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ABSTRACTERS' PUBLIC RELATIONS

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When Don Hughes wrote and asked me to be on this panel he suggested that I might say a few words about "Public Relations." I would prefer to call it "Human Relations." Essentially the two terms are almost identical, but I believe that Human Relations is more significant.

Perhaps most of us are like the farmer who refused to subscribe to a farm magazine on the grounds that he didn't farm half as good as he knew how anyway. Most of us know more about Human Relations than we put into practice .

So there is nothing that I have to say this morning that is either original or that you don't already know. But sometimes there is an advantage in reviewing what we know and seeing how it can be applied.

There is a book which is a best seller with which you are familiar—at least you have heard of it. Like all best sellers it begins with a man and woman and ends with revelations. In between is lots of good reading. This book is full of quotable quotes. You will recognize this one—"Do unto others as ye would have others do unto you," to which might be added "and do it first." If this were universally practiced there would be nothing to say further about Human Relations and I could stop here.

But being so-called hard-headed business men and women maybe we need to be convinced that "this rule of thumb" is advantageous. Actually do we need to be convinced that it pays to get along with people? Put it on an international scale and compare the cost of not getting along with Russia, with the cost of getting along with Canada, for example. I don't mean that we should get along with Russia by knuckling under,—I'm just pointing out that it's expensive not to.

Starts with Me

Well to get back to specifics. The place to start with Human Relations is with ourselves. And Rule No. 1 is—don't be a sour puss. You have heard about the fellow who said to another "Today is my 25th wedding anniversary. It seems just like yesterday." Now that's a nice thought, isn't it? But then he added, "You know know what a rotten day yesterday was!" That's a joke, son, but it illustrates an attitude of mind that is all too common.

It happens to all of us. Just the other day I stopped in to call on a friend of mine in one of the Savings & Loan Associations. This was his greeting—"Hello, Chief Thundercloud, what's eating you?" Well, that brought me up short, but I said, "Gee, I didn't know I showed it, but this has been one of those days." "Cheer up," says he, "we all have them. Only yesterday my secretary asked me, 'Say what's the matter with you today?' 'Nothing, why?' 'Why?' she says, 'Why you're acting like a boss'."

Now, that's one to think over. How should a boss act? One answer is that the boss should act like a leader. And a leader leads. He doesn't storm, shout, cuss, pound the desk and lose his temper.

And this leads right into another phase of Human Relations which is this,—your staff reflects your personality. You can't tell them to be nice to the customers, remind them that the customers pay their salary, and expect to register unless you set the example yourself. Inevitably they will do as you do—not as you say. What your staff thinks of you and your leadership is determined by how you treat them. Before they can pass onto a customer a cordial attitude they must have it themselves. How do they get it? Well, one way is to be proud of their jobs. How does one get to be proud of his job? Number one is to be treated like an individual. Number two is too well paid. Number three is to have pleasant working conditions and congenial fellow workers. Number four is to be sold on the importance of the work one does. Most important of all is number five—to be recognized for work well done. Believe me praise for work well done is the best invest-

ment in human relations we can make. A pat on the back is worth a ten dollar raise anyday. Speaking of praise, there is always something good that you can say. The small town banker had just died. He was known as a hard man. At the funeral one of the mourners said, "Well, there is one thing that you can say for Sam. He wasn't always as mean as he sometimes was."

Hand in Hand

Now, when we start to talk about pleasant working conditions we walk right in to customer relations. If you have a light, airy, attractive office, the help will like it, of course. But so will the customers. We certainly don't want the customer to feel uncomfortable when he comes in our door. When a friend comes to our home he doesn't run smack into a counter stopping further progress. No more should he in our office. Certainly he should be invited in and asked to have a seat with an ash tray handy before business is even discussed. We probably have spent a lot of time and money and effort to get our customer that far. Let's make him feel welcome and comfortable when he gets there.

Let him see the office. Let him know that your employees have modern and up-to-date equipment to work with. Let him see that they are happy and busy trying to give him the kind of service he expects and deserves. Well, I could go on and on, but maybe we have said enough to have something to chew on.

I can hear someone say, "Well that may be alright, but I'm getting along. I have the only set of abstract books in the county, so they all have to come to me anyway. This stuff may be alright for some of you, but I'll just go along as I have."

Maybe so! I just happen to believe that one of the greatest mistakes we can make in business is to get the idea in our heads that we are different, that our problems are different, and therefore what is good for the other fellow doesn't apply to us.

Problems Relative

I am sure that all problems have somewhere a common denominator and that it is our duty to look for it. One thing that I do want to point out is that we are all together in this industry. The standing of our industry in the eyes of the public we serve is a composit of the standing of each of us in our several communities. It behooves each of us to see that our standards are as high as possible.

Now I want to say a couple of things about competition. We are often tempted to limit our concept of competition to other abstract companies who may set up or are already established in our communities. But there is more to it than that. At the turn of the century the railroads, for example, saw no competition in overland transportation on the horizon. But now take a look at the trucks, the passenger cars, the busses, the airplanes, the ever-expanding network of highways, the revived river and canal traffic. At the same time rail lines are being increasingly abandoned. Maybe there is a lesson here.

