car up to 75 miles an hour and, a couple of miles down the road, pulled into a service station, dashed into the ladies' room. Ten minutes later she came out. The patrolman was waiting. She smiled at him sweetly and said: "I'll bet you thought I couldn't make it."

Yes, Ladies and Gentlemen, there is always a way of doing a better job if we want to do it.

It's nice to be recognized as one of the progressive citizens of a community—not for the purpose of being in the "spotlight" or receiving publicity, but because we have a "good citizenship debt" to pay.

It is a profitable experience to go out into one's backyard, underneath the blue sky and twinkling stars, and in quiet meditation take a personal "community value" inventory. It's interesting, informative and even embarrassing to list association and community benefits and blessings—then compare those valuable assets with the things we have done—things for which we are proud and should have credit—things we believe to have been worthwhile—add it all up and see if the "account is in balance."

If we honestly find the account doesn't balance, the error or discrepancies must be corrected; if it still doesn't balance after a careful audit, then obviously someone failed to put enough "in the cash drawer" and if something isn't done the account will forever be unbalanced. If, by chance, we find ourselves out of balance and have been negligent in association and community service and have ac-

quired a few bad habits, it isn't too late to replace them with good ones. It isn't too late to get into the swing of things and surprise yourself and friends. It isn't too late to "come out of the restroom" and inquire: "I'll bet you thought I wouldn't make it."

Abraham Lincoln once said: "Be proud of the Country in which you live and so live that your Country can be proud of you."

The Time Comes

One of these days we will ramble on to the end of life's highway in answer to the beckoning call of our Creator and pass into the great beyond. When that time comes, and I hope it's a long way off, but, Ladies and Gentlemen, when that time does come — if our departure causes no appreciable neighborly concern, business or professional loss or regret in the community in which we have lived and made our living, I believe, we have miserably failed in living up to the highest hopes and expectations of members of the title industry.

I assure you, when I grow too old to dream, I will forever cherish the memory of many pleasant visits with good friends and members of many State Title Associations and National Conventions of our national organizations. It is a pleasant privilege to plant in my Garden of Memories another beautiful flower symbolic of each convention I ever attended.

PROBLEMS OF ABSTRACTING

RICHARD E. JOHNSON

Vice President, Wisconsin Title Association and President, Waupaca Abstract & Loan Co., Presiding

(Questions of interest followed by thoughtful discussion; taken from the proceedings of the convention of the Wisconsin Title Association)

The first question that we received is how much we show of old type proceedings; probate proceedings, 70, 80, 90 to 100 years ago, and that sort of thing. I'll come back to these in a minute, but I'll tell you first some of the things that we're going to discuss so that you can be thinking ahead a little bit.

The second question is: How do you handle and what do you show on chattel mortgages?

The third is: What do you show on estate sales? When there is a power to sell under the will and the executor secures a court order authorizing sale, and two or three other related questions in that respect.

Fourth: Do you abstract joint tenancies in the same manner that you abstract estates or do you show them more briefly?

Fifth: What do you do about showing insane proceedings, if any?

Sixth: What do you do about certifying to copies of abstracts?

Seventh: What do you do about limiting your liability?

Eighth: We had a letter written to us about a peculiar situation that they have in Winnebago County in regard to showing obligations under illegitimacy proceedings and agreements. Apparently they are docketed there as judgments and whether or not they can be shown under the law, and whether they should be shown in abstracts is the question raised.

Here is a question that was just handed to us concerning the liability of an abstracter to the person who orders the abstract, and then we would also like to take a few minutes to talk about prices; what do you charge; do you think you could charge more and get away with it, etc.?

Those in general are the questions that we propose to discuss with you and now we'll go back and start with the first one. And I might say that those of you who were at the national convention in Chicago probably followed and had some thoughts about the subject that was discussed there one morning concerning the reducing of the bulk of abstracts. Abstracters have always been concerned and I am sure all of us are concerned with the fact that our abstracts are getting pretty bulky. And what can we do, if anything, to reduce the size and the content of what we put into our abstracts? One suggestion which I understand has been put into practice in some places is that they set an arbitrary figure of 20 or 30 or 40 years and mortgages and satisfactions back beyond that date they do not show, although they charge for them. But that's one way of leaving things out of an abstract.

Now the question that was posed to us first in this connection was this. Assume a mortgage is 50 years old and the person who holds that mortgage dies. The mortgage is subsequently satisfied by the executor. How much of those 60 or 70 or 80 year old estate proceedings do you show in order to show the authority of the executor to satisfy the mortgage? Have I made the question clear? I might say just to commence the discussion that the practice in our company is to abstract estate proceedings completely, whether the estate is 70 years old or 5 years old. We show the petition and the order for hearing; the notice; the publication of notice of hearing if there was any in those days; any kind of affidavits of mailing; the order appointing; the bond and letters; we show the inventory; we show that the mortgage was properly included in the estate; we show the satisfaction; and we show, of course, inheritance tax proceedings. They probably wouldn't have been a factor 70 years ago, but if it comes down to the place where inheritance proceedings are a factor, we show the whole thing.

Now I suppose other abstract companies have had the same experience that we have had. We've been criticized by some attorneys at times, who say that it's not necessary at all; we've shown too much of that old stuff; they're not interested in it; if we'd only show that the letters were in force at the time the executor made the satisfaction they would be satisfied. And when we refuse to do that, they have on occasions taken it to our competitor and instructed him to do it in that way and he has done so. We've lost clients because we've done that. Now we've either got to compromise with our standards of abstrating, or we're going to lose customers; one or the other, and I think that possibly other abstracters in the state have been faced with the same situation. Now that's the problem and I've told you what we have done about it. It's not a satisfactory solution so far as we are concerned, because it has cost us business, frankly. Now I'd like to have some comment from anyone who would like to say what they do, or what we might do, or what we should do.

JOHN ONDRASEK: Referring to that manual of title standard adopted by the Fond du Lac County Bar Association, it is very simple for our position. It is stated there that in such a circumstance, we show the petition; where there is a will, the will, up to the letters and show that the letters were in effect, regardless of the time.

