

OFFICIAL PUBLICATION
AMERICAN TITLE ASSOCIATION

DO NOT REMOVE

TITLE
NEWS

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NUMBER 6



THE PRESIDENT'S POSTSCRIPT



As I have travelled around the country this year, a great many of you have asked questions about our National Headquarters and the people who staff it. In this issue you will find a pictorial presentation and a story about these folks. I commend it to you for I feel sure that when you have read it, you will agree with me that our National Office performs a real service to our industry.

It isn't too early to remind you of the National Convention which will be held in New York City in October. This convention is for you—and we want you to feel that the program is worthwhile. So, if there is some subject which you feel should be discussed, please let us know. It takes time to put a convention program together, and if you wait until the last week or two, or until you arrive in New York, it is too late to do anything about it. So, please—if you have any ideas for the Annual Convention program, let us have them as soon as possible.

Ernest J. Lobbeck



TITLE NEWS

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OUR COMMON BOND

Claude L. Goff, Vice-President,
Record Abstract & Title Co.,
Denver, Colorado



This is such a broad field that it would be impossible to cover any major portion of it in a short article such as this will be. There are so many points of common interest that only a few will be mentioned. To date, there are still many points of disagreement throughout the industry as a whole, so they will be ignored as negative to the subject under discussion.

First of all, and underlying all, we have a common duty to provide for our customers the best title service that is humanly possible. In order to perform that duty, we have an uncommon responsibility to keep ourselves abreast of every new development that can be utilized in any way in performing that service. These new developments need not be limited to mechanical methods, but should be inclusive of such things as ideas.

Who is our customer? The first answer that comes to most of our minds, and the one most often heard, is: "the Lawyer, the Real Estate Broker, the Mortgage Company, the Builder, etc." It is true that they decide where the business will go, but they are not THE customer. Our customer is the owner of the TITLE to the land; and while it is true that we are protecting the interests, directly or indirectly, of all the parties involved in the transfer of the TITLE or in the securing of financing, it is still the permanent owner at any given time whose interests we should have most at heart. Too many of us too often overlook this, just because he doesn't bring the order in to us personally. He is, therefore, a nebulous "something" in the background,

with whom we rarely have direct contact.

Nevertheless, it is his money that pays our fees and enables us to stay in business, and he is, after all is said and done, the deciding factor in whether we DO stay in business, and on what basis. When we cease to furnish exactly the type of service demanded by the customer, and in a satisfactory manner, he will find some other way to obtain it that will be satisfactory to him. The old adage that "the customer is always right" is hard to accept at times, but even when it appears not to be literally true, it is basically and fundamentally true, and we should forever keep ourselves on the alert to try to sense the "pulse" of the customer.

Special Service

Day by day the pressure mounts. The customer wants his Abstract yesterday or the day before. Suppliers of Title Insurance, whether Agent or Principal, are asked for greater coverage and more speed. Rush! Super Rush! Extra Special RUSH! One of the girls in our office was heard to say to a customer on the telephone: "Is there any special rush about this particular rush?" Along with this comes the demand for greater coverage in the Abstract Cer-

tificate, and for the insurer to assume more risk in the title policy. Many of us have felt that we should resist this trend and set up barriers against it. More and more of us are coming to realize that such a policy would be both foolish and short-sighted. We are learning that unless we can provide what the customer demands, far from blocking his wishes, we will simply have to step aside and permit someone else to do the job. The demand itself, and our efforts to meet it, makes it our responsibility to apply further study to our work; and to the development of new and better methods to serve the customer, as well as the other people down the line in title transactions.

The Customer Decides

The customer is rapidly saying that he wants this additional protection. Not only does he want it—as stated above, he wants it yesterday—so that his sale can be closed, or his loan completed with all possible dispatch. Neither the abstractor nor the Title Insurance Company alone can accomplish this purpose quickly and safely. Together we can and will provide the product that is being demanded.

Another very important point of common interest, which I almost hesitate to mention in an article intended for National distribution, is the factor of the constant threat from various Government agencies, for control over more types of business. Ours may be no exception, especially if there is disunity, or lack of unity, within the industry, which would leave an opening for such controls, or worse yet, for outright Government participation. United we go forward to greater accomplishments for service and safety to the customer. Divided, we may fall.

The best way for all title people to work toward our common goal, is in the confines of a single united organization, helping each other at both the State and National levels, through association and associated effort. It follows then, that the stronger we can make our State Associations, and the more firmly we

support our American Title Association, the more benefit each of us will gain from our membership; and the greater benefit we will be able to pass along to our customer.

Three Stages

It has been said many times that the title industry has gone through, or is now going through, three stages, as follows:

The pre-abstract stage.

The abstract and attorney stage.

The title insurance stage.

The first of these stages is best illustrated by some of the Eastern States, where no abstract plans, as such, exist. Even here, however, the preponderance of the title service is performed by expert abstracters, whether so-called or not; who work either from tract indices or other means direct from the Court House records.

The most outstanding example of the second of the stages is the State of Iowa. Here, it is my understanding that abstract and attorney is the only approved method of handling title work under the Statutes. All the rest of the fifty have both abstracts and title insurance in greater or less degree.



CLAUDE L. GOFF

The "certificate of title," as represented by the so-called Torrens System, was tried in some areas, but with rather negative results because it was inconclusive and afforded no real protection to the land owner.