If someone comes along with a better system of evidencing titles some of us are going into the limbo. "It can't happen," did I hear someone say? Well, they couldn't split the atom either. It is happening, all around us. You may argue that Title Insurance isn't better. But you can't laugh off a system that has proved satisfactory all over the country. It **can** happen to us, and my point is simply this—that to maintain our position and to protect the investment in our plants we must aggressively sell ourselves, our services and our system to the public that we serve. We cannot afford to have a single member in our ranks who has the old-fashioned "public be damned" attitude. Because his community is the one that will be leading the pack demanding something different.

So much for that. What are some of the gimmicks we can use to improve our standing in the community beyond those fundamentals that we have talked about?

One thing is to be a citizen of your town—not just a resident. There is a whale of a lot of difference—and I know that this is old stuff. But belong to a service club and work on

committees. Don't say no when asked to do a community job. Be active in church and lodge. It is a part of your job. It pays dividends in personal satisfaction and in your business.

Take every opportunity to educate your customers about your business. Make talks to groups and school classes. This is part of being proud of your job and letting people know why. By that I mean recognize promotions,—tell Joe Blow that you're glad he is back from vacation, send a note of sympathy when it's appropriate, and congratulations when called for. I don't have to enumerate —you can all think of many more places where the kind word and thought will be most welcome.

Make personal calls on your customers. Thank them for their business and ask how you can serve them better. Everyone likes to be asked for advice and it's surprising how many good ideas you can pick up and maybe some buried gripes that can be adjusted. It is just plain smart to check up on ourselves once in a while.

Publicity Needed

No discussion of public relations could be complete without mentioning publicity. And the question comes—what kind of publicity? At our company the approach is that publicity is more than just advertising. We try to couple our publicity with a service to our customers. Last year we sent a little memo pad like the one I have here to our customers and prospects. Our mailing list was made up of real estate salesmen and brokers, home builders, bankers, Savings & Loan officers and public officials. We mailed 1000 monthly at a cost including postage of approximately 16c each. We had many favorable comments both on the subject matter and the convenience of the memo pad. We felt that one of the things we needed to do was to put over the idea that we were not stuffed shirts and that we enjoyed a joke with the best of them. So this series of poking fun at the pompous boss was chosen deliberately. This year we are repeating the idea, but being our centennial year we are using a nostalgic theme called Highways of Memory, featuring old-time automobiles. As part of the copy we are also running thumbnail sketches and pictures of some of the old-time abstracters of the city. On the back is a reproduction of the original army post at Fort Des Moines as it looked in 1844. We decided that our mailing list last year was too large, so we cut it in half this year. The cost on the smaller number is approximately 23c each, including mailing. I might add that some copy changes ran up the costs. But we are well pleased with the reception this mailing piece gets.

In line with the thought that our publicity should include a service to our customers we started this year running two series of ads in the Register. One advises the public to see a lawyer first. The other plugs the Real Estate Brokers and Home Builders. These ads run every other Saturday and alternate between the lawyers and the real estate people. Thus once a month we plug each profession. I have a few of the series here to illustrate the general type. You will notice that they carry our sig cut and state that they are run by us as a public service. The size is two columns by four inches. There has been some additional expense for art work and cuts, but it has not been significant. The cost is 29c per line net, or about $33.00 per insertion.

During the week following the appearance of the ad we send a letter to the group that we were plugging the week before. The letter carries a reproduction of the ad and a plug for our company. For the most part it is a low pressure plug. We believe that most of our customers and prospects realize that we are not spending our money just to be good fellows, but that we hope they will appreciate our efforts by routing their business our way. We are delighted with the response we have had. The cost of sending the followup letter is about 6c each, including stationery, envelopes, addressing and postage.

There are many things that you will think of that I have missed in this short discussion. The purpose of a forum is to provoke thought and comment.

RIGHTS OF LANDOWNERS WITH RESPECT TO TRANSIT ABOVE THEIR LAND

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Seattle, Washington

At the meeting of the Airport Operators Council in 1954 this interesting paper was presented by Mr. Alderson. Through the efforts of Mr. Wes Langlow, Vice President and Secretary of Puget Sound Title Insurance Co., Seattle, we are able to present it here.

Wes had this to say in recommending it for publication:

"As title people we are confronted with the supreme power of the federal government in navigable waters. No doubt, in the days to come, this will be extended to the air space as well, and there will be title problems involved with the rights of navigation in the air." ED

History records that those nations recognizing and protecting private rights in property have formulated or enacted maxims, principles or laws relating to rights in airspace and providing remedies for the protection of those rights.[1] The English and American case decisions providing for remedies relative to airspace rights were in most instances, however, decided without taking into consideration the problems that have arisen since man's navigation of the air began.[2]

Under Roman law, a limited control was granted a landowner in the immediate airspace above his land. The Roman law refers to this right as a servitude, enforceable by injunction.[3] A careful analysis of the rationale behind this right of servitude leads to the conclusion that it was based, not upon ownership of the airspace, but upon the right of a landowner to freedom from interference by others in the lawful enjoyment of the land.[4]