JOHNSON: Do you show the inventory to show that it has been included in the estate?

ONDRASEK: Yes, we show the inventory.

JOHNSON: And if it is down to within the time where inheritance tax proceedings are a matter do you go that far and set it out?

ONDRASEK: If it affects the property.

JOHNSON: Now you've heard from Fond du Lac and Waupaca. Who else would care to venture an opinion as to whether we could shorten that or what we might do?

ALLARD: I believe that if we show have lived up to the spirit of the 30-

that there is no provision in the will where the mortgage has specifically been bequeathed, and then show the letters and that they were in full force and effect, that would be sufficient.

JOHNSON: Do you show the order and notice and order appointing or any of those?

ALLARD: No. If it's 70 or 80 years old, what difference would it make if the order and notice hadn't been completed properly?

JOHNSON: Then I take it that it is your opinion that those matters can be condensed somewhat.

ALLARD: Very much so. I think the will is very important in that instance, but I don't think the inventory is. And as far as the inheritance tax is concerned, I don't think it has any bearing on it at all.

KNISKERN: Lee, may I ask you a question? If that file should show a discharge would you show that to show that the letters were in full force?

ALLARD: That's what I say. You show that the letters were in full force and effect on the date of the execution of the satisfaction.

JOHNSON: Do you do that by an abstracter's note or by showing the discharge?

ALLARD: By an abstracter's note and you get a buck for the entry of your note.

JOHNSON: We're always interested in that subject. Apparently it seems to be the consensus that the estate proceedings must be shown to some extent but they can be condensed beyond what you would do in a current proceeding.

ZERWICK: For anything beyond 30 years, all we'll show is what is in the Register of Deeds office. If it's less than 30 years, all we'll show is the mortgage, the satisfaction, and that the letters were in full force and effect. We assume that if the will does affect the deal we'll show the will. If it doesn't we don't show it. And we show the letters and will if they are of record in the office of Register of Deeds. If the estates are less than 30 years we abstract our estate proceedings in full. But we year law practically by action of the bar and we do get by.

JOHNSON: Does anyone else desire to express an opinion, either pro or con?

SCHMITT: I've heard the expression that mortgages past 30 years are treated differently. In Oshkosh, we show in connection with a testate person, enough of the will to show the deceased person's appointment of an executor; petition, order for hearing, affidavit of publication; decree admitting, bond, order for bond, letters; inventory if it is included; and a note that there is no discharge of an executor or administrator; or if there is a discharge the date of it. We do not determine whether the letters are in force or not. We simply state that there is no discharge, or if there is a discharge, when it was dated and filed. We let the attorney determine whether the release was within the time that the executor was acting. But to me, if it doesn't mean anything; if we want to go on record then that anything back of 30 years means nothing; then why show anything; why show the mortgage; why show any probate? If it means nothing to our product, then we're asking for money that we're not entitled to.

JOHNSON: I take it then that the way we've been doing it is substantially in compliance with the way you've been doing it. Is that right?

SCHMITT: That's right only that you might show the will more in full than I do. I see no reason, unless the mortgage is specifically bequeathed to some person, to show more of the will than the appointment. I wouldn't show any beyond 30 years because we know back of that our 30-year statute is very definite. I would never show inheritance tax proceedings.

JOHNSON: But I take it that whether it's 30 years or not you show the estate proceedings rather completely down to the appointment of the executor or administrator.

SCHMITT: That's right. But I feel that if it is not important, then why should we show anything?

JOHNSON: I suppose that in a

manner of speaking, John's answer was about the conclusive one; that you do follow what the bar association in your locality insists upon, and it's easy where your bar association is unanimous but it is quite difficult where they're not. We've had two viewpoints on the thing. I guess you can take your choice. There's no categorical answer to any of these questions but we thought it would be interesting to you to know how other people do it.

CARLSON: In County Court of Dane County they have taken the estates over 30 years old and have got them on microfilm. Now what would we do if we had to show as much as these other parties here have to show. We'd have to go over there and put the microfilm on and be over there all day.

JOHNSON: I'm not an expert on microfilm transcribing or otherwise. I can't answer that. Leonard, can you amplify that?

FISH: Well, I think what Bob's getting at is that our county is the first to take advantage of the law which allows counties to microfilm some of their old records and destroy them and get rid of them. They've done it in several of the offices; county court, county treasurer's office, and in county court they went back and they have microfilmed all of the county court files and they have been removed from the building and turned over to the state historical society. They look through them to see if they find any historical importance. If not, out they go. So the point is that the microfilm that we have to use when that happens at the court house (which is different from that we use in our own office) is not too good and it is difficult to transcribe. And it's not only the time. Even if it were good, it would be very difficult for us to have to go over there and run all through that and copy it all down. Certainly we have an advantage that some of you don't have. We are able to take what files there are over to our office on court order and then return them. The point is, that if we did have to go back of the 30-year law, and our county is within their rights to do that, it's on the statutes, it would present quite a problem.

JOHNSON: I suppose that's a problem more peculiar to your own county than of general concern, at least at present. You have heard two sides of the argument and I'm sure that I can't settle it. We are committed to one way of doing it, and Leonard's firm is committed to another. Apparently there is some equal division at least as to how these matters are handled.

I'd like to move along to the second question which has also provoked considerable discussion, I know, at some of the regional meetings and perhaps you will have some differences of opinion on that. It relates to conditional sales and chattel mortgages. Now so that we are agreed on what we are talking about I assume that the question is striking at conditional sales contracts and chattel mortgages which apply to such things in our county at least, such as silos on the farm; heating and air conditioning equipment when they put them into a home; plumbing equipment; furnaces; all those things that they put in there under conditional sales contracts and sometimes under chattel mortgages. Where they are properly filed in the Register of Deeds office. Now do you carry them in your tract indexes and do you put them on your abstract or do you take the position that chattels and conditional sales contracts are none of your business? What do you do?