A Place for Both

Referring again to the basic "community of interest" of giving the customer the best possible title service, it would seem that the abstractor and title insurer, working together, are both needed to do this. Without the services of an adequate title plant and a skilled abstractor, the Title Insurance Company would no longer be issuing its policy on what has come to be considered a sound underwriting basis, but simply on a "wager or guess" basis; relying on the law of averages rather than on skilled examinations. On the other hand, all of us in the title profession know that the opinion of the best attorney, based on the work of the most careful abstractor, gives no monetary protection to the customer in case of error; other than the financial ability and willingness of the individual or firm to respond to losses caused by their errors or omissions, or even their mistakes in judgment. Matters not-of-record, fraud, and many other matters insured against by the Title Insurance Company, are completely outside the realm of the abstract and attorney's opinion.

More families plan to buy a house this year than in either 1958 or 1957, according to the United States Savings and Loan League. The League cited a recent Federal Reserve Board study which showed that roughly 9.3 per cent of spending units surveyed planned the purchase of a home this year, compared with 7.5 per cent in 1958 and 8.7 per cent in 1957.

* * *

With 49 per cent more apartment units started in the first quarter of this year than in the same period of 1958, the chances are that apartment

building in 1959 will reach a new post-war high, the United States Savings and Loan League said. The League noted that apartment starts in 1958 amounted to 185,300 units, only slightly below the record 197,000 units started in 1950.

SECRETARIES—

SWEET AND SOUR

A secretary is a person, usually female, whom the boss often tells everybody but her he couldn't do without. If he is a young bachelor, he has to be on his guard; if he is an old married man, she has to be on her guard. Where the boss and callers are concerned, a secretary acts either as a go-between or a stay-between.

A secretary must know how to translate the boss' rambling dictation into statements which are crisp and straight-forward and yet leave plenty of loopholes and side exits, so that he is pretty proud of himself when he reads what he thinks he dictated.

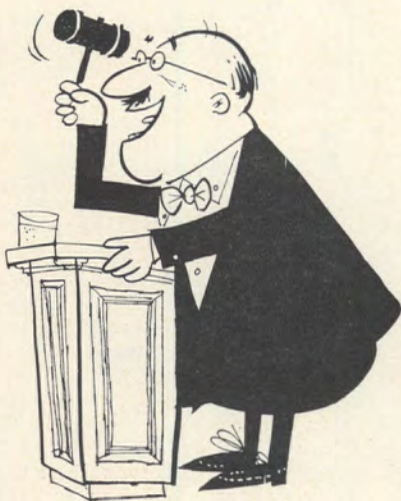
If the boss doesn't know something, he asks his secretary; if she doesn't know, she is dumb. The boss is not dumb for not knowing, on account of what has he got a secretary for? No man is a hero to his valet, and no boss is a hero to his secretary. When a secretary realizes that the boss wouldn't be worth \$15 a week without her, she has to console herself with the fact that she wouldn't be getting her \$75 per without him.

If secretaries didn't need their jobs, half the bosses in the country would be washed up. If secretaries published their bosses' confidential memos, the other half would be locked up. A secretary must know where her boss is every minute, so she can tell the right people the wrong places.

The secretary who takes her work seriously and shows an honest interest in the business and really makes a career of her job is the secretary who, 25 years later, is still a secretary. An office boy starts at the bottom and works up. A secretary starts as a secretary and works.

THE CUSTOMER SPEAKS

Literally millions of dollars are spent annually in market research—attempting to discover what the customer thinks of a particular product or service. So, the Florida Land Title Association asked one of its prominent customers to speak for himself. Tom Dobson, Realtor from Gainesville, Florida, represents an industry of vital importance to abstracters and title insurance men. We present here the text of his speech to the students at the short course for abstracters at the University of Florida.



Moderator Robinson and Ladies and Gentlemen, it is a real pleasure for me to participate in this first Florida Land Title Association Conference here at the University of Florida.

The subject assigned to me by your Moderator, Mr. Robinson is entitled "The Customer Speaks." As an active practicing Realtor of this community I have been in close touch with the operation of our local Alachua County Abstract Company headed by Barney Colson, President, and Marvin L. Brooker, Vice President. As a matter of fact during my first nine years in the Real Estate business I had an office adjoining theirs which they rented me until their operation grew and modernized to where they needed the space and they kindly asked me to move to another location. Being that close to their operation I was able to observe the type of service and some of the problems.

My office, besides sales, originates Conventional and FHA mortgages so that it was necessary to call on their office for Abstract and Title policies where required. Their operation has been geared in my observation to give first class service to our Relators and Sales personnel in this area and with reasonable fees. Frankly we have a very healthy Public Relations set up with our local Abstract Office and this is not a personal expression but a consensus of all the Realtors doing business in this area. We find that the fees are reasonable for the work necessary to give us a first class Abstract and mistake-proof job. It was only Wednesday morning at the regular meeting of our MIS of the Gainesville Board of Realtors that I requested information as to their feelings in the matter of fees and services that we receive and they were all unanimous in their expression that our local office is doing an excellent job.

However, several of the Realtors expressed hard feelings about the excessive charges made in the outlying Counties which they felt were out of line for the amount of work necessary. In discussing this criticism it was found that this was mostly on several tracts of acreage with considerable value involved in the deal. However, they felt that they were not being treated fairly and were charged too much! On the local situation however, where a fee was quoted and the statement was 10% higher we found that a phone call was well received and adjustment made which of course made everyone happy in passing on the charge to have a new Abstract or re-certification prepared.

Appreciate Services

We appreciate the many services we have received from our local office which I'm sure is likewise being received by the Realtors throughout the State, in making personal searches for us and looking for comparable other properties sales where we are making an appraisal and we do not have a Plat or Data file in our individual offices. The Plat information that takes your time to locate and

size is of real service to us who are Appraisers in the field which I particularly appreciate as Chief Appraiser for our local Guaranty Federal Savings and Loan Association. We Realtors likewise try to reciprocate with the closing of our deals by looking after the fee interest of our Abstract or Title Company so as to be sure that the Attorney in closing included the fee in the final statement and disbursement made, otherwise we who have ordered the Abstract or recertification find ourselves billed for it.