In the development of the English and American common law on the subject matter of rights in airspace, we find that decisions in specific cases were greatly influenced by general principles or maxims formulated by textwriters expounding the law in the abstract. One such maxim, the origin of which has been the subject of much speculation, implied that the landowner had dominion of all the airspace within projections of his boundaries "from the center of the world to the periphery of the universe."[5] This was the maxim "Cujus est solumn' ejus est usque ad coelum et ad inferos," meaning literally, "Whose is the soil, his also it is up to the sky and to the depths." There is a great deal of doubt that this maxim was based upon Roman Law, as most of the commentators and writers on the maxim have concluded

(1) Brief historical sketches of rights in air space will be found in Hotchkiss, **The Law of Aviation** (2d ed. 1938); Hugin **Airspace Rights and Liabilities as Affected by Aircraft Operation** (1951) 26 Notre Dame Law. 620, 27 Notre Dame Law. 66; Richardson, **Private Property Rights in the Air Space** (1953) 31 Can B. Rev. 117.

(2) The earlier decisions were chiefly cases of buildings or trees overhanging neighboring land, or the like. See Hotchkiss, **op. cit. supra** note 1 at 12-16; Hugin, **loc. cit. supra** note 1 at 629-638; Richardson, **loc. cit. supra** note 1 at 122-131.

(3) Hugin, **loc. cit. supra** note 1 at 625-626.

(4) Hugin, **loc. cit. supra** note 1 at 625-626; Richardson, **loc. cit. supra** note 1 at 121.

(5) See Mr. Justice Jackson concurring in **Northwest Airlines, Inc. v. State of Minnesota**, 322 U.S. 292, 302-303, 64 S. Ct. 950, 88 L.Ed. 1250 (1944).

that the Roman Law did not recognize ownership in airspace.[6]

Blackstone's statement that "Land hath also, in its legal signification, an indefinite extent, upwards as well as downwards" shows that Blackstone accepted the notion of a property right in airspace.[7] At any rate, the ad coelum maxim was often referred to and relied upon by judges in early common law decisions involving disputes over airspace.[8] These cases necessarily decided that there is ownership in airspace to the extent that the landowner can exercise dominion over the airspace in dispute. These cases, however, related to disputes not involving tests of rights to airspace at the higher altitudes used by aircraft.

In February, 1953, the Canadian Bar Review published an article written by Mr. Jack E. Richardson of Canberra, Australia, entitled "Private Property Rights in the Airspace at Common Law."[9] The author therein extensively discusses the various writings and case decisions that he found in England, Canada and the United States. It is interesting to note Mr. Richardson's conclusions from the juristic writings he reviewed:

> "The cases will permit certain deductions to be made, but they have not determined the question of private rights in airspace. Because of their limitations, juristic contributions on the subject are unusually significant. The writers display a difference of opinion. On the one hand are suggestions that there may be ownership of airspace, in which case, of course, the logical remedy for an invasion of the space would be an action for trespass; but not less impressive is the support given the theory that a landowner's rights end with the ownership of the fixed contents of the airspace and an exclusive right of filling the space with contents. On this view, the available remedy is merely the one that would normally be invoked to protect the right to enjoyment of property. In practice it would usually be an action for nuisance based upon proof of damage."[10]

In 1951, Mr. Adolph C. Hugin wrote an article entitled "Airspace Rights and Liabilities as Affected by Aircraft Operation," which was published in two successive issues of the Notre Dame Lawyer.[11] Mr. Hugin likewise found from his research a great conflict as to the rights and remedies of landowners in airspace. Mr. Hugin reviewed a great number of American decisions on the subject, and noted that rights of landowners have been founded not only upon trespass and nuisance, but also on the principle of eminent domain, that private property may not be taken for public use without just compensation.[12]

In 1926, the Congress, pursuant to constitutional authority, adopted the Air Commerce Act.[13] This act declared a freedom of navigation in airspace.[14] In 1938, Congress passed the

(6) The maxim appeared for the first time in the thirteenth century, so far is now known, in the work of Accursius, an Italian commentator or "glossator" on Roman law. See Bouve, **Private Ownership of Airspace (1930) 1 Air L. Rev. 232,** 247; Cooper **Roman Law and the Maxim "Cujus est solum" in International Air Law** (1952) 1 McGill 1 L.J. 23; Goudy, Essays in Legal History (1913) 229-232; Hugin, **loc. cit. supra** note 1 at 627; Lupton, **Civil Aviation Law** (1935) 40, n. 7; McNair, **The Law of the Air** (1932) 13-16; Richardson, **loc. cit. supra** note 1 at 121. The maxim appeared in English law reports for the first time in **Bury v. Pope,** 1 Cro. Eliz. 118, 78 Eng. Rep. 375 (1588).

(7) Blackstone, Commentaries, *18. Sir Edward Coke also lent authority to the ad coelum idea in his commentaries on Littlejohn. 2 Co. Inst. *198. Modern writers like to point out that the dicta of these two reverend gentlemen were not always well founded, and their use of this maxim seems to be good ground for criticism. See Hugin, **loc. cit. supra** note 1 at 627-628; Richardson, **loc. cit. supra** note 1 at 122.

(8) See note 2 supra.

(9) 31 Can. B. Rev. 117.

(10) Richardson, **loc. cit. supra** notes 1 and 9 at 131.

(11) 26 Notre Dame Law. 620, 27 Notre Dame Law. 66.

