TITLE NEWS

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American Land Title Association

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A MESSAGE

from THE PRESIDENT

October, 1964

Dear Friends in the Title Profession:

I approach the challenge ahead—serving as your National President—with some misgivings, but with great hope for a year of constructive action. It is not easy to follow in the footsteps of the distinguished titlemen who, through wars and depressions; through placid times and periods of conflict, provided the leadership for the title industry. But I know that even the most dynamic among them would be the first to admit they didn't accomplish the task alone. The building of the American Land Title Association into a vital, effective force in the lives of its members was, and continues to be, an example of teamwork, reflecting the contributions and dedication of all officers and committees and all ALTA members, even those with the most modest of title plant operations.

From this knowledge springs confidence that the coming year will be another one of progress for our National Association. I shall rely heavily upon the other elected officers and upon the ALTA Staff. I feel it would be presumptuous to outline in this, my first message to you as your National President, a blueprint for specific action. But, as situations develop affecting our profession, they will be studied carefully; and recommendations will be made in the light of the best concentration of judgment and experience which can be brought to bear on each subject.

I wish each and everyone of you could have attended the 58th Annual Convention in Philadelphia. The Pennsylvania titlemen and women, under the guidance of Andy Sheard, General Convention Chairman, did an outstanding job in providing a sincere and enjoyable welcome to that great city. The business sessions were interesting and informative; the guest speakers were splendid; the social events were well planned and thoroughly delightful. We are grateful to Andy and his committees.

To those who were present in Philadelphia I say, "Heartfelt thanks for your support and your expression of confidence."

Sincerely,

Joseph A. Knapp Jr

President

TITLE NEWS

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Departments

Free Service – What It May Cost You

By PIERPONT FULLER
Attorney at Law, Denver, Colorado

Address delivered at Annual Meeting of Land Title Association of Colorado, at Estes Park, Colorado, June 27, 1964

The question I will discuss has been the subject of so much informal, and sometimes heated, discussion among abstract and title men, particularly in recent years, that I am going to ask you to come along with me as we solve this legal problem together. That way you will see that office law practice can be fun and the conclusion we reach will, I hope, be our joint conclusion and not just another opinion.

Our abstracter client has received a call from the lawyer for a local bank who says that about a week ago the closing officer put in a call to the abstract company to see if any encumbrances had been recorded during the past month against certain property. The closing officer held the phone while a clerk in the title company office checked the records and said, "No." So the sale was closed. A warranty deed was delivered; a deed of trust was executed by the buyer to the bank and the instruments recorded. The seller had not been present, having been transferred to South Viet Nam some time before but he had left the signed deed with the agent. An abstract to the property, recertified to date, was sent to the bank's lawyer for re-examination and he now discovers that $3,000.00 federal tax lien was recorded the day before the closing. The bank is fit to be tied. It says the prior tax lien makes the loan an illegal one and wants a check for $3,000.00.

Our immediate reactions are: (1) So it has finally happened; (2) Thank goodness it's only $3,000.00; (3) Let's get the facts.

Our client doesn't know if the clerk who received the call (and is on vacation) actually did say "No" or if he even received the call but thinks it all probably happened just as reported. The lien went on early the day before the supposed call and should have been on the index but

one of the girls had been out for a couple of days and things had piled up and it might not have been processed. The Company previously certified the abstract covering the property in question, on the oral request of a real estate agent, about a month before the closing and billed the owner, care of the real estate agent. The bill had not yet been paid.

We look out the window and bring to mind certain basic rules of contract law. Was there a contract here? If so between whom? There can be no liability for breach of contract except between the parties to the contract and those in privity with them.

We remember some basic rules of tort law which give rise to a cause of action for damage to another, resulting from negligence. There can be no recovery for negligence unless the defendant **owed a duty** to the person injured, to act with care toward him.

With the doctrines of **privity of contract** and **duty of care** in mind lets get some more information.