Speaking personally, I believe that a better public relations job can be done by the Abstracters or Title Companies other than which they have so graciously done. Feeding us on occasions and picking up the check at the hospitality parties which they have sponsored, and that is by speaking before your local Realtor Boards and meeting before many of the Civic Clubs and explaining the mystery of the Abstract of Title Policy which would go a long way toward a clearer understanding of the work necessary to insure a Title, or prepare a book known as an Abstract which I understand is a "compilation, a synopsis or a statement of all rec-



TOM DOBSON

orded facts which in any material way affect the title to the property abstracted." I understand that such facts are usually arranged chronologically, and are intended to show the origin of the title, including all subsequent transactions of any nature, and a showing of any pending suits, liens, judgments, unpaid taxes and special assessments for improvements. Sometimes instruments are shown for reference only.

The purpose of the abstract of course, is to afford the prospective buyer, or mortgagee, a speedy, convenient and safe method of ascertaining the condition of the title. By its use the purchaser or attorney may see the exact condition of the title as disclosed by the record, without having to make a specific inspection of the original instruments; or without making a lengthy search of the various records where information concerning the title is found.

An Abstract should show all the material parts of each instrument effecting the title or any court proceedings in which the property abstracted is involved. It should be so complete that no reasonable inquiry remains unanswered, and so brief that the mind of the examiner shall not be confused with unnecessary matters, and so arranged that the examiner may form an opinion of the title as he examines the abstract sheet by sheet. The value of the abstract not only consists of the accuracy of the information it contains but the form and arrangement of such information in order that it may be easily examined by the examiner. Another problem that confronts us on our deals from time to time is the matter of speed in addition to accuracy.

The Rush Act

I stopped by and visited with Barney Colson and Marvin Brooker recently and here is a little cartoon that they had on display that I noticed and thought I would call to your attention. It shows Barney at work and one of our good Realtor friends hovering over him saying, "of course I want it today. If I wanted it to-

morrow, I'd give it to you tomorrow!" Now I don't say that we push our Abstract office that far but two out of five deals require an up-to-date Abstract or re-certification in a hurry and we again are fortunate to have the speed and accuracy over the years that is afforded us by our local firm.

Need Information

I thought I would tell you a story that I heard recently that happened on a Pullman while traveling to New York, to one of Barney's friends. He was there in the smoker and sitting alongside a gentleman who asked him, "What is your business sir?" He said, "I make Abstracts of Title." The gentleman then said, "What is that, as I don't know anything about Abstracts of Title" and Barney's friend launched into a long explanation of what an Abstract of Title is and what it does and so forth.

I believe Ladies and Gentlemen that this ignorance has been cleared up a good deal by the work and education program and the public relations that your American Title Association has done over the years and that you occupy a better position of understanding with the general public and that some of the mystery is taken out of the words **Abstract of Title**.

As a resume' for our communities service by the local Abstract Office let me say that I have found the service to be exceptionally good and not slow and if needed in a hurry could be had within 48 hours. That the fees charged in this community are indeed reasonable compared to others throughout the State, and that the cooperation we receive to be flawless with personalized service to our individual offices. Furthermore I believe that more good public relations work can be carried out by your Association in selling the people who should be sold that your prices are not exorbitant and are in lines for the services and overhead that makes up your fees. How many of you have made it a point to invite the Officers of your Realtor Board, your Savings and Loan Association or Civic groups to lunch or dinner with the object in mind of selling them on all the

work you must perform to make an abstract and which justifies your schedule of charges? How many of you have accepted invitations to speak before civic groups where you can get in some excellent licks toward educating the average layman on what your product will and will not do? If you haven't had any such invitation, whose fault might that be?

A prominent Attorney once said "A nice clean abstract in proper order, in uniform size, neat and legible is an object of beauty to the title examiner, the examination of which afford a great deal of professional pleasure, and in my opinion, is the very best possible advertising for the abstract-er." How many of you dress up your Abstracts? I was very much impressed with the way our local Abstract office has prepared certifica-

tions added on to the worn out, dingy, eaten up abstract which had after many years finally been presented to be brought up-to-date. And finally, on the subject of Public Relations, take a tip from this:

The fish never cackles 'bout its million eggs or so.

The hen is quite a different bird, one egg and hear her crow.

The fish we spurn, but crown the hen which leads me to surmise—don't hide your light, just blow your horn.

It pays to advertise.

It certainly has been a pleasure to discuss this subject and give you my personal feelings today and I shall look forward to some questions from the audience during the question and answer period.

Looking Forward To Seeing You In New York



A.T.A. Annual Convention, October 19-22



IN THE
ASSOCIATION
SPOTLIGHT

Name Cerini New Land Title President

Floyd B. Cerini has been named president of Land Title Insurance Company effective June 1, succeeding Hale Warn, who has headed the company since 1953.

The announcement came from F. D. Rose, newly-elected chairman of the Land Title board and long-time director of the firm.

Warn has been on a leave of absence from the California Pacific Title Insurance Company while serving as Land Title president. He will now return to that company in an executive capacity.

Cerini has been executive vice-president of Land Title since December, 1953.

Ceremony Opens New Lake County Illinois Building

Officials of Waukegan, Lake County, Illinois, and the state participated in a ribbon-cutting ceremony Friday, June 12, to mark the formal opening of the new half-million-dollar building of the Lake County Division of Chicago Title & Trust Company in Waukegan.