(12) The American cases on the question, where aircraft are concerned at least, are collected in volumes of **CCH Aviation Cases** under appropriate index headings. See also Note (1947) 90 L.Ed. 1218.

(13) May 20, 1926, c. 344, 44 Stat. 568, 49 U.S.C., 171 et seq.

(14) ". . . the term 'navigable airspace' means airspace above the minimum safe altitudes of flight prescribed by the Civil Aeronautics Authority, and such navigable airspace shall be subject to a public right of freedom of interstate and foreign air navigation in conformity with (regulations)." 49 U.S.C., § 180.

Civil Aeronautics Act.[15] This Act re-enacted the declaration of freedom in airspace, but in addition thereto Congress set forth a declaration of policy which when thoroughly examined leads to the conclusion that Congress intended by this Act to pre-empt control of air navigation in interstate commerce.[16]

Unfortunately, we find that many of the courts called upon to settle disputes in airspace since 1926 have given no consideration to the above Acts of Congress and this is at least partly responsible for the confusion in the analysis of private rights in airspace which has been noted above.

Only very recently has the idea of the air as a federally regulated public highway begun to receive judicial recognition. In **Union Trust Co. v. United States,** 3 CCH Aviation Cases 18, 177 (D.C. 1953) the Government successfully contended that in authorizing federal regulation of airspace Congress was authorizing a function sovereign in character and constitutional in genesis.[17]

The case of **All American Airways, Inc. v. Village of Cedarhurst** is presently pending in the United States District Court for the Eastern District of New York. In this case plaintiffs are seeking to enjoin the enforcement of an ordinance by the Village of Cedarhurst preventing the flight of aircraft below a prescribed minimum altitude. The District Court has granted plaintiffs a temporary restraining order, and on appeal from this the United States Court of Appeals for the Second Circuit has held[18] that the validity of an ordinance prohibiting the operation of low-flying aircraft over the village was sufficiently questionable as against supremacy of federal power to control and regulate air commerce to sustain a preliminary injunction against its enforcement.

Continued reliance upon common law principles in determining private rights in airspace seems likely to cause further confusion of the problem, with little chance of a settled uniform solution.[19]

The entire problem should be re-examined, and in the re-examination full consideration should be given to the constitutional grants of power to the Federal Government. Efforts to

(15) June 23, 1938, c. 601, 52 Stat. 977, 49 U.S.C., § 401 et seq.

(16) See the declaration of policy in 49 U.S.C., § 402, implemented by provision for the establishment for standard airline routes and air navigation facilities (sub-chapter III), provision for comprehensive economic regulation of air carriers (sub-chapter IV), and provision for all-pervading safety regulation (sub-chapter VI). As to this last, see Mr. Justice Jackson concurring in **Northwest Airlines v. State of Minnesota,** 322 U.S. 292, 303, 64 S. Ct. 950, 88 L.Ed. 1283 (1944): "Congress has recognized the national responsibility for regulating air commerce. Federal control is intensive and exclusive. Planes do not wander about in the sky like vagrant clouds. They move only by federal permission, subject to federal inspection, in the hands of federally certified personnel and under an intricate system of federal commands. The moment a ship taxis onto a runway it is caught up in an elaborate and detailed system of controls. It takes off only by instructions from the control tower, it travels on prescribed beams, it may be diverted from its intended landing, and it obeys signals and orders. Its privileges, rights and protection, so far as transit is concerned, it owes to the Federal Government alone and not to any state government."

(17) Although the court accepted this proposition, however, it reasoned from it to another, less agreeable to the Government, that by assuming to regulate air commerce and to regulate the flow of traffic at public airports, the Government made itself liable for damage caused by an aircraft collision due to negligence of control tower personnel.

(18) 201 F. (2d) 273 (C.A. 2d 1953).

(19) **United States v. Causby,** 328 U.S. 256, 66 S. Ct. 1062, 90 L.Ed. 1206 (1946), has done little to clear up the matter. This case held that the frequent flight of military aircraft over a farm at low altitudes while landing at or taking off from a nearby airfield was a taking of private property for which compensation had to be paid. The Court conceded that the airspace beyond the immediate reaches above the land was part of the public domain, but said that the landowner had "exclusive control of the immediate reaches of the enveloping atmosphere," and that he "owns at least as much of the space above the ground as he can occupy or use in connection with the land," whether such space be physically occupied by buildings or not. This emphasis on a property right in the air-column seems unnecessary and far less likely to result in intelligent adjustment of the interests involved than would reference to the flexible concepts of nuisance. The Court rejected the government's claim that the flights were within navigable airspace subject to federal control by saying that the thirty-to-one glide path was not a minimum safe altitude of flight prescribed by the Civil Aeronautics Authority. This is a non-sequitur because the thirty-to-one glide path at an airport approach is not a prescribed path of flight at all, only a zone which must be clear of obstructions on the ground so far as reasonably possible.

find the limits of federal power to regulate air navigation will more likely produce a uniform solution, and a uniform determination of the line of demarcation between the rights of an aircraft landing at or taking off from an airport and the rights of one owning land adjacent to the airport.

In the course of re-examining this problem in the light of federal constitutional grants, there might well be presented to the courts some analogies which exist in the law of navigable waters.[20] It is possible that a court would find in the Federal Government the same servitude in aid of navigation in airspace that the courts have found in private property affected by water navigation.