When the abstract was certified the title Company did not know, but assumed, that someone had contracted to buy the property and that the abstract would be submitted to the buyer's attorney for examination and to some lending institution's attorney for examination. The Company had no working agreement with the bank in question to furnish it with title information over the telephone but did so when requested and received no remuneration for such services. They do the same for attorneys and savings and loan companies and others. The bank does some business with them but more with their competitor. The clerk of the Abstract Company had apparently made no memorandum of the call and it was not customary to do so.

To collect our thoughts and give ourselves time to fit the facts of this case to the law that we remember, we chat some more about the title business. We learn, if we don't know it already, that to meet competition and to be friendly they give out a lot of free service. Over the telephone they will give callers, even unidentified people, the names of the record owners of property, verify names and descriptions on recorded instruments and check on encumbrances. They accept instruments for recording, put on revenue stamps, send notes and deeds of trust to the Public Trustee for release (no, they have never had one lost or unduly delayed yet). Our client doesn't know if that would be covered by his lost instrument policy. (Certainly a delay in delivery would not). They lend their office space for closings and have been known to accept checks to pay off existing encumbrances or even turned over the check to a real estate agent with instructions to make the payoffs, deliver the equity payment to the seller and keep out his commission. Some of these services are compensated for separately and some not. They do not ever draw deeds or legal documents for people—any more.

With considerable uncertainty in our mind we say we are sorry we can't field this one on the fly and want to do some research.

As an introduction to our research project let's remember that in our common law system of jurisprudence some things are covered by statutes but most of the law governing our lives has grown up over the last two or three hundred years through decisions of the courts. These decisions are published in book form and constitute the precedents on which our rules of contract law and tort law, etc., are based. When a legal question arising from a certain state of facts has been decided a good many times it becomes settled and that rule finds its way into the text books. But when cases arise under somewhat analogous but different facts a court will be called on to determine if the settled rule or some other rule should be applied. Since factual situations are infinite in their variety, the application of settled rules of law or the application of decisions of other courts under analogous, but not identical factual situations, is not an exact science. The

fact that the court of one State will be influenced by decisions of courts of other States but is under no compulsion to follow them and the fact that the same court may even change its mind, as we say, reverse itself, and not even follow its own decisions, adds to the fun.

So with this brief history of the rise and fall of the common law, let us see what law, if any, applies to our Abstracter's problem.

First we will look at the Colorado Statute (C.R.S. 1953 1-15). It is not very helpful. It says that an abstracter must have a bond which shall cover **"all actual damages** that may be sustained by or accrue to any **person having a cause of action** by reason of or on account of any error, deficiency or mistake in any abstract or continuation thereof made and issued by such applicant."

Clearly an abstracter is liable for all damage that may accrue as a result of his mistake. We may have heard it argued that all an abstracter is liable for, if he makes a faulty abstract, is for the return of the fee paid. That is not the law in this state, if anywhere. But the statute does not say **when** a person **does have a cause of action** nor does it help us decide whether an answer to a phone call made by one person can be considered a continuation of an abstract that had been made for another person.

Then we pull down some law books to review some of the fundamental rules, as stated in some of the court's decisions and texts. We read "Accompanying every contract is a common law duty to perform with care, skill, reasonable expedience and faithfulness the thing agreed to be done and the negligent failure to observe any of the conditions is a tort, as well as a breach of contract" (38 Am Jur 662), and, "Irrespective of contracts, if the relationship of the parties is such that a duty to take due care arises therefrom and the party upon whom the duty rests is negligent, an action in tort will lie." (Brokaw v. Blacke-Foxe Military Institute (Calif. 1950, 216 P2nd 53).

So we won't spend time trying to decide whether the cause of action, if any, arises in the field of contracts or torts. The action, if it exists at all, probably lies in both fields and pursuing that technicality will be a waste of time.

We read, "The ultimate test of a duty to use care is found in the foreseeability that harm may result if it is not exercised." (Conn. Sav. Bk. v First Nat'l Bk. [Conn. 1951] 84 A 2nd 267). "Generally speaking, the degree of care required of one, is graduated according to the danger attendant upon the activity which he pursues." (38 Am Jur 678).