The new offices and title plant are at 15 S. County Street between Washington and Water Streets in Waukegan. The building will house the title records and services of the former Illinois Title Company, which in 1956 was merged with Chicago Title &

Trust and became the Lake County Division of the Chicago company.

Following the ribbon-cutting ceremony, a two-day open house for the public was held in the new building Friday, June 12, and Saturday, June 13. Guests included lawyers, realtors, builders, county and city officials, representatives of lending institutions, and other friends of the company.

The new building provides the most modern facilities for title insurance to be found anywhere in the state, the company reported. Constructed of white face brick with coping of white Georgia marble, the structure is 103 feet long on County Street and 98 feet in depth. It can accommodate 100 employees conveniently on the first floor and is so constructed that additional floors may be added if required in the future.

Russell P. Sedgwick, vice-president of Chicago Title and manager of the Lake County Division, pointed out that this new building and location will provide more convenient and improved facilities for title insurance in Lake County.

Four presidents guided the business history of Illinois Title. The first was Kenneth E. Rice, who was elected president of the newly-formed company in 1930. He was succeeded in 1941 by Alvah L. Rogers, who headed the company until his retirement. John D. Binkley served in this capacity from 1947 to 1950 when Edward J. Sauter succeeded him. On February 1, 1956 Illinois Title was merged with Chicago Title and since that date has operated as its Lake County Division.

Section Chairmen In Plea For Convention Ideas

The importance and value of a national convention is reflected directly by the efforts the members contribute to its success. For this reason the chairmen of the Abstracters Section and the Title Insurance Section appeal to you for ideas on those features of the program which will add the most to the meeting's effectiveness.

The officers and staff have some enthusiastic and ambitious plans for the New York Convention, but they know that your thoughts will add considerably to the proposed program. Please tell us what YOU think should be discussed. We will see to it that they reach the proper National Officer for handling at the convention.

Toward the end of July the regular registration and hotel reservation forms will be mailed to all members.

New Name For Coates-Southwest

Coates-Southwest Title Company announces approval of its application for a charter under the State Banking Commission as a trust company. Accordingly, the name of the company has been changed to Southwest Title and Trust Company. The company is located at 133 Couch Drive.

The company was originally organized in 1913 by W. A. Jackson, who later, in 1927, incorporated the company under the name of Southwest Abstract and Title Company. This company purchased, in 1941, the Oklahoma Abstract Company, another title company of long standing.

In 1952 the company purchased the Coates Abstract Company, which company was founded in 1901 by J. S. Coates. The name of the company was then changed to Coates-Southwest Title Company.

In 1957, the company merged with the Liberty Abstract Company, which had been operated since 1921 by the late Hal B. Downing.

The company now has assets of approximately \$375,000 in capital and surplus.

The company is an agent of Lawyers Title Insurance Corporation, which operates in 46 states, and the District of Columbia, its representation including Alaska and Hawaii. Lawyers Title has assets in excess of 22 million.

The officers of the company are:

William A. Jackson, President
E. D. Wall, Vice-President
Edw. T. Jackson, Vice-President
Vernon L. Downing, Vice-President
H. R. Thigpen, Treasurer
Sara M. Jackson, Secretary
Lou Jackson, Asst. Secretary

Something to Crow About

The silver anvil award—the "Oscar" of the Public Relations Industry—has been awarded to Ross C. Roach, Advertising Manager, Kansas City Title Insurance Company.

The award was made by the American Public Relations Association and was awarded to Roach for his services as the public relations chairman of the Heart of America United Campaign, which was deemed best in the nation in the philanthropic field.

Title Plant Committee Active

This week all members are receiving a comprehensive questionnaire, prepared by Otto Zerwick, Chairman of the Committee on Title Plants and Photography. The survey, of considerable importance to the industry, can be worthwhile only if a truly representative number of the members take the time to respond.

It is expected that a report, summarizing the results of the survey, will be ready for presentation to the delegates to the Annual Convention in New York in October.

Please mail your completed questionnaire as promptly as possible to:

Otto Zerwick, President
Dane County Title Company
115 West Doty Street
Madison 3, Wisconsin



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AT YOUR SERVICE

A. T. A. Staff Doubles In Brass

No ivory tower is the space occupied by the Association's National Headquarters at the very top of the Guardian Building in Detroit. It is from here that the staff maintains constant contact with the entire industry as well as with related professional groups through bulletins, correspondence, telephone and other means of communication. Come with us now on a tour of the office while we meet the staff and review their activities.

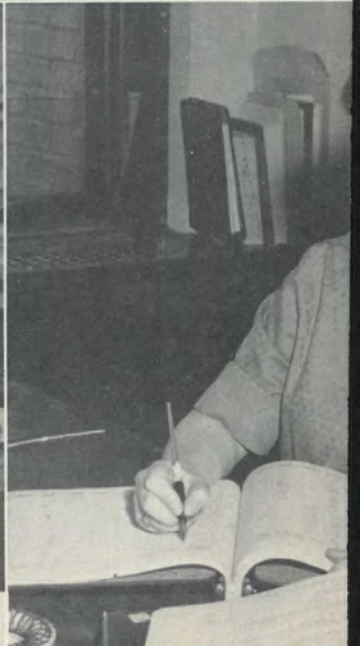
BELOW—entire staff pitches in to rush the mailing of six thousand 8 page questionnaires; part of the survey conducted by the Committee on Title Plants and Photography.



THE NEXT VOICE YOU

When you call the Association office will be that of Alice Pursell, Office Secretary. Mrs. Pursell, completing her sixth year with the A.T.A., is responsible for the orderly flow of work through the office in addition to serving as personal secretary to the Association's chief executive.