It is further submitted that the reasoning and language of the Supreme Court in **United States v. State of California**[21] might also be followed in determining private rights in airspace. In this case the Federal Government was held to have paramount right and dominion over the marginal seas, with no distinction between the area immediately adjacent to the shore, which might normally be used for piers, wharves and similar purposes, and the waters further out. The decision is especially significant because the Court rejected the implications of the brief filed by the State of California, setting forth the history of the preceding century and a half, during which state grantees had occupied and used the marginal sea just as landowners have used the lower levels of the air. The Court said in this connection merely that the powers of the Federal Government were paramount in this field, and that the use of these powers was for the Congress to regulate.

(20) See **United States v. Commodore Park**, 324 U.S. 386, 65 S. Ct. 803, 89 L.Ed. 1017 (1945), and cases therein cited.

(21) 332 U.S. 19, 67 S. Ct. 1658, 91 L.Ed. 1889 (1947).

PER CAPITA TAX RATE INCREASES OVER FIVE-FOLD SINCE 1940

While the increase in federal tax collections during recent years has been a matter of much public discussion, there appears to be far less recognition of the fact that taxes at the state and local levels have also increased sharply.

According to data recently published by the U.S. Department of Commerce, state tax collections for the 19.5 fiscal year rose to a new high of approximately $11.6 billion. This compares with $7.9 billion in 1950—an increase of 47 per cent in a period of five years—and with $3.3 billion in 1940.

Taxes at the local level have shown a similar sharp jump. Last year, local taxes approximated $11.5 billion, compared with about $4.5 billion collected 15 years earlier—an increase of 155 per cent.

When federal taxes are included, the overall tax burden today amounts to approximately $494 for every man, woman and child in the nation. This is over five times the 1940 per capita tax load of $96. Taxes collected by all levels of government—federal, state and local—now take more than 25 per cent of the national income, compared with less than 16 per cent 16 years ago.

Stating it another way: Taxes in recent years have substantially outstripped the rise in national income—sharp as that has been. For example, national income increased from approximately $81.6 billion in 1940 to over $322 billion last year—a percentage gain of almost 300 per cent. However, total taxes rose from $12.7 billion to $81 billion—a jump of about 540 per cent.

Tax Economics Bulletin
May-June, 1956

There is only ONE Golden Anniversary

PLAN NOW TO ATTEND

Send Registration and Reservation to National Headquarters

50th ANNUAL

CONVENTION

American Title Association

October 17 - 20, 1956

HOTEL FONTAINEBLEAU

MIAMI BEACH, FLORIDA

SUMMARY OF FEDERAL-AID HIGHWAY ACT OF 1956

Prepared by
The Transportation and Communication Department
Chamber of Commerce of the United States

General

The expanded highway program has been approved by both the Senate and the House. The President's signature cleared the last hurdle to the launching of the Nation's greatest highway building effort.

The measure becomes the principal responsibility of the Bureau of Public Roads. They must now implement the program in cooperation with the several states. This cooperation will follow the pattern established over the past several years wherein money is allocated to the several states on a prescribed formula basis and the actual construction and maintenance is undertaken by the state highway departments.

Activity is expected to get under way at once in the Bureau and in the highway departments. However, many preliminary hurdles exist before new construction can actually begin. These hurdles include such things as determination of routes, acquisition of rights-of-way, determining priority of the various projects and gaining public acceptance of the highway department's program. Chambers of commerce and other civic groups should endeavor to familiarize themselves with these programs and should offer cooperation to the highway departments in order to insure the best possible results from this highway building effort.

SUMMARY OF IMPORTANT PROVISIONS OF THE ACT

TITLE I

Sec. 102. Amounts Authorized for Other than Interstate System

Appropriations for the primary and secondary systems and extensions of these systems into urban areas was established as follows:

Million	Fiscal Year
$825	1957
850	1958
875	1959

The aggregate amount authorized is $24,825 million. This sum will be apportioned at various rates throughout the 13-year period. It will begin with a $1 billion appropriation in 1957 and will be increased up to $2,200 million in 1960 and will remain at this figure until 1967. During the last two years of the program—1958 and 1959—it will be reduced to $1,500 million and $1,025 million respectively. The formula of apportionment which gives funds to each state on the basis of population, area and miles of interstate highway, will be followed for the first three years. For the remaining ten years of the program, apportionment will be based on the so-called "needs" formula. This means the funds will be apportioned in the ratio which the estimated cost of completing the Interstate System in each state, bears to the estimated total cost of completing the Interstate System in all the states.

The Act provides that the federal share of projects on the Interstate System is to be 90 per cent of the total cost. The states will supply the remaining 10 per cent.

The Act provides that geometric and construction standards should be adopted by cooperation between the state highway departments and the Secretary of Commerce.

Maximum vehicle weight and width limitations were set at a maximum 18,000 pounds on any one axle or 32,000 pounds on a tandem axle. A width limitation of 96 inches and an over-all gross weight of 73,280 pounds was provided. However, any vehicle that could lawfully operate within a state on July 1, 1956 will not be affected by these limitations.