And again just to start the discussion at least I would say that in Waupaca County, we have an understanding with the Register of Deeds that one of her girls who takes care of the chattel records for her keeps track for us of all chattels that she thinks we might be interested in. And the man who posts our books, checks them every day and posts in our tract indexes any chattels that we feel affects matters that could be covered by an abstract; silos, heating and air conditioning equipment; things that when a person buys a farm he might be surprised to find a

company coming in and hauling a silo off if we didn't show it in our abstract. And we show them. That in brief is how we get them, and that is what we do. I don't say we're either right or wrong.

Is there anyone here from Brown County? Green Bay? Without offering any form of criticism whatsoever, because probably they're wiser than we are, they have specifically exempted from their abstracts, chattel mortgages and conditional sales contracts, in their certificate. They say they're not going to be bothered with it. The record that the Register of Deeds keeps is insufficient for us to get them, so they just except them in their certificate. They have no problem and maybe they're far wiser than we are. It, of course, does not conform to our uniform certificate, I don't believe. I think under our uniform certificate it would be my opinion that we might be stuck.

KNISKERN: In Oneida County we take the same position that Brown County has. We make a special note right on our certificate that we make no attempt to include them. But in a special circumstance, if an insurance company, like the Title Guaranty Company requests us to certify, then we do. Our general run-of-the-mill work we take that same position, however.

JOHNSON: I understand that you put a special provision in your certificate then, which is not in the uniform certificate.

KNISKERN: That's right. In our particular county it is very difficult to get at them.

JOHNSON: That possibly leads us to a question that if that's a general practice, our uniform certificate should either be changed accordingly, or one or the other. It's my opinion, and Howard maybe you or some of the other legal minds here can correct me, that we are liable for such matters as that under the uniform certificate. Would that be your opinion?

HOWARD KORNITZ: That's my impression. I haven't looked at the uniform certificate.

JOHNSON: Ralph, do you have an opinion as to our legal position in those matters?

RALPH SMITH: We never show chattel mortgages in abstracts. I don't believe our title department has ever requested any abstract company to show or certify as to chattel mortgages.

JOHNSON: What about conditional sales contracts?

SMITH: That's different. We certify to conditional sales contracts.

KORNITZ: Well, the difficulty comes as you go from one county to another. Time and time again your local bar association will mistakenly interchange on the title page of the document he files, the term conditional sales contract, and chattel mortgage, and tend to mix them up all the time. So far as I'm concerned the practice you are using of scanning them all is the most desirable practice and grabbing on to anything that might be affixed to real estate.

JOHNSON: We have the uniform certificate here and it seems quite clear that we would be liable. And if a farmer came in to you and got an abstract and it showed nothing against his property, and he purchased it on the strength of that abstract, and he got out there and the next day some company came out and hauled the silo away, it's my personal opinion that you would be in hot water for failure to call his attention to that liability.

ALLARD: In that uniform certificate, it was a give and take proposition. I don't know how many of you people remember that. I think that was adopted in 1947 in Eau Claire and Harry Schmitt, Soren Johnson and Tine Atwell all worked on this thing and it was the committee's feeling that we should except chattel mortgages and conditional sales contracts from our certificate. But in order to have this thing accepted by the association as a whole, we kept our certificate open with the understanding that the choice be left to the individual member. But I still think that certificate should be amended in some respect as to conditional sales and as to chattel mortgages. That should be a separate distinct service.

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JOHNSON: Purely as a matter of information, would you mind showing hands of how many except those matters specifically in their certificate? Nine or 10 counties at least except them in their certificate now. How many, who are here who use the uniform certificate, make no search at all for conditional sales? I'm assuming a properly executed conditional sale contract now. They would be posted in those counties that carry a tract index. We have no county tract index and we've got to do the posting, if there is any, which we're willing to do in order to keep the county tract index out, I might say.

ALLARD: Now let me ask this question. We'll say, for instance, a silo located on the farm of John Jones in the Town of Alloway. Is that proper notice or isn't it proper notice?

JOHNSON: Probably not technically proper notice under the statute. Property, as I understand it, must be described with definiteness.

ALLARD: Well, then, those of us who are maintaining our own tracts are posting just as to descriptions in conditional sales contracts would catch them and then we're covered.

KORNITZ: A street address is sufficient description.

JOHNSON: That's right. It's a difficult problem and I think it might be well to refer it to our committee on uniform certificates to consider whether or not there should be an amendment of our certificate. It's always been my personal feeling, and I think it's shared by most abstracters, that it's bad to have your neighbor in one county doing one thing while you are showing something different. And if a considerable portion of the counties in the state are excepting them specifically, it would be well if we can reconcile that difference so that we all do it one way or another, if we can. It seems to me that this is one of the purposes of our association. If there can be a way that we can amend our certificate or do something to bring this into uniformity throughout the state, I think we'd be doing ourselves a favor. Well, that's another question that we've had a chance to get a difference of opinion on, but I think it's a matter that our association could profitably consider as a whole so that my neighbor to the county on the left and in the county on the right will not be following a different practice than I. That type of practice does not reflect credit on our association and it is a problem which we should attempt to solve. Well, that resolves the question of conditional sales contracts.

The next question that was sent was one that was written to me and the question had to do with how much you show in estates. Where there is a power to sell under the will and the executor goes in and gets a court order anyway, do you show the court order or do you take the position that you show the will and the sale and that's sufficient?

Our practice is to show the court proceeding, the application for the sale, and the entire proceeding on the theory that the attorney who did it must have had some reason for doing it. It's generally considered amongst attorneys, good practice to do that because they're less apt to have an heir come back later and say that they might have done something different. If he gets an order of the court, even though he has an authorization in the will, it's wise to do that. Is there any difference of opinion on that? I doubt that there is.

The next question is one that I will discuss though under the same question, generally speaking, sales under estates. You get the executor appointed, who goes in and makes application to sell. Maybe he hasn't any assets in the estate at all except a piece of property, and he sells, distributes the assets, and he has the abstract brought down to date at that time, and gives it to the purchaser. Now after the sale is confirmed he'll go ahead and file his final account, and have inheritance tax proceedings, and finally assign the estate. Now if you get the abstract a year or two later, do you then go back and show those inheritance tax proceedings? I think that's the question asked here.