LEFT—Pauline Morrison (Public Relations Department) transcribes copy for publicity releases from the soundsciber. **CENTER**—Colleen Turkiewicz (Bookkeeper) enters day's receipts in ledger. **RIGHT** — Alice Pursell runs daily mail through automatic postage machine.



HEAR



ABOVE — Jerome Maisano, general office clerk, prepares a set of envelopes to be mailed to more than 3,000 members. Jerry is a comparative newcomer to the A.T.A. official family.

To serve you better, modern equipment is used to speed messages, expedite bulletins, correspondence, and **TITLE NEWS**.





AN IMPORTANT FEATURE of the Association's service to its members is the Public Relations Department, directed by James W. Robinson. Responsible for all phases of A.T.A.'s public relations activities, Jim also serves as second in command, supervising the office routine during the many periods when the Executive Secretary is called to other parts of the country on Association business.

Above—Pauline Morrison observes as Robinson explains details of a complicated layout for **TITLE NEWS**. Mrs. Morrison has had five years' experience in the Association office and is familiar with all of its activities.

Left—Colleen Turkiewicz reproduces important document on Thermo-Fax Copy machine.



AN EDITOR'S LIFE can be unpleasant, but it's never dull. Gathering material for **TITLE NEWS**, writing copy, selecting photographs, editing speeches is just a part of the task of planning and executing a public relations program for A.T.A.

An accumulation of 27 years of bulletins, correspondence, minutes of meetings, and back copies of **TITLE NEWS** presents a challenge to the filing ingenuity of the office staff. Here, Mrs. Morrison displays a remarkable instinct for locating miscellaneous items of information as she puts her finger on a copy of a speech delivered to the 1923 Annual Convention.





In spite of a heavy travel schedule, Joe Smith, the Executive Secretary, finds time to clear his desk of correspondence before launching an appeal to members to help stem the tide of government intervention in the title industry.

During the past twelve months 78 bulletins to abstracters, to title insurance companies, to officers and board members, and to state title associations have originated in the Association office.

A continuous flow of questions and requests for information on every conceivable subject is received. Prompt response is assured to inquiries on taxation, on convention programs, on licensing laws and canned speeches, on advertising media and title evidence in Guam—or Cuba.

To say nothing of the A.T.A. directory; a four month job from start to finish, with 7,200 lines of type to be proofread, torn apart, and reassembled at least three times.

Coordinating the efforts of all the staff, the Executive Secretary pauses to give consideration to matters of policy and management. In addition to serving as the Association's chief staff officer, he has been elected one of the three trustees of the A.T.A. Group Insurance Plan.

Questioned concerning the most important contribution made by the Association to the business lives of its members, Joe stated,

"Representation at the national level for an industry as vital, as basic, as varied in size and scope of activity as ours must be considered as the primary benefits of the American Title Association. The collateral services of accomplishing an exchange of industry information, providing new ideas in the fields of advertising and public relations, publishing an accurate, up-to-the-minute directory, and all the other activities are increasing daily."



A Titleman Looks At the Right of Way Problem

There is no group of professional men in the United States whose community of interest with the abstractor and the title insurance officer is closer than the members of the American Right of Way Association. Our industry was fortunate in being represented at the Annual Right of Way Convention in St. Louis by Mr. Ralph Hunsche, Vice-President of the Title Insurance Corporation of St. Louis. The text of his speech to that group is reprinted with his permission.

It is a real privilege to be asked to speak to you on the problems of the abstractor as related to *your* work. As our nation grows and expands, the need for *your professional* talent becomes greater. An integral part of this growth, and incident to it, is the interdependence of communities and areas of the country. It is impossible to conceive modern America without the benefits of the services of power lines, pipe lines, roads and rights of way, which *your* skills have produced. It is my belief that *your* profession has just begun to *grow*, and through your skills each community will be a better and more comfortable place in which to live. Because some of you are from areas where abstractors are practically unknown, I have taken the liberty of broadening my announced topic — "The Problems of the Abstractor" — to include the whole title field. In my part of the title industry, we touch upon a common ground. I am with a title insurance company, and we insure titles to real estate in 13 states. With the exception of St. Louis and St. Louis County (where we produce our own title evidence) we rely on title evidence produced by local sources in the locale of the risk. This is what we have in common: the need for accurate and reliable title information produced outside our control. We have found that this type of information in the mid-west is nearly always produced by a

local abstractor, and in the south by local title attorneys. We require as an underwriting principle that the opinions from which our policies are written be based on an abstract of title wherever abstracts are available. Since our assets are pledged on each policy of title insurance, we feel that we should use the best source of information. If this sounds like a plug for the abstractors, make no mistake—it is! Good title men are just about as hard to find as good right of way agents. I know quite a few of you use these men as you move from county to county. And to those of you who don't, I recommend you try them. I am sure you will find them friendly, cooperative and reliable, with a good bit of the preliminary information you need readily available; and you will have added an experienced worker to your staff on a part-time basis.

Kinds of Title Evidence

I would like to explain the various types of title evidence available. First, is the abstract, which is the compilation, in abbreviated form, of all the items of record which could affect the title to a particular piece of real estate—such as conveyances, deeds of trust, mortgages, mechanics' liens, suits affecting real property, estates, wills, judgments, bankruptcies and many other items that affect or could affect the ownership of land.

This abstract should be read by an attorney sophisticated in the ramifications of real property law so that he can write an opinion which states the present ownership of the land and shows defects, liens and encumbrances, easements and rights of way affecting it.

Another form of evidence is the certificate of title. This is an instrument which is almost peculiar to St. Louis and the counties surrounding St. Louis. The certificate of title is usually prepared by a title company from the examination of its own records and the public records, certifying the condition of the title at stated time. It certifies only the title as disclosed by public records.