There is no doubt that the making of Abstracts requires a very high degree of skill and the clearly foreseeable, serious damage which can result from an error gives rise to a requirement that an abstracter act with a very high degree of care and exercise at all times, the skill to be expected of a competent, thorough technician. So, if our abstracter had evidence of the lien available and did not tell the closing officer about it he was negligent, without doubt, and, **if he had a contract with or any duty to the caller,** he probably can be held liable.

Getting down to the specific type of negligence involved here we find that there may be liability for negligent misrepresentations. We read however "— — — there must be some special relationship between the parties, to create such a duty in respect to misinformation negligently given. — — No one is entitled to expect diligence or care from one, a stranger to a transaction and entirely disinterested therein, who makes casual statements or gives gratuitous advice with respect thereto." (Harper and James—The Law of Torts p. 545).

So he does not owe a duty of care to **everyone,** and, in this instance he received no payment for the wrong information; certainly not from the person who made the call. That person clearly was not the agent of the owner of the land who had previously ordered and been billed for the original abstract. So let's hunt for some law on "gratuitous services." We find that "a valuable considera-

tion **is not** a prerequisite of a duty to exercise care. Even a volunteer or a stranger is liable for an injury negligently inflicted on the person or property of another." (38 Am. Jur. 659). That seems to take care of the matter of lack of payment and is all very well as a general proposition, but it does not tell us what **is** a prerequisite to the existence of a duty of due care. We still have that question of what duty I may owe to a voice over the telephone.

To get started let's assume the mistake had been in the certified abstract. There are a lot of decisions in that field, but not all to the same effect. "The general rule ——— that third persons, relying on certificates or records prepared at the instance and for the use of others, cannot recover for negligence in the preparation of the certificate or record, is generally held applicable in cases of abstracts of title prepared by title abstracters, at least, where there is no evidence of an agency between the person procuring the abstract and the one relying thereon, or of knowledge on the part of the abstracter that third persons will rely thereon" (34 ALR p. 67-68). A recent New York case holds that the Title Guaranty and Trust Co, was not liable to a **seller** where an incorrect report was issued to a prospective **buyer** under a contract to purchase and caused him not to buy the house. The reason was that there was no privity of contract between the company and the seller and so no duty to the seller. (Goodman v. Title Guaranty and Trust Co. 206 NYS 2nd 32). That rule of law is getting close and sounds encouraging. If the telephone call could be considered to be an extension to the certified abstract relied on by some one other than the buyer of the abstract, we would be getting very warm but that is not quite our case. In our case the inquiry was made by the closing clerk of the bank and, the more we think about it the more we realize that the certified abstract previously made for the seller has nothing to do with the case. If there was any contract at all, it was with the bank but it is hard to spell out a contract from what went on between the Bank and the Title Company. But if there was no contract there clearly was contact with the bank and perhaps a duty to it. All the cases holding that an abstracter is or is not liable to a person other than the purchaser of an abstract who relies on the abstract, depending, as they do, on whether the abstracter knew or should have known that such person intended to or might, rely on the abstract, are beside the point here. In passing, you find that a very fine line is drawn between the pros and cons in this field The leading case pro is **Glanzer v. Shephard (135 NE275)** holding liable a public weigher who furnished an erroneous weight certificate upon which the plaintiff, who had **not** employed him, overpaid the vendor of a quantity of beans, Judge Cardozo saying that the weigher could not help knowing that the use of the certificate for that purpose was the end and aim of the weighing transaction.

Before leaving Justice Cardozo's precise and scholarly opinion we note a very illuminating discussion of the rather complex legal concepts underlying our problem. He points out, "It is ancient learning that one who assumes to act, even though gratuitously, may thereby become subject to the duty of acting carefully if he acts at all." But, "We must view the act in its setting, which will include the implications and promptings of usage and fair dealing. The casual response, made in mere friendliness or courtesy ——— may not stand on the same plane, when we come to consider who is to assume the risk of negligence or error, ——— Here the defendants are held, not merely for careless words ——— but for the careless performance of a service. ——— The line of separation between these diverse liabilities is difficult to draw. It does not lose for that reason its correspondence with realities. Life has its relations not capable always of division into inflexible compartments. The molds expand and shrink. We state the defendant's obligation,

therefore, in terms, not of contract merely, but of duty. Other forms of statement are possible. They involve, at most, a change of emphasis."