COMMENT from the floor that if

an abstract under those circumstances comes back a year or so later, inheritance tax proceedings are shown along with the balance of the estate.

JOHNSON: I would think that would be the general practice but I'd be glad to hear any comment to the contrary.

ZERWICK: We've done it and we haven't done it and I'm very much interested in it. How can you actually justify doing it? If the sale is good and the order to sell and the order to confirm it, is there, how can you justify putting in the proceedings later?

JOHNSON: Otto, let me ask you this. Do you take the position that the inheritance taxes are not a lien against real estate once it's sold under the order of the court?

ZERWICK: I think probably there should have been a release at the time, but if there isn't, the sale has gone on and it's apparently been accepted, and that showing would sort of follow a collateral chain of title.

JOHNSON: Wouldn't a title examiner ask you whether or not inheritance taxes have been determined on that piece of real estate?

ZERWICK: In that situation, we'd wait until he does.

JOHNSON: Well, I would say that we don't. If there are inheritance tax proceedings, we show them on the theory that, as I understand that statute, whether you sell under the order of the court or whether you use that new statute where you can sell for the good of the heirs or the estate, you can sell free and clear of everything except inheritance tax.

ZERWICK: In practice I think that almost invariably you will find a release.

JOHNSON: I think that is the best practice but I wouldn't say all the attorneys do it that way. Some of the attorneys fail to get the release, and sometimes it's difficult to get it. I know that from personal experience.

ZERWICK: We feel that the final judgment as a recorded instrument might affect the title so we show it, but it bothers me to justify it.

JOHNSON: I take it then, that you generally follow that practice, but you're in doubt whether it's necessary or not.

FALLER: I think that's an excellent subject to discuss because it creates several problems. For instance, the abstract is extended at the time for the purpose of a particular sale. Three years later it's re-extended and then there are two or three pages of additional probate on there and then the owner says "Why, I haven't done a thing with it. How come?"

JOHNSON: That's the exact problem. I think that is the question being asked in this letter that was written to me.

FALLER: I might add that our policy is to account for the inheritance tax under any circumstance, and I am rather of the opinion that we will lump the rest to summarize it by some kind of a note.

JOHNSON: But you are of the opinion, I take it, that the inheritance tax proceedings should be shown.

FALLER: Very definitely.

JOHNSON: Could we have an expression from the ladies. Albia, could you tell us what you do in that connection, or how do you do it?

ALBIA HEAL: My practice is — never be afraid of showing too much. We are awfully afraid of showing too little. I would be inclined to show the complete proceedings.

JOHNSON: That's the way you handle it in your locality. We want to cover various localities of the state. Tom, what do you do in LaCrosse?

TOM HOLSTEIN: We're so far behind the times, we don't even show what's in probate court. They don't even want me to show it in my certificate. I haven't got any problem.

JOHNSON: I'll say you haven't. Have you got room for another abstract company up there? Does anyone else care to express an opinion?

ROBERT BUELL: Speaking as an attorney, I don't see how you can escape showing payment of inheritance taxes, even if it occurred after the date of an administrator's sale. The statute very definitely makes the tax a lien against the property and it remains a lien. There is no way of removing it except as this gentleman points out, by waiver by the tax com-

mission or by proper proceedings in the estate to show the tax paid. That is the view, I am sure, taken by the bar association. It should be shown because certainly those taxes are not paid or the proceedings should be shown if they are subsequently paid. There is no necessity that I can see to show other proceedings in the estate subsequent to your administrator's sale because they have no bearing on the chain of title, excepting the one problem involving the inheritance tax.

QUESTION: How about the claims?

BUELL: It it's sold by authority of the court to pay claims or for the best interest to the estate the creditors lose their interest in the title, I would say.

JOHNSON: I think that's right. I think that's the opinion of the bar association under that new statute.

KORNITZ: I agree very much with Mr. Buell on that, except I'd qualify it in one respect. I think it's vital that a short statement with respect to the final decree be included. I don't believe it should be shown in full but it should be shown that final decree was entered on such and such date assigning property other than the above described premises. I've seen it happen many times where you'll have a sale in an estate and the final decree is entered and somebody forgets about the sale and the final decree comes through assigning the property anyway. For that reason, a short statement as to the entering of the final decree assigning property other than that covered by your sale, should be made.

JOHNSON: We also ran into a rash, recently in our company, of mortgages in estates where the final decree has been entered assigning it specifically and then a few days later, the executor satisfied it. Obviously, he's raised enough money; he's either sold them or collected them so that he could distribute the funds to the heirs, and that creates quite a problem as to the status of the title. Well, is there anyone else who would like to talk on this matter?

FALLER: I would like to ask Howard what his view is or what the practice is, where the final decree, after the property has been sold as Howard pointed out, the property sale is lost sight of and they go ahead and assign it?

KORNITZ: It creates a flaw in the title.

FALLER: You'd show it in full then?

KORNITZ: Yes, I think I would be inclined to show it in considerable detail then.

FALLER: Would you then follow through with the entire estate, or would you still summarize it?

KORNITZ: No, just the inheritance tax proceedings and the final decree I think.

JOHNSON: What about claims if it is assigned by final decree? I guess we're getting into some off-street questions. Well, we have some other matters to discuss and I don't like to hurry these questions, but I want to get to all of them if we can.

ALBIA HEAL: I have a practice of listing the papers and, if there is something particular, then I'll abstract it in my own words. I don't like to copy quite as fully as some of these others. Wonder how I get by with it, and also wonder what some of the attorneys here think about it.

JOHNSON: Well, I am sure that it is a matter of local acceptance. Now in our county the bar association will not accept that. In other words, as I understand it, you will say Petition filed, Order, Notice, and that's all.

HEAL: Only I say what that order is about.

JOHNSON: But I mean, for instance in the petition in an estate, do you just say petition filed?

HEAL: Petition duly verified. They want me to recite that it is duly verified.

JOHNSON: But our attorneys want to know who has signed the petition, and whether they have the authority to do so, for one thing. So you've got to show who has signed the petition; whether they have the interest in the estate to sign the petition in the estate, first of all. If it's a creditor, he hasn't the right to petition, except after a certain lapse of time; and if

it's an heir, they have the right, etc. In other words, they ask us to show the petition and on what authority it is signed, etc.