In certain areas of New England and of the deep south, notably in rural areas, the entire job of building the chain of title and of writing a formalized legal examination is performed by the local attorney.

Record guarantee of title—a form issued in a few localities, similar to the certificate of title, which limits the liability to facts disclosed by the record itself.

The ultimate in title protection and title evidence is the title insurance policy. It is now heavily in use in most of our metropolitan areas and is spreading throughout all segments of our economy. I think the greatest testimony to the value of title insurance is the fact that the large lending institutions, who are probably the most conscious of the need that the title is exactly as it is supposed to be, are responsible for the great increase in the use of title insurance. There are few major lenders who will now make a loan on real estate without the protection of a policy of title insurance issued in their favor. A title insurance policy is developed in much the same way that an abstract and attorney's opinion is developed, or a certificate is developed. However, the title insurance company in this case guarantees or insures the condition of the title. This insurance not only covers the record, but also covers those things which are not disclosed in the record but which may affect the property, thus giving

the purchaser the greatest protection available. You might be interested in some of the matters that are not shown of record which affect titles to real estate. They are: rights or claims of parties in possession; facts that an accurate survey would show; roads, ways and easements not shown of record; the possibility of mechanics and materialmens claims for a recent construction; claims of persons under un-recorded instruments; fraud; incapacity of grantors; forgery of instruments; lack of delivery; acknowledgment of grantor never actually taken, although proper certificate of acknowledgment appears of record; parts of instruments not recorded through error or omission in transcribing into the county records or because of deletion from original instrument before recording; and errors in public record.

There is another type of title evidence, called a search. This is an instrument which usually recites the name of the last grantee and any open mortgages. It is usually produced from a very cursory examination of the public records and usually carries an extremely limited liability of the company. Searches should really be used only as a preliminary estimate of the number of title problems you're going to face in a given situation. When it comes to the time of purchase, of laying your dollars on the line, you should be fortified with the best title evidence available.

Right of Way Problems

Much emphasis has been put on highway acquisition as a consequence of the new federal highway program and very little on the attendant headaches of pipeline, private and public utility relocations. We in the title business would like to help in all these fields. Surely there must be ways, not yet discovered by us, that we title men could help you in such projects. We would welcome your suggestions. It might be interesting for you to note that the American Title Association is interested in the problem of the title evidence required by right of way people. The association sent questionnaires to all of the

state highway departments to ascertain how they obtain title information, in connection with the acquisition of rights of way. Forty-six states replied. Three states obtained title policies; three others, title reports of a title insurance company; one, a complete abstract; nine used abstracter's certificates and six obtained attorney's certificates; two used all types of title evidence; and the remaining twenty-two relied upon title searches made by highway department employees or some other state employee. This tabulation was made on the method *most often used* for obtaining the information. The title companies ask for the opportunity to demonstrate to the state officials, and other officials of right of way acquiring groups, that we can furnish this information quicker and as accurately, if not more accurately than can state employees or company employees. It seems reasonable that title company or any abstract company with a plant should be able to furnish title evidence for less money than the state would spend, or a private company would spend to hire title searchers to work from the public records. In addition if there is an error, and people do make mistakes, a responsible company stands between you and loss.

I think it is safe to say that all title companies are organized for profit. But I think it is true, too, that most companies would be proud to have a part in right of way programs and would quote rates attractive to you and well below the commercial rate for single acquisitions. Many of us have other services available to you which would relieve you of burdensome details, such as escrow service and closing service.

The Title Plant

Title people talk glibly about title plants. Perhaps it would be well for me to explain this term. A title plant is a bookkeeping system in which an account is maintained on each piece of property in the county in a manner similar to the method in which a bank keeps track of customers' accounts, except that the balance isn't

struck unless there is an order. As deeds or other instruments are filed for record, the title company makes a transcription for its own records. Then each instrument is noted against the specific piece of property it affects. Thus, within a relatively short space of time all the deeds and other instruments which may affect a specific tract of real estate may be assembled, so that a judgment may be made concerning the present condition of the title. When title men speak of plants, they usually mean total plants. These start with the first book in the Recorder's Office and continue right through to the present date. Some companies have a partial plant, which starts at some time later than the formation of that county and runs forward to the present date. Also there are a great many items which affect real estate titles but which cannot be located to specific tracts. These are put in a miscellaneous file. This is usually a name index containing items such as bankruptcies, wills, ward files, deceased estates, receiverships, judgments and the like. Evidence produced from title plants is more accurate than that produced by searching only the public indexes. A title company operating with a plant has an advantage over other companies or individuals operating without a plant, in that it can produce faster and more efficient service for the public; and with title insurers the service is even better because prior policies are used as starters. Title companies with plants also usually have a system of plats which are very useful to the company and its customers for locating and tracing property. Some title companies are now working aerial photographs into their plants.

It is axiomatic that the right of way you acquire is only as good as the title of the person from whom you get a conveyance. The only person who may create a valid permanent easement is the owner in fee simple or a person with power of disposal of the fee.

Land and its ownership has always been a matter of prime importance to people. As a consequence, when

our ancestors came to this country, they brought with them the concepts and laws of their native lands, and the laws and the customs of the communities into which they settled were influenced by their thought. Thus, the laws of real property differ from state to state.

Regional Situations

For example, our company recently had occasion to research a point regarding the marketability of title to property in the possible route of highway acquisition. The real estate was in Missouri. We found no precedent in Missouri cases, and looked elsewhere. There were cases in point in Washington, Oregon, California, Minnesota, Kansas, New Jersey, New York, Massachusetts, Pennsylvania and Delaware. The decisions in these states were about evenly divided and their geographical position was not significant. I cite this instance to illustrate that the same problem is approached and solved differently in the various states, and that anything I might say about problems and their solution in Missouri would not necessarily be cogent elsewhere. I would, however, like to bring to your attention some of the serious problems which have arisen in Missouri, a solution for which was not found around a conference table, but in our courts. While in your communities the same problem may have a different solution, I think these are worthy of your consideration.