The Secretary of Commerce was instructed to expedite tests for the purpose of determining maximum dimensions and weights for vehicles operating on the federal-aid highway systems and submit a report with recommendations to Congress not later than March 1, 1959.

The limit on the interstate mileage which had been set at 40,000 miles was increased to 41,000 miles.

Sec. 110. Advance Acquisition of Rights-of-Way

Secretary of Commerce has been authorized to make any of the federal-aid highway funds available for advance acquisitions of rights-of-way. It also authorizes the Secretary of Commerce to advance funds to the states for such purposes. This provision will undoubtedly save large amounts of money by permitting the acquisition of land at the most favorable time and without the pressures created in rush acquisition procedures.

Sec. 111. Relocation of Utility Facilities

The Act allows federal funds to be used to reimburse a state for utility relocation costs which the state has paid under its own laws and practices. The provision, however, denies federal funds for this purpose when the payment to the utility would violate the law of the state or a legal contract between the utility and the state.

Sec. 112. Access to Rights-of-Way

This section is designed to insure retention of control of access on the Interstate System and to insure that automotive service stations and other commercial establishments are not constructed or located on the rights-of-way of the Interstate System.

This provision is to be applied to future construction and does not operate to cancel federal agreements made by state toll-road authorities with service station or other concessionaires operating toll roads or other right-of-way.

Sec. 114. Reimbursement for Certain Existing Highways

This provision declares the intent of Congress to determine whether or not the federal government should reimburse any state for the construction of toll or free highways that already have been completed on the Interstate System. A report to Congress will be made in January 1958.

Sec. 116. Policy Declarations—Bypasses

The Act requires that state highway departments will hold public hearings and consider the economic effects before engaging in a project involving the bypassing of any city, town or community.

It is the stated policy of Congress to encourage small business and to insure that a fair proportion of federal-aid contracts be awarded to small business enterprises in this program.

Sec. 210. Investigations

The Secretary of Commerce is directed to study and investigate:

(1) the effects on the design, construction and maintenance of federal-aid highways of the use of vehicles of different dimensions, weights and other specifications, and the frequency of occurrences of such vehicles in the traffic stream,

(2) the proportionate share of costs attributable to each class of persons using such highways, and

(3) any direct and indirect benefits accruing to any class which derives benefits from federal-aid highways, in addition to benefits from actual use of such highways, which are attributable to public expenditures for such highways.

The Secretary would be required to make the final report as soon as possible but not later than March 1, 1959. Interim progress reports would be required on March 1, 1957, and March 1, 1958.

FEDERAL-AID HIGHWAY FUNDS

Summary, fiscal years 1957 to 1959, inclusive

(Millions of dollars)

State	Primary highway system ($555.0)	($832.5) Secondary or feeder roads	Urban highways ($462.5)	Subtotal ($1,850.0)	Interstate system ($4,700.0)	Total ($6,550.0)
Alabama	17.4	13.5	6.1	37.0	95.4	132.4
Arizona	12.1	8.3	1.8	22.2	53.9	76.1
Arkansas	13.7	11.2	2.6	27.5	68.3	95.8
California	38.5	19.6	41.4	99.5	268.0	367.5
Colorado	15.2	10.1	3.9	29.2	64.2	93.4
Connecticut	5.5	2.8	9.0	17.3	45.3	62.6
Delaware	4.2	2.8	1.0	8.0	29.4	37.4
Florida	13.4	8.7	8.4	30.5	79.9	110.4
Georgia	20.3	15.6	6.7	42.6	109.5	152.1
Idaho	10.1	7.2	.9	18.2	47.5	65.7
Illinois	32.4	17.6	32.6	82.6	221.6	304.2
Indiana	19.6	13.5	11.1	44.2	114.3	158.5
Iowa	19.9	14.6	5.5	40.0	95.9	135.9
Kansas	19.6	13.7	4.4	37.7	85.3	123.0
Kentucky	15.4	12.9	4.8	33.1	88.2	121.3
Louisiana	13.1	9.5	6.8	29.4	77.6	107.0
Maine	7.0	4.9	1.9	13.8	37.8	51.6
Maryland	7.6	4.6	7.8	20.0	56.4	76.4
Massachusetts	10.9	4.1	19.4	34.4	100.3	134.7
Michigan	26.1	15.9	21.7	63.7	169.0	232.7
Minnesota	21.4	15.0	7.6	44.0	105.9	149.9
Mississippi	14.6	12.2	2.6	29.4	74.6	104.0
Missouri	23.9	16.1	11.5	51.5	127.3	178.8
Montana	16.7	11.6	1.1	29.4	67.5	96.9
Nebraska	16.4	11.6	2.8	30.8	67.4	98.2
Nevada	10.5	7.0	.4	17.9	49.1	67.0
New Hampshire	4.2	2.8	1.4	8.4	29.4	37.8
New Jersey	11.1	3.8	20.4	35.3	102.9	138.2
New Mexico	13.2	9.1	1.5	23.8	57.0	80.8
New York	39.9	16.0	62.2	118.1	333.2	451.3
North Carolina	20.7	17.8	6.0	44.5	119.8	164.3
North Dakota	11.8	8.5	.9	21.2	52.1	73.3
Ohio	29.3	17.8	26.9	74.0	201.2	275.2
Oklahoma	17.6	12.6	5.0	35.2	84.1	119.3
Oregon	13.9	9.8	3.7	27.4	63.9	91.3
Pennsylvania	33.9	20.2	35.3	89.4	251.9	341.3
Rhode Island	4.2	2.8	3.3	10.3	29.4	39.7
South Carolina	11.1	9.2	3.2	23.5	63.2	86.7
South Dakota	12.4	8.9	.9	22.2	54.5	76.7
Tennessee	18.0	14.1	6.7	38.8	100.6	139.4
Texas	53.5	35.9	22.3	111.7	270.1	381.8
Utah	9.4	6.3	1.9	17.6	45.8	63.4
Vermont	4.2	2.8	.6	7.6	29.4	37.0
Virginia	16.1	12.4	7.2	35.7	95.1	130.8
Washington	13.8	9.2	7.0	30.0	75.5	105.5
West Virginia	9.1	8.0	3.0	20.1	56.0	76.1
Wisconsin	19.5	13.6	9.1	42.2	107.0	149.2
Wyoming	10.4	7.1	.4	17.9	48.9	66.8
Hawaii	4.2	2.8	1.5	8.5	.....	8.5
District of Columbia	4.2	2.8	4.1	11.1	29.4	40.5
Puerto Rico	4.4	4.6	4.0	13.0	.....	13.0
Alaska	16.9	11.5	.2	28.6	.....	28.6