HEAL: For Mr. Holstein's benefit, in our county in a circuit court proceeding, very little or none used to be shown. I've just kind of come along, feeling my way, showing them, and I get away with it and I think he could too.

JOHNSON: Well, our bar association requires that we set forth estate papers quite in detail and we do, although we receive criticism from attorneys out of the county. Some counties don't do that. They say we're trying to run up a big fee.

HEAL: We've had some attorneys come up from Fond du Lac County and practically faded away, because we didn't show anything.

JOHNSON: Let me ask you one other thing that I heard discussed at one of the regionals too, and it was this. What do you show as far as the payment of inheritance taxes are concerned? Do you show the amount that has been paid, just the receipt, or what do you show?

HEAL: Inheritance receipt in full has been filed.

JOHNSON: What I am getting at is this. We ran into one the other day where the inheritance tax hadn't been determined for some 6 years after death and under the statute, they are liable to a penalty. And I guess the court can order under that statute that it be limited to 6% if they can show good reason why it wasn't done sooner, otherwise it runs up. And the court had entered no order, hadn't done anything, but they took a 5% deduction after 6 years and paid it and the treasurer accepted it and gave them a receipt in full. Now we showed the order determining the inheritance tax and the amount paid. In other words, rather than just saying "receipt filed," so that the attorney examining the title could determine for himself, if he caught it, that there might be a catch there. Our attorneys require that we show all those matters in detail for such reasons as that.

HEAL: Our attorneys don't require anything.

JOHNSON: Well, it's a mixed blessing. You don't get to show quite as much and that makes your work that much easier, I think.

Well, I'd like to move along. Now I believe that this next question is provoked by the fact that different counties handle the termination of joint tenancies in different ways. I know of two counties adjoining mine, also adjoin Harry Schmitt's and Al Achten's, where, when they have a joint tenancy, they show the death certificate and the certificate terminating the joint tenancy only. I don't know whether that's a widespread practice or not but I know that it's done in two counties adjoining ours, as you know. Now does anyone have a comment on that? They don't show anything except the certificate. They show the death certificate, and I don't know exactly what that means but they show it. That's true in Brown County and in Outagamie County. Our attorneys pretty near faint when they find that and they won't take them. They send the abstracts back and then the prospective purchaser goes to the same attorney in Appleton and he'll pass it. They all pass it there it seems, and it's a problem.

Now, just by way of discussing it, we show joint tenancy proceedings in the same manner we show estate proceedings, the same detail exactly. We follow the same form, show the same things in the same way. We show the petition in as much detail as we would for an estate; show who's petitioning and why and what they say in it; that the joint tenancy was created in such a way, just like the petition says, down to wherefore they ask for a certificate.

HEAL: It repeats it all over again in the certificate.

JOHNSON: It does, but we show it. Then we show the inventory of course; we show inheritance tax proceedings; proper notice; if there's a waiver, which they usually do in joint tenancy proceedings, the waiver of the public administrator; and notice of appearance if it's noted in the public record; the order determining

the inheritance tax; and then the certificate; in the same manner that we show an estate.

HEAL: Do you show all of that if it's before 1947?

JOHNSON: Yes, we show if it's there. Although I am aware of the statute that says that if the certificate says there is no inheritance tax due, you don't have to go back any longer and get the notice of the waiver, but if it is there we show it.

HEAL: What do you do on the showing of life estates?

JOHNSON: This has become more unilateral than we had intended. What do you do on the showing of life estates? Is there anyone who doesn't do it the same way as in joint tenancies? Well, I guess we can move on to something else.

We had a question about insane proceedings, which is a nut cracker, too, I am sure. My father, who liked to have complete records, at one time set up a complete index of the insanity proceedings in Waupaca County, until the County Judge threatened to arrest him and made him promise not to show it to anyone, and that was the end of that. I understand that some people get an order to go in and examine the insane index on each abstract. Are there some who do that? I believe that Lee does.

LEE ALLARD: Yes, we have a special order from county court. We make our own index as far as insanity is concerned and we're not in jail yet. But we're not allowed to show them on an abstract. We can call the attorney or the bank or the realtor and tell them that they had better make inquiry in connection with the sanity of a certain person. I don't know how good that is, but we can't show them on our abstract of course.

JOHNSON: But you do search them and you do keep an index.

ALLARD: Oh yes.

JOHNSON: Is there anyone else in Wisconsin that does that?

FALLER: Until a few years ago we showed them, but now we except them in our certificate as impounded records.

JOHNSON: Because a lot of certificates say that we show everything filed or recorded in the office of the County Court, (Comment from the floor: "That affects title to real estate. They cannot affect title to real estate if they are impounded") — I guess that's probably so.

There is one other question that I would like to call to your attention and that is the question of copies of abstracts. Many of the persons here today, when they knew that question was going to be discussed, said that they had some experience with them. They have been asked to certify copies, or they have been asked to add continuations to copies of abstracts. We have not had any problem in our county because there is no county tract index. There are only two abstract companies there and we've been very strict in refusing to make certified copies, or to certify them, and we won't continue them, so they have kind of gone out of existence. But Al Achten told me that someone called him up just within the last week and asked him how much it would cost to certify to a copy of an abstract of some 60 or 70 entries. Is that a problem that any of the rest of you have faced?

ONDRASEK: We have it quite consistently in Fond du Lac County where copies come up where, in a lot of instances, they're made by law firms. In order to pass present standards, it has to be what we call recertified. We then recheck our tract and check to see that the essential information is in each instrument and recertify at one-half the regular charge.

JOHNSON: Is there anyone who certifies to copies that you do not make? Is there anyone who makes copies of their own abstracts and just says it's a copy and not an original abstract? Or anyone who will make copies of any other abstract and just say they are copies?