If the contract element is going to drop out of the picture, "duty" and "reliance" remain and the analogy to the "Good Samaritan" cases comes to mind. We realize that they are not exactly in point, but we are getting warm again. The Title Company in our case did not step up and offer its services gratis to a stranger in need. However, it did render a service, gratis when **asked** for some important information by someone that it knew, (we presume) was going to rely on the information right then, in a closing. The general doctrine as stated in the Good Samaritan cases comes very close to applying to our case, however, and the fact that the service here was rendered pursuant to a request instead of volunteered without request is apparently a distinction without a difference. It seems that, "Even a stranger or a volunteer is liable for an injury negligently inflicted on the person or property of another." Triolo v. Frisella (Ill. 1954, 121 N.E. 2d 49)

With this as a lead let's check to see if there are any Colorado cases. We find that there is one that is much too close on its facts, for comfort. It is **Lester v. Marshall** (1960) 143 Colo. 189, 352 P. 2d 786. The facts of this case although not, as we say, on all fours with our telephone case are so close to home so far as free services rendered by title companies is concerned, particularly with regard to free closing services and escrow services, that it should be read with care. One, Rev. Marshall, a minister from Rawlins, Wyoming, contacted a Mrs. Wilson, a real estate saleslady employed by R. J. Lester, a broker, in Littleton, Colorado, to locate a house for him and his wife. They found one listed with a broker named Hurd and through Mrs. Wilson, Marshall gave Lester $900 00 to be transmitted to Hurd with a contract offer of $18,000.00 for the house. Mrs. Wilson and Lester entered into a listing exchange arrangement with Hurd, who represented the sellers in the subsequent negotiations; a deal was made at $18,500.00 for the house **free and clear of encumbrances.** Mrs. Wilson told Marshall upon being questioned about paying off any mortgages that this would all be handled by the broker at the time of closing and reassured him that this was a matter of routine. Marshall went back to Rawlins and did not return until the closing in Hurd's office. A settlement sheet presented by Hurd showed various items, including an $11,100.00 deed of trust to be Savings and Loan Ass'n. Marshall accepted a Warranty Deed "free and clear" and endorsed his cashier's check in blank and delivered it to Hurd. Again, after the closing the Marshalls expressed some apprehension to Mrs. Wilson and she again assured them that they had nothing to worry about and that she would take care of everything. Neither Mrs. Wilson nor Lester advised them to retain an attorney or to have the title examined. Some time later when the next payment on the deed of trust became due it came to light that Hurd had not paid off the loan and was not in a position to do so.

The Marshalls sued Mrs. Wilson and Mr. Lester and Mr. Hurd and recovered $12,625.21 from Mrs. Wilson and Mr. Lester. They insisted that there was no contract and no tort liability; that their relationship to plaintiffs was a gratuitous one which imposed no legal obligations.

The Judge said: "One who by a gratuitous promise **or other conduct** which he should realize will cause another reasonably to rely upon the performance of definite acts of service by him, causes the other to refrain from having such acts done by other available means, **is** subject to a duty to use care to perform such service **or** — — give notice that he will not perform. — — failure of defendants to take even minor precautions constituted negligence." And, quoting from another case, he added these significent words: "The duty to use care in rendering a service arises not from

a right to receive the service, but from the relation between the parties which the service makes."

So, the court found the defendants liable for their negligence, whether or not there was any contract, and held that, the service having been assumed, the duty to use care in performing the service, arose from the relation of the parties and the knowledge on the part of defendants that plaintiffs were relying on that service.