Some of the questions that arise in the examination of right of way titles are not so easily resolved, as in the instance of the widening of one of our major roads, which is a part of U.S. Highway 40 in St. Louis County. The land to be used in the widening was a strip formerly used as a streetcar right of way. In 1948 the street car company abandoned the right of way. The question arose as to who owned the strip of land. The facts are that one man had owned the entire tract of land when the strip was subjected to use as a right of way for railroad purposes. This owner later conveyed to a realty

company, who subdivided the land into lots and filed a plat in the Recorder's Office. The plat shows a private street, running adjacent and parallel to the railroad right of way. So we were faced with the situation of finding the major road, then the railroad right of way, then the private street. The subdivider in his plat dedication stated that the title to the above-mentioned street "is hereby reserved to the undersigned, privilege, however, being granted to the lot owners of the subdivision to use the same for its intended purpose."

Of course, on the other side of the private street the lots were platted, buildings built and sold for residential purposes. On abandonment of the right of way, the subdivider sold lots in the strip to filling stations, hamburger stands and similar businesses. When the highway department decided to widen the major road, the question arose as to who owned the strip—whether the subdividing realty company and its grantees owned the strip or whether the people abutting the private street owned the strip. The court held in this case that the title to the strip belonged to the lot owners abutting the private street, reasoning that the easement on right of way for railroad purposes was created at the time the common sources of title owned the entire tract, which was conveyed to the realty company who then subdivided the property. The realty company by its plat of dedication reserved the right in the street, but the street being only an easement, did not constitute a reservation of the fee. Consequently, the abutting property owners took the fee title to the private street, also to the abutting railroad right of way, and the subdivider and its grantees in the strip took nothing. In a later case, the court resolved the problem similarly where an abutting street was a public street. These cases follow what is called by title companies "the hide and tail rule." The only difference is that this hide had three tails.

Easements

It sometimes happens that when an easement is abandoned the claimants to the underlying fee get into a fight, and a bystander gets injured. Here is an interesting case from the standpoint of rights of way and easements. A streetcar company acquired a strip of land by condemnation in 1900 for railroad purposes. In 1941 this streetcar company petitioned the public service commission for authority to abandon street railway service. Its petition asked for an order authorizing *partial* abandonment of the easement. The streetcar company wanted to abandon passenger service and remove its tracks, but wanted to maintain its power lines over the right of way. The owners of the fee contested the streetcar company's right to partially abandon the right of way. The Court upheld the partial abandonment because streetcar company proved that its power lines were essential to its other streetcars operating in the area, so that the whole purpose for which the easement has been created was not at an end. Incidentally, by oral agreement, the streetcar company had permitted the electric company to maintain its power lines along the right of way, which occupancy was to continue as long as the streetcar company used its right of way for railroad purposes. The electric company maintained that it had a license from the streetcar company, which entitled it to protection against the possessory claims of any of the fee owners. The court held that the owner of an easement may, in some circumstances, license or authorize third persons to use its right of way for purposes not inconsistent with the principal use for which the easement was granted; but that the use by the electric company in maintaining its poles and lines on the right of way was not incidental or connected with the business of running a street railway, and consequently this created an overburdening of the easement. So the court decided that the electric company as a licensee had no rights in the property.

Pipeline companies also are not without their trials and tribulations. In August, 1930, the right of way agent for a pipeline company called on a Mrs. Kempf to secure a right of way through her farm for a projected pipeline. The agent said that the right of way would be about 2½ feet wide. Mrs. Kempf, relying upon such representation, executed a document prepared by and presented to her by the agent. At the time she executed the document she said—it did not contain a description of the land or the part through which the right of way was to run. That space was left blank. Mrs. Kempf further testified that no notary public was present to take her acknowledgment when she executed the deed, and that the description—which was the description of her entire property—was entered in the deed later, and that the acknowledgment attached to the deed was added later without her knowledge and consent. The court in this case held that the attaching of the acknowledgment at a later date, without Mrs. Kempf's actually appearing before a notary public, was such a material alteration as to make the instrument void. The court also voided deeds in two similar cases immediately following. I have a theory that had these deeds contained a proper description of the right of way all this trouble would have been avoided.

Pipelines

It might be interesting to know why a pipeline company that has a pipeline easement (acquired by condemnation) running through Lot 64 of the Village of St. Ann's wanted to fence this 10 foot easement. The case didn't say. In any event, the pipeline company attempted to fence in this 10 foot easement and the owners of the lot brought an action to stop it. The court held that if a pipeline company does not specifically acquire the right to fence in its condemnation action, it has no right to fence. In this case, the court held the pipeline company was a trespasser, and gave the owners of Lot 64 actual and punitive damages.