KENNEY: We've had a practice down in our county for quite a few years, especially with cheaper lots, they have mimeographed copies of abstracts, and since the photographic process has come in, we've been making photostatic copies. We have certified that they are copies of the abstracts. We don't certify to anything

further than that or assume any liability on it. But once in a while, and it doesn't happen too often, they have asked us to certify or to make out a special certificate that all of the entries are shown on the abstract. We don't certify to the correctness of it, but just that they are on there.

JOHNSON: You take no liability on your certificate then. Well, it's our practice to refuse to continue or to have anything to do with copies in our county and it's a problem no longer. Well, I take it that copying is pretty much of a local problem and some counties don't face it at all and other counties are coping with it as best they can. I can only quote my father again who thought copies of abstracts were the worst evil in the world next to a county tract index. But we don't face either in our county so we are not in a position to discuss the problem.

There is one letter that Al just handed me concerning illegitimacy in Oshkosh. Harry, this affects your county. We have a letter in which they state that apparently illegitimacy agreements, which I understand are entered into under Chapter 177 of the statutes whereby if a person is accused of causing an illegitimate child, he can come into the district attorney's office and sign an agreement whereby he denies paternity but agrees to pay so much, and that agreement is approved by the Circuit Judge and is filed with the Clerk of the Circuit Court. But it's not a public record as I always understood it and never attempted to look into them or show them or anything else. If, however, he defaults in the payments, then the district attorney may reduce it to judgment and it is assumed then the judgment would properly be shown as a money judgment. That's my understanding of it. I don't know whether I missed the point of this letter. Harry, is there any particular problem in your county on that?

SCHMITT: Well a judgment, in the matter of an illegitimacy judgment, I can't see how the abstracter can omit it if it is a matter of public record.

JOHNSON: Well he says here that an attorney in his county has indicated that it is his opinion that such judgments are not supposed to be docketed and should not be included in an abstracter's search. I, as an attorney, disagree with that as a district attorney who handles a good many of them. I don't believe that's the law.

SCHMITT: The district attorney of Winnebago County is a Menasha citizen, and I have had occasion to deliver to him abstracts showing such type of judgment. He has never raised that question.

JOHNSON: Has anyone else had that problem? I think it's probably local and we won't spend any more time on it.

There was one other question just handed to me. It asks: "How much liability does an abstracter have when his certificate states: This abstract is furnished at the request of John Jones." I note that some of the sample abstracts around this room state, either on the front, or somewhere in the abstract, that the abstract is prepared for so and so. I believe our certificate however now reads — at least we have a provision in ours to the effect that anyone who relies on it is covered. I believe that if you limit it though to the fact that your abstract is prepared for a certain person only, that your liability is limited to him. It's a contractual relationship as I understand it. Your liability cannot go beyond the person with whom you have contracted. I think generally speaking, however, abstracters have always felt that if someone else got that abstract and relied on it to their discredit or disadvantage, that the abstract company would be morally bound to do something about it, and have. But it would be in my opinion that if you had that phrase in your certificate that you would be limited in liability to that person only.

HEAL: A minute ago, Leonard mentioned that he had a court order giving him the authority to remove a county court files to his own office. What court gave him that order?

FISH: Well, it isn't an individual court order. On each file we take, we sign a card. I think that the county judge gives us permission for the

withdrawal of the files and that card remains on file with the court, and when we return the file, the receipt is signed.

ZERWICK: I have one little thing and I should have written the question, but it's comparatively simple, however. We are troubled with powers of attorney. When do you show them? We've showed them when the party giving the power of attorney gets into title, and then we've waited until the power of attorney is used. I wonder if any of you have worked that out satisfactorily.

McINTOSH: In Fond du Lac County, we only show them when they are used.

JOHNSON: O.K., that's a good, succinct answer. Is there anyone who does it differently—show it whenever they find it? Otto, what is your practice?

ZERWICK: Well our last practice is to show them only when they are used. Of course the other way you always had the problem of the power coupled with an interest and that was our excuse for showing them. But it seemed to create a lot of resentment and it created a lot of problems. Lots of times they were on there when they weren't used. So we've switched to that scheme.

JOHNSON: Is there any other matter that you would like to bring up?

JEAN GUNTER: This is a matter of ethics, naturally, and I think that probably anybody who has run across it probably would do what I have been doing with it. But I just wondered if anybody else had had the problem. We have the problem of having our caption sheet on our original abstracts being covered by a caption sheet being written by a competitor, containing advertising material, containing the same description and numbered 1 (a) and certified to. I've been removing them and putting them back with the same fellow's certificate.

JOHNSON: I'd employ the same firm of attorneys that Leonard Fish has and have some litigation I think if I were faced with that problem. Has anyone else been faced with that problem? Certainly it is unethical from every point of view, I would think.

FEINGOLD: The same competitor also puts on a statement that he is insured with a certain insurance company, a liability insurance company. What is the remedy as to that?

JOHNSON: Well that's another one that is a nutcracker that we can spend all afternoon on, I think.

FISH: I think it is a matter though that should be called to attention. We've seen quite a bit of it. We had one by a non-member which we saw in big bold black type, the biggest he could get. Across the bottom he had "This abstract is insured by Lloyd's of London" and that was the exact wording. Then we have another one just like Leon's where they carry the statement that you are protected by the fact that we carry $100,000 insurance with such and such a company. Now we can state like Leon says that the insurance companies themselves do not favor the advertising, especially on the product that's going out, to the effect that it is insured in that way; but some of the title companies are doing it, and I do think it is a question well worth some discussion.

JOHNSON: If it's statewide, it's probably well worth the attention of our association.

HEAL: You mean you don't want us to advertise that our product is insured?

FISH: I think it is a little misleading. In our county it has developed this way to a certain extent, that it is being interpreted by some people, and especially the laymen on the street, that it is like a bond and once you buy an abstract and it's covered by an abstracter's liability insurance, he's protected forever, no matter what happens, like you would be if there were a bond.

JOHNSON: Well I believe our time has run out and I am sure this matter should be given attention at some later date. Thank you for being so patient.