Apportionment of interstate funds for 1960 to 1969, inclusive, to be apportioned among the several States in the ratio which the revised estimated cost of completing the Interstate System in each State bears to the sum of the revised estimated cost of completing the Interstate System in all of the States.

MBA MORTGAGE DELINQUENCY SURVEY

Results of the National Delinquency Quarterly Survey just concluded as of June 30, 1956, once again reflect a downward trend in mortgage loan delinquencies for the June quarter. Even though the results for the past quarter certainly are favorable, the over-all delinquency figure of 2.13% is not quite as good as the all-time low of 2.01% which was established on June 30, 1955. The figure for the comparable quarter of two years ago was 2.27%. Individual figures for the current quarter are as follows:

GI: Despite small equity and long maturity, the GI loan showed exceptional ratios of 1.91% delinquent one month—.37% for two months, and .20% for three months.

FHA: The only type loan that did not experience a decrease from last quarter but still shows a remarkably low 1.65% for 30-day delinquencies—.24% delinquent two months and .13% delinquent over 90 days.

CONVENTIONAL: As we have come to expect, the conventional loan continues to lead the field in producing top collections and for the past quarter was only 1.17% for 30-day delinquents—and .27% and .15% respectively for the 60 and 90-day delinquencies.

GEOGRAPHIC ANALYSIS: When studied under a geographic rather than a regional basis, the over-all delinquency figures show the following picture:

East (Regions 1 and 2)	2.51%
South (Regions 3 and 6)	2.10%
Southwest (Regions 9 and 10	2.15%
West (Regions 11 and 12)	2.10%
Midwest (Regions 4, 5, 7 and 8)	1.70%

Regardless of the type of analysis made, the industrial Midwest, as reflected during the entire past year, continues to show almost phenomenal strength in current collections. Excluding the farm regions (Region 7) the Midwest figure would be even lower at 1.60%. The present steel strike, of course, was not in effect at the time the June 30 figures were compiled.

CONTINUED GROWTH: During the past three years the total number of loans being reported has risen by almost one million loans, and today includes over 20 billion dollars in residential loans.

Mortgage Bankers Association of America, July, 1956

REPORT OF JUDICIARY COMMITTEE

F. W. AUDRAIN, *Chairman*
Vice-President, Chief Counsel, Security Title Insurance Co.,
Los Angeles, California

Two recent cases may be of interest.

An important decision, **Title & Trust Company vs. Parker** is reported at 233 F. 2d, 505 (5-4-56) Cir. 9. One of two timber parcels was assumed by the State of Oregon to have vested in it as a portion of Section 16, a school land section. The State gave a deed to the parcel to a predecessor of a party to this action. Thereafter the State ascertained that prior to the school land survey, the parcel had been withdrawn to be a portion of a National Forest, and both sovereigns recognizing that the State acquired no title, the State made and completed a lieu selection.

This latter actively occurred after the establishing of an apparently regular chain of title on the public records of the county; the matters between the two sovereigns never became a matter of public record in the county.

In 1943 another title company issued a policy on this particular parcel, being ignorant of the foregoing matters and the then known ramifications, i.e., known to the parties seeking the 1943 policy and that company when confronted with a claim that title to the land was in the United States and not in the insured, settled the claim:

> "At that time the government's claim of ownership to Lot 2 resulted in Winans filing a claim for loss with that title company on account of the unmarketability of the title and this claim was settled by payment of a substantial sum by the title company."

The policy issued by the plaintiff in the present case was issued about 1951 for $125,000. Plaintiffs here, like the other title company was not informed by its prospective insureds of all the matters they knew, which matters were apparently all that was to be known about the title to this parcel.