It would seem that from the standpoint of the state, in the taking of land for highway purposes, the landowner who plans on the state doing it or not doing it, does so at his peril. In a recent case, a subdivider acquired about 250 acres of land in Clay County, Missouri, which he started to develop as a subdivision. He had it laid out, planned, located the lots and streets and sewerways, and shortly thereafter was told by the agent of the Missouri State Highway Commission that a limited access highway was to be constructed over part of his land, and that he should not develop that part which was to be used for the right of way purpose, because if he did so the improvements thereon would be lost to him. The subdivider examined the plans and surveys prepared by the highway commission for the proposed highway, which showed that it would cross his land. Then he did replan, redesign, replat his whole plan of subdivision to conform with the plans of the state highway. After this was done, the highway commission started to negotiate with him to acquire a right of way and then in about two weeks he was advised that the highway commission had changed its mind on the location of the proposed highway and that none of his land was to be taken for highway purposes. He then promptly sued the State Highway Commission for \$148,000. The court in this case held that the highway commission must have the right to alter or abandon a proposed location of a highway without incurring liability to land owners along the abandoned route. A property owner who voluntarily makes changes on his property in anticipation of a proposed public improvement thereon, does so at the risk of losing his investment if the public agency exercises its unquestioned right to abandon the project or to move it to a different location. In part, the reasoning runs like this: the uncertainty caused by the possibility that the proceedings will not be carried through or the proposed work will be constructed over his land differs in degree only from that shared by the owners of all property

which may at any time be taken by eminent domain whenever it may chance to lie in the path of a public improvement. And the decrease in income or other loss he may suffer from such uncertainty is held to be damage without injury.

New Concept

With the development of the new highway program, and a change in the philosophy regarding the use of highways, new concepts have been created, which are a complete departure from the old, hence new problems have arisen regarding rights of access. I am sure this is quite a problem to the appraiser and the negotiator during the acquisition period. At this time it is not a problem to the title man. But later, when the title to abutting lands is being examined, this problem has a number of potential headaches for the title man. A fine article on this subject, by Frank M. Covey, Jr., appeared in the March edition of the Illinois Bar Journal, and if this is in your field of interest, I recommend it to you. From a title standpoint, one of the troublesome things about a right of way or easement is the description — which is probably quite a problem to you, too. For the most part, they are well-defined and easy to plat or trace but sometimes we get one like "a strip 20 feet wide, across the northern part of the southwest quarter of Section 14, etc.", and invariably that's the tract of land some irate owner wants to subdivide immediately. This man we turn over to the most sympathetic person in the office, who explains the use of a divining rod, or crystal ball.

In conclusion, I summarize this way. Although you as right of way men have the power of condemnation to back you up, *efficiency and good public relations are just as important* to you and to your employers as to any private, non-public utility business organization. If you seek and use the best title evidence available you will avoid or minimize disputes and lawsuits with landowners. This results in better public relations and lower costs of acquisition for you.

A.T.A. Group Insurance Pays Off



Mrs. James E. Sheridan (Maurine), widow of the Association's late Executive Vice-President, receives insurance check, issued by the John Hancock Mutual Life Insurance Company, from Joseph H. Smith, A.T.A.'s Executive Secretary. Less than one year old, the Association's Group Life Insurance Program, largely the result of Jim Sheridan's diligent efforts, has enjoyed a successful growth and, consistent with good underwriting practices, it is anticipated that premiums will be reduced beginning July 1, 1959.



In Memoriam

Industry's Elder Statesman Dies of Injuries

Henry C. G. Schrader, 90-year-old title consultant for the Chicago Title & Trust Company and one of Belleville, Illinois', outstanding citizens, passed away May 30 as a result of injuries suffered when he was struck by an automobile.

In spite of his 90 years of age and 74 years of work in the title industry, he was tremendously active until his death. His list of community service has covered a span of more than a half century, beginning in 1903 when he was selected as special chief of police to cooperate with the sheriff in caring for the victims of the East St. Louis flood.

Mr. Schrader was born in Belleville, October 31, 1868, and attended the public schools there through the eighth grade. On December 1, 1884, he obtained employment with the St. Clair Title Office. He stayed with this firm for two years and in 1886 went to Chicago where he worked for 12 years with a title office there. In 1898, he returned to Belleville and again worked for the St. Clair Title Office. Fifteen years later he was appointed manager of the company.

In 1919, he organized the St. Clair Guaranty and Title Company, becoming president, treasurer and general manager of the firm. He served with this company until March 2, 1953, when the firm was sold to Chicago Title & Trust Company. He remained with the new company until the time of his death.

Mr. Schrader had been Treasurer of the Illinois Abstracters Association



HENRY C. G. SCHRADER

in 1913, President of that organization in 1918, and successively Vice-President and President of the Title Examiners Section, Illinois Title Association in 1932.

Texas Titleman Passes Away

We are sorry to report the death of Mr. C. J. Meek, Owner of the Title Abstract Company of Wheeler, Texas, a longtime member of both the Texas Title Association and the American Title Association. Mr. Meek was required to undergo surgery several weeks ago from which he never fully recovered.



meeting timetable

July 10-13, 1959

New York State Title Association
Saranac Inn
Adirondacks

July 31—August 1, 1959

Montana Title Association
Miles City, Montana

September 11, 12, 1959

Kansas Title Association
Town House Hotel
Kansas City, Kansas

September 13-15, 1959

Ohio Title Association
Hotel Carter
Cleveland, Ohio

September 20-22, 1959

Missouri Title Association
Conner Hotel
Joplin, Missouri

September 21-24, 1959

Mortgage Bankers Association
Hotel Commodore
New York, New York

September 25-26, 1959

Utah Land Title Association

September 27-29, 1959

Nebraska Title Association
Town House
Omaha, Nebraska

October 2-4, 1959

Washington Land Title Association
Harrison Hot Springs Hotel
British Columbia

October 8-10, 1959

Wisconsin Title Association
Northernair Hotel
Three Lakes, Wisconsin

October 19-22, 1959

American Title Association Annual
Commodore Hotel
New York, New York

(New York State Title Assn., October 20, 1959.) (One day meeting in conjunction with ATA Convention.)

November 9, 10, 1959

Indiana Title Association
Lincoln Hotel
Indianapolis, Indiana

November 12, 13, 14, 1959

Florida Land Title Association
Fort Harrison Hotel
Clearwater, Florida