REPORT OF JUDICIARY COMMITTEE

F. WENDALL AUDRAIN, *Counsel,*

Security Title Insurance Company, Los Angeles, California

At the A.T.A. meeting at Oklahoma City several title men mentioned their companies' having been sued by their insureds, on causes of action, based, not on the policy, but on the ground of negligence, misrepresentation and other non-contract theories. Presumably the plaintiffs had in mind to thereby escape the specific dollar coverage of the policy, where, at the action date that coverage was deemed inadequate to cover the claimed loss or damage.

My own company is currently a defendant in an action where the insured seeks damages in excess of $50.00, based on misrepresentation in that had the policy not issued, the plaintiff, the insured, would not have parted with her money.

The manner of disposition of such claims by the other companies was such as to afford no conclusive judicial rule for use by other insurers.

* * *

Most title men would be reluctant to regard the contract relationship found in their evidences of title as being a relationship having arisen from the kind of negotiations which usually precede the execution of most contracts. That is, that preceding the issuance of a policy of title insurance, the negotiations were of the character that could allow the presence of those familiar "damage" words such as "induce," "deceive," or "defraud." Most title men regard their liability as being on their contract and do not see themselves as having an alternate liability wherein the insurance contract is an incident to a cause of action for damages in amounts beyond the contract.

* * *

Mr. Stonecipher, Vice President of Union Title Company of Indianapolis, calls attention to *Groves* v. *Burton*, 123 NE 2nd 204 (Indiana) which is a case wherein effective use was made of the doctrine of virtual misrepresentation.

This old equity doctrine enables the reaching of persons not in being by judicial decree so as to secure a present equity court solution of problems now obviously requiring equity relief.

The excerpts from the case which Mr. Stonecipher sent to me contain a number of important references and citations relative to the use of this doctrine.

Many title company counsel have been able to substantially assist counsel for the customers of their company by being able to point out the use of this doctrine where applicable.

* * *

A perennial subject for discussion: The title company is asked to issue a policy for an owner based on an examination of the public records. Hence, for this policy the land is not inspected and no survey made. Concurrently the title company is asked to write an ATA policy for a lender and the company finds matters on the ATA inspection which it is willing to insure over for a lender, but which it would have shown were it issuing a policy of similar scope for an owner, such as a "full protection" policy as distinguished from an ordinary "record title or standard" policy. Thus, the title company has actual knowledge of matters which some companies do not discuss with or disclose to its owner insured. The arguments pro and con need not be given here, for they are well known to most title men.

I have before me a brief wherein able counsel, suing on a policy of title insurance made much of the actual knowledge of an insurer, whose policy did not disclose the effect of that actual knowledge, and which insurer, according to the insured, should not

have undertaken to write the policy in the face of such knowledge.

For example, this plaintiff insured argued in its brief:

"Defendant has stated that actual knowledge of the title defect on its part is immaterial, in that the subject title insurance policy is intended to insure only against defects shown by the public records which impart constructive notice."

"Defendant has attempted to limit its liability by reference to the recording statutes—'facts shown by the public records which impart constructive notice'—without assuming the same liability that anyone else dealing with the property under the recording statutes assumes, namely, the duty to take cognizance of the title matters of which it has actual knowledge irrespective of whether the recordation has been such as to give constructive notice. Plaintiff submits that defendant cannot use the recording laws in such a manner."

"If defendant title company is not bound by the facts of which it had actual knowledge, which facts indicated there was a defect in the title, then the insurance company is being allowed to practice a fraud on its customers. The act of insuring the title becomes a hollow gesture when the insurer knows that title is defective and remains silent in reliance on the recording statutes."

In partial contrast to that insured's view is a 1934 case, 220 Cal. 629, wherein a plaintiff unsuccessfully sought to impute to an insured defendant the knowledge of the title company, of a matter which while of record was outside the rules of constructive notice.

The Court, in discussing the relationship of the title company to its insured, said in part:

"Lastly, assuming the instrument to be one encumbrancing real property at the street address given, was knowledge of the contents therof by the title company, imputed to the mortgage company, when it agreed to accept the policy of insurance and complete the loan?"

"Was the title company, in tendering the policy of title insurance, acting as the agent of the mortgage company in the matter of the title to this property?"

"The insured and the insurer deal at arm's length. There is no room for the operation of a fiduciary relationship. The title company is in business for profit. It may be willing to assume risks that the insured might think imprudent. The duty to report its findings as to the nature of the title of the property involved to him is nowhere enjoined. The fact that the company often reports its findings preliminarily to him is not evidence that it is compelled to do so. The wisdom of doing this, except in cases where the insurer demands the correction of defects of title before issuing its policy, is not apparent. Under such a hypothesis, it could be said that in every insurance transaction of whatsoever type, the insurer is the agent of the insured. Much more reasonable would be a holding the reverse of this contention."

"Said title insurance company was not the agent of plaintiff, and any knowledge it may have possessed as to the condition of the title was not imputable to plaintiff."

The foregoing suggests some of the areas of thought involved in making a decision as to what to tell an insured owner, when a concurrent ATA search is made.

MANAGEMENT OPERATIONS

(COMBINATION ORDER BLANK AND WORK SHEET)

We show on succeeding pages the combination order blank and work sheet evolved by the American-First Title and Trust Company, Oklahoma City.

The job consists of seven forms, of different color. Printed and padded with one-time carbon between each sheet, the forms are distributed to different departments of the company and to outsiders if necessary. When each department has completed its work, they are all re-assembled at a central desk accompanied by other files, if there be any, and with all data necessary to complete the file, to write the title policy and/or to close the loan.

In successive order, the forms are of different color, being white, green, blue, pink, yellow, pink and white. The over-all size of the padded forms is 8½x12.

The first form is labeled "Court Search Information." The third form, blue, is a duplicate. The blue form remains in the pending guaranty file while the original (white) of the "Court Search Information" is being completed.

The second form (green) when written up makes of itself an order for transmission to an outside surveyor. Since this sheet leaves the premises of the title company, a copy is retained, being the 7th form. That last form immediately goes to the Central Desk where, in the Loan Closing Department or Guaranty of Title Department, one can immediately observe that a survey is to accompany the file; and that said survey is to be the work of an outside engineer and who he is.