The Circuit Court describes the approach to the plaintiff here in these words:

> "It was in 1943 that the Winans procured their title policy from the other company. At the time they knew their title was questionable. (The State had offered to return to their father and predecessor in interest the money the State had received for the lot) In 1944 they made their claim of loss, and they procured a settlement. The Parkers knew about this, and the question was, as they worked out their plans, could the same scheme be worked again on another company. To find out, they ordered the title report. This, as the court found 'was a necessary element in the scheme.' Now, under the circumstances here found the request for the title report was more than a mere asking for information. It was of course an effort to find out if the company was unaware of the defect."

After the plaintiff issued its policy, it found out independently about the history of the title and of the prior connections of its insureds with this title. Thereupon plaintiff filed the action to cancel the policies because of the "fraudulent concealment of certain facts alleged to have been material to the risk assumed in the policies." The trial court gave judgment for the plaintiff title company and the circuit court affirmed.

From here on the reader who wants to know more about the theory of the case had best read the reported decision. A few dominant points may be mentioned:

1. Oregon State decisions were, of course, significant in determining the merits of the respective contentions of the parties.

2. As to insureds' contention that an expert and in an arms length they went to the title company as relationship, thus permitting their silence, the court met that thrust by a comprehensive discussion of unilateral mistake. This involved a discussion of negligence of the title company and the relation of mistake to negligence, and the different kinds of negligence, i.e., mere negligence, ordinary negligence, duties owed, culpable negligence and gross negligence.
3. The Court discussed the matter of partial disclosures, misrepresentation, and the misrepresentation inherent in silence or half truths.
4. Plaintiff's pleadings spoke of defendants having "entered into a conspiracy to defraud plaintiff."

Of course the paragraph of the case most vital to plaintiff is as follows:

> "We hold that so far as the right to a cancellation of the title policy was concerned, the law, as well as the facts, justify the court's conclusion that a case for cancellation had been made out."

Those of you who peruse the advance sheets may come upon a somewhat minor (i.e., as compared to the foregoing) case **Diel vs. Security Title Insurance Company.** Presumably all title men when their eyes light on the name of a title company as a party to a reported action are more promptly alert to its possible interest than nearly any other cases, for they will have already known the results of cases affecting their own company or their insureds.

This case possibly warrants notice for several reasons.

A record owner died about 1930 leaving three daughters. In 1948 two of the three daughters (prior to any probate proceedings) gave a lease to a lessee who went into possession. In 1952, after a decree of distribution to the daughters was recorded, Plaintiff purchased from the daughters and became an insured owner. After he became an insured owner all the informal arrangements that he had made with tenant, (while he, contemplating becoming the owner) as to rent, occupancy and personal property fell apart and he no longer liked his tenant and desired that the tenant depart. The tenant declined.

The problem in the facts was not so much as to the rule that title vests in heirs on death and that on recording of a decree, a person dealing with a distributee must search back to date of death of decedent to see what may have happened to, or been done with, the heirs' interest. As it was about 9 months after the policy issued, the insured sued for the full amount of the policy whereas it did not appear to the title company that a total loss had been sustained. The lease had six years to go and had been signed by only two of the three owners. Not exactly a congenial situation, when the tenant was getting the apples out of this mountain orchard, but still not a total loss.

A re-trial or a settlement will occur here.

All title men gag somewhat over those claims made by an insured who was fully informed as to the rights of a claimant before a policy is issued that fails to show the record rights of the claimant, and the more so because, as a rule the insured would have approved showing the record item that was overlooked.

Here we have two Western cases about people who were fully informed as to facts before they became insureds. I would like to be able to sit in on some of the discussions on these cases which occur in your offices.

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COMING EVENTS—

September 16-18	Missouri Title Association	Hotel Robidoux St. Joseph, Missouri
September 20-22	North Dakota Title Association	Grand Forks, North Dakota Ryan Hotel
September 20-22	Oregon-Washington Title Association—Joint Meeting	Gearhart Hotel Gearhart, Oregon
September 20-22	Wisconsin Title Association (50th Anniversary)	Lorraine Hotel Madison, Wisconsin
September 22-25	New York Title Association	Whiteface Inn Lake Placid, New York
September 23-24	Kansas Title Association	Allis Hotel Wichita, Kansas
October 1-2	Indiana Title Association	Sheraton Lincoln Hotel Indianapolis, Indiana
October 8-11	Mortgage Bankers Association of America (43rd Annual Convention)	Conrad Hilton Hotel Chicago, Illinois
October 12-13	Nebraska Title Association	Lincoln Hotel Lincoln, Nebraska
October 16-20	**National Convention—American Title Association (50th Anniversary)**	**Hotel Fontainebleau Miami Beach, Florida**
November 12-13	Ohio Title Association	Deshler-Hilton Hotel Columbus, Ohio

REMINDER . . .

ATA NATIONAL ADVERTISING CONTEST

Members should be well organized now to submit their entry to the American Title Association National Advertising Contest to be held in conjunction with the Annual Convention in Miami Beach, October 17-20. Ship your entry of advertising material to arrive by September 15. Ship prepaid to Fountainebleau Hotel, Miami Beach, Florida marked

"Attention of: Mr. H. D. Kerr, Jr.—
Hold for American Title Association Convention"

Let's make this the biggest and best advertising contest ever.

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50th ANNUAL

CONVENTION

American Title Association

October 17 - 20, 1956

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