It looks as if we will have to tell our client he probably is liable, but not to despair. When his clerk returns from vacation we will get his side of the story to see if he remembers the incident and if he has a memo of what was said. We will find exactly when the lien actually was recorded (the error might have been in the Recorder's office). Then interview the persons at the closing and see who made the call to find out if he made a record of what was said; and see if the bank really did rely on the call or made independent inquiry. For **reliance** is indispensible if there is to be any recovery. Next get in touch with the former owner of the property, who is responsible under his warranty in the deed, and with the Internal Revenue Department to find out about the lien and arrange to get it paid by the owner, if possible, before the U. S. slaps a notice of seizure on the house. Finally, we tell our client that to recover for an error or omission of this kind the plaintiff must show actual damage or injury and so far the bank has not been damaged in a monetary way. In short, the lawyer's work has just started and he can probably pull this one out yet — for a modest fee.

But, in view of this illustration what can you as abstracters and title men do? Must you stop giving title information away. That probably is not practicable. But you can be as careful as possible and take some obvious precautions. The City of Denver used to give zoning information over the telephone but now it takes the question over the telephone but gives the answer in writing and has a second person check it before it goes out.

Remember you are in the business of selling title information which is risky business in itself, and the risk starts every morning when you open your door. Giving away such information is not any more risky than selling it. But you should be just as careful in preparing the information you **give** as what you **sell**, or more so. Try always to make a written memorandum of an inquiry and give your answer in writing, keeping a copy. If you absolutely can't insist on mailing the answer or making the inquirer call for it in writing, send a written confirmation of the question and answer with the date and time. In this way you at least will not be sued for a mistake you didn't make.

In the past I have recommended that a written form be used to give answers to title information inquiries that are not paid for, with a printed statement on the bottom of the sheet above the signature to the effect that a conscientious effort has been made to see that the above information is correct but that no title information is guaranteed to be correct unless issued over the certificate of the company. This is a good recommendation but may not be practicable. If you use this for a company you do a good deal of business with and who knows what it is doing this would probably hold up because it would be discussed and understood. But such a company will probably not accept it. As to a casual layman he might say he didn't read the warning or understand it or that your clerk told him it was just a formality. Courts sometimes look with a jaundiced eye at exculpatory clauses found in printed matter at the bottom of a document. But it could be helpful and discourage law suits.

If a charge is made for the information (and sometimes a company will have an agreement to check encumbrances for a nominal charge) I have recommended that the form bear an additional statement that liability for error will be limited to

the charge made and that by accepting the report the buyer agrees to the limitation, with an added explanation that if the buyer wishes to request and pay for the information in certified form there will be no such limitation. I think this arrangement will hold up as it constitutes a valid contract in itself.

So I must confess that it may be impossible to follow these well considered recommendations, particularly with a good and frequent customer. Competition may require that you give the information asked for immediately and over the telephone and not charge for it. The customer may refuse to accept a report with a nonliability or limited liability clause printed on it. If that is the situation the only answer is: (1) Be very careful (2) Keep a record of the specific question and the answer given, the date (with exact time noted) and names of persons on each end of the line. (3) Confirm in writing by sending the caller a copy of the memorandum. This will only take a few seconds more and a 5c stamp. Companies have paid up when a clerk, who was told to make a call to the title company, forgot to do so or forgot to report back or reported incorrectly.

In this situation the title company actually could not tell from its own recollection or records what had happened, so all the evidence was on the side of the plaintiff and all bad.

When we were very young, people used to tell children ghost stories and at the end say "Boo!" to scare the wits out of the youngster. Now we don't do such things because we know it will warp their psyche for life or something. But you are big boys and girls now and I will take the chance of telling you a scare story by way of saying "Boo!" The story is about James E. Barsi who, being entitled after many years of faithful service to retire under the pension plan of Anheuser Busch, Inc., wrote a letter to its Industrial Relations Department asking whether he should take his pension in a lump sum or wait and take the payment later. The ramifications were many but the company's pension consultant, in effect, advised him to wait so that he could collect a larger sum and neglected to warn Barsi that in case he died before the later date his family would receive a much smaller amount than he could receive if he took the settlement immediately. He did die and his estate sued. The court said the company had no obligation to adivse Barsi about this matter but having undertaken to do so it was responsible to his estate for the damage resulting from its carelessness in the amount of $78,356.00: (Gediman et al vs. Anheuser Busch, Inc., (Second Circuit 1962, 299 F 2nd 537).