We are told by the company that the pink form, the "Tax Information" form, alone is worth the cost of evolving this combination order-work sheet padded form. Formerly the company relied on information sent to the title company office in haphazard fashion and shape, sometimes even by telephone. This resulted in embarrassment where errors crept in, where there was incorrect information given out of the tax office; occasionally, perhaps more than occasionally, there was actual money loss by reason of this incorrect information. There was needless repetition of request for tax information, resulting in considerable confusion. There were claims the title company office employees had misinterpreted the telephonic report.

The combination order-work sheet form consists of seven different pages. The cost for 50,000 was $1700.00. The company estimates the use of these will result in an actual money saving in operations of $3,000.00, this plus greater efficiency in that the guaranty and/or loan closing file is handled in orderly style and with the possibility of error materially reduced.

We would like very much to receive, for use in Title News, a word description, accompanied by the proper exhibits of forms, etc., which other members have adopted. Perhaps you have evolved some new form or new method which other members, modified to fit their local situation, could adopt. Tell National Headquarters what you have done.

—J.E.S.

To: GUARANTY DEPARTMENT
AMERICAN FIRST TITLE & TRUST COMPANY

Date _____

Application and Order for Preliminary Certificate
for Guaranty of Title

Loan Number :

Borrowers :

Mortgagee :

Street Address :

Legal Description :

Ordered By: _____

COURT SEARCH INFORMATION

BOOK	PAGE	KIND	GRANTOR	GRANTEE	DATE

BOOK	PAGE	KIND	GRANTOR	GRANTEE	DATE

Copy number 1, printed on white stock.

From: AMERICAN FIRST TITLE & TRUST COMPANY
219 Park Avenue
OKLAHOMA CITY, OKLAHOMA

Date _____

To:

Loan Number :

Borrowers :

Mortgagee :

Street Address :

Legal Description :

Please furnish Loan Survey on above described property

Deliver to: _____
Loan Closing Department
American First Title & Trust Company

Copy number 2, printed on green stock.

Copy number 3 is the same form as copy number 1, except it is printed on blue stock.

AMERICAN FIRST TITLE & TRUST COMPANY

Date _____

Request for TAX INFORMATION from
Court House

Loan Number :

Borrowers :

Mortgagee :

Street Address :

Legal Description :

Assessed Valuation

Return to: _____
Loan Closing Department

Lot Value $ _____

Improvements $ _____

_____ with Homestead Exemption
(Check One)

_____ Without Homestead Exemption

Copy number 4, printed on pink stock.

AMERICAN FIRST TITLE & TRUST COMPANY

Date_____

Information to be furnished from
Tract Index Books

Loan Number :

Borrowers :

Mortgagee :

Street Address :

Legal Description :

If above legal is not correct, please furnish correct Legal Description:

Record Title Vested In:

Mortgages of Record: Mortgagee _____

Amount _____ Filing Date _____

Book _____ Page _____

Previous Guaranty: _____

Return to: _____

(1) Guaranty Department
(2) Loan Closing Department

Copy number 5, printed on canary stock.

AMERICAN FIRST TITLE & TRUST COMPANY

Date _____

Special Assessment Information
(City Hall)

Loan Number :

Borrowers :

Mortgagee :

Street Address :

Legal Description :

Return to: _____
Guaranty Department

Paving Ordinance # _____ Original Assessment $ _____ 19____ to 19____

YEAR	LOT	ASSESSMENT INCLUDING INTEREST	LOT	ASSESSMENT INCLUDING INTEREST	LOT	ASSESSMENT INCLUDING INTEREST
19____		$		$		$
19____		$		$		$
19____		$		$		$
19____		$		$		$
19____		$		$		$
19____		$		$		$
19____		$		$		$
19____		$		$		$
19____		$		$		$
19____		$		$		$
Total amount unmatured including interest		$		$		$

Sewer Ordinance # _____ Original Assessment $ _____ 19____ to 19____

19____		$		$		$
19____		$		$		$
19____		$		$		$
19____		$		$		$
19____		$		$		$
Total amount unmatured including interest		$		$		$

Any resolutions passed creating a new district in addition to above? _____

If so, give date resolution passed: _____ District # _____. Any other pertinent information

_____

Copy number 6, printed on pink stock.

Copy number 7 is the same form as copy number 2, except it is printed on white stock.

COMING EVENTS

DATE	MEETING	WHERE TO BE HELD
June 10-11	Idaho Title Association	Bannock Hotel Pocatello, Idaho
June 15-18	Oregon Land Title Association	Eugene Hotel Eugene, Oregon
June 19-20-21	Colorado Title Association	Colorado Hotel Glenwood Springs, Colo.
June 23-24-25	Michigan Title Association	Hidden Valley Ski Club Gaylord, Michigan
June 27 28-29	California Land Title Association	Hotel del Coronado Coronado, California
Sept. 2-3-4	Washington Land Title Association	Davenport Hotel Spokane, Washington
Sept. 9-10	North Dakota Title Association	Fargo, North Dakota
Sept. 10-13	New York State Title Association	Lake George Sagamore, New York
Sept. 25-29	National Convention—American Title Association	Statler Hotel Cleveland, Ohio
Oct. 9-10	Kansas Title Association	Allis Hotel Wichita, Kansas
Oct. 13-14-15	Wisconsin Title Association	Northernaire, Wisconsin
Oct. 31-Nov. 1	Missouri Title Asociation	Statler Hotel St. Louis, Missouri
Nov. 6-7-8	Ohio Title Association	Netherland Plaza Cincinnati, Ohio

OTHER MEETINGS OF INTEREST

Aug. 22-26	American Bar Association Convention	Bellevue-Stratford Hotel Philadelphia, Pa.
Oct. 31- Nov. 1-2-3	Mortgage Bankers Association of America	Statler Hotel Los Angeles, California

Nobody Knows Everything

No one has a corner on effective advertising. But a roll up of advertising by many members, big and little, urban and rural, benefits all members.

A great big exhibit of advertising of many members is bound to contain ideas you can use—just as your exhibit aids others. New rules and regulations make it easier than ever to enter this year.

(See May issue of Title News for Rules and Regulations)

Enter Our National Advertising Contest