So a company can be responsible not only for free title information but for free advice given even to its own employees on pension matters, home financing, installment buying, divorce problems, etc., etc. So if you can't say "No", be careful.

ON THE COVER

It has been said, "a people gets the kind of government it deserves". If this philosophy applies equally to trade associations, then members of the ALTA must have been circumspect, indeed, in their behavior.

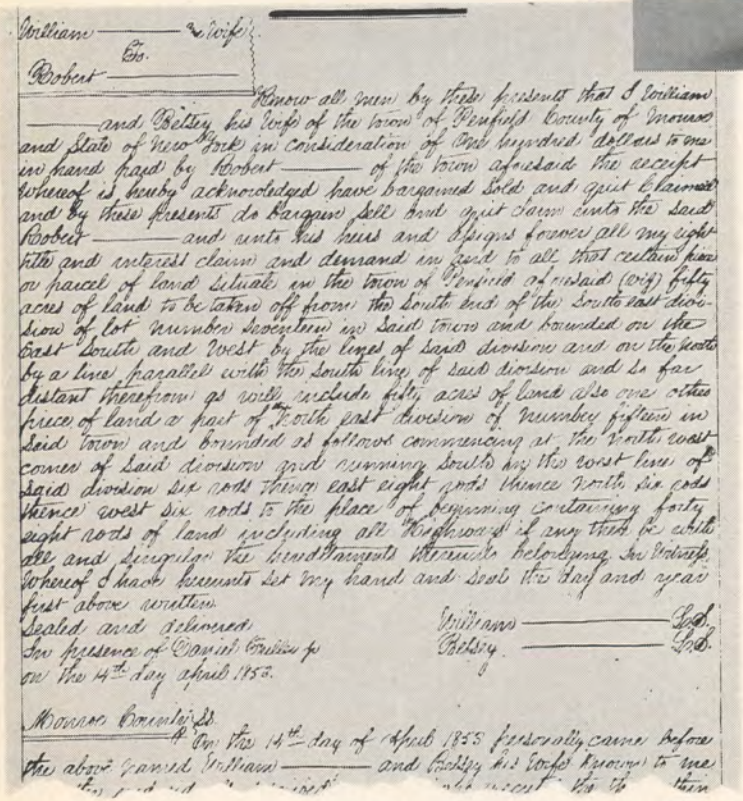
For, with the election of Joseph S. Knapp, Jr., President of The Title Guarantee Company, Baltimore, as National President, the American Land Title Association is assured leadership for the ensuing year at the highest level of dignity, competence and dedication.

Mr. Knapp has been associated with the title profession for 45 years. Modest, thoughtful and soft-spoken, he has served the Association faithfully in his capacities as Vice President, Chairman of the Title Insurance Section, National Treasurer and member of the Board of Governors.

We know ALTA members will support the administration of Joseph S. Knapp, Jr., with enthusiasm.

WRIT BY HAND

...or any other way



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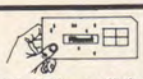

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State Association

CORNER

New York State

LEO J. SULLIVA
AS PRESIDENT

The 1964 Annual Convention of the New York State Title Association was hel July 15-19 at Whiteface Inn, Lake Placid, New York. Leo J. Sullivan, Executiv Vice President of the Monroe Abstract and Title Corporation, Buffalo, was electe President. He will assume the duties of his office November 1. Edward L. Das continues as President until that date.

National President, Clem H. Silver, represented the ALTA with a report on th state of the industry and the operation of the National Office.

Palmer W. Everts was re-elected Executive Secretary.

BOTTOM ROW: (left corner) Carl Schlitt, Chief Counsel, Home Title Division of Chicago Title Insurance Company, was one of the speakers. (second from left) The present officers of the New York Association. (second from right) Mr. and Mrs. Leo J. Sullivan; Mrs. and Mr. Edward L. Dash. (right corner) Dermod Ives, Chief Counsel of the Temporary State Commission on Revision and Simplifications of the Law of States.

itle Association
TAKES OFFICE
NOVEMBER 1

ABOVE: Clem H. Silvers, President of the American Land Title Association.

LEFT: Newly elected President of the New York State Title Association, Leo J. Sullivan.

A Mid-Decade Census Of Housing?

By HARDING deC. WILLIAMS, Assistant Director of NAREB's Department of Governmental Relations

Calling current and accurate information on the housing needs of the nation essential to the planning of effective action by the real estate profession and the government, the National Association of Real Estate Boards has urged Congress to restore a $1.7 million budget request of the Department of Commerce to conduct a 1965 census of housing.

The plea for the restoration of the funds, previously cut from the Department's appropriation by the House Appropriations Committee, was made by Harding deC. Williams, assistant director of NAREB's Department of Governmental Relations, in testimony before the Subcommittee on the Departments of State, Justice, and Commerce of the Senate Committee on Appropriations. The Subcommittee is conducting hearings on H. R. 11131, the appropriations bill for the three departments.

"The inventory of housing is of national concern and is essential to the sound formulation of housing policy by Congress," Mr. Williams said as spokesman for the nation's 78,000 Realtors. He pointed to the frequent censuses conducted by the Bureau of the Census in the fields of business, manufacturing, transportation, and mining as being of "great benefit" to the government and the industries involved, but noted that housing censuses, with the exception of the mid-decade inventory of 1956, have been made only every 10 years.

He observed that if there is no housing inventory in 1965 or 1966, Congress and the real estate calling "will be forced to make decisions on the basis of increasingly obsolete data."

The NAREB spokesman illustrated the magnitude of the government's stake in determining housing policy on the basis of accurate and up-to-date facts by recalling that the proposed housing bill for 1964, for example, involves expenditures of some $8.5 billion over a 40-year period.

"Because of the dynamic state of the housing market, a census every 10 years is insufficient," Mr. Williams declared. "Housing legislation enacted in the latter part of this decade will be based on information seven and eight years old if there is no 1965 inventory."

He said that NAREB had endorsed the 1956 housing inventory and be-

lieves the results have served to improve decision-making by government officials on all levels, by private investors, and by those engaged in the housing industry.

Among the specific reasons for the need for a housing census in the near future cited by Mr. Williams were the following:

1. Private development and urban renewal today have greatly accelerated the rate of change in the housing stock and speeded the obsolescence of existing factual information. A national housing inventory will tell the number of housing units demolished through public action or replaced by office building and high-rise apartment construction.

2. The mid-decade inventory will provide "vitally needed" information on the current condition of housing, on the income levels of people occupying the various types of structures, and on rent and value levels.

3. The expanding network of highways and freeways is hastening the rate of city change making it "increasingly necessary to distinguish the housing situation in the central city and the suburbs." Such a study is included in the contemplated mid-decade census for the first time.

4. The proposed national housing inventory will serve to check on current housing statistics — that is, will provide an opportunity to examine critically the level of housing starts. Because of the inventory of 1956, millions of units were disclosed that had not been counted in the construction series which were then being provided.

"In addition to housing starts," the NAREB witness concluded, "the housing inventory would also yield valuable information as to the number of housing units which are removed from the inventory each year by destruction, merger with other units, or by other means. It is not until we know both the starts and the removals that we can measure net increases in the inventory — information which we must know when we consider fiscal and monetary policy affecting real estate and home building."

Lawyers Detroit Office Remodels

A two-floor addition to the Lawyers Title Insurance Corporation Building, a downtown landmark, at 735 Griswold Street, Detroit, Michigan, was started in August. Included in the improvements will be major renovation and modernization of the present structure's five floors.

In announcing the improvements, Frederick A. Thomson, Senior Vice President of Lawyers Title, said new construction would include an additional automatic passenger elevator, new lighting and air-conditioning equipment and extensive alterations to the first-floor lobby and offices, as well as working areas on the upper floors.

"Our national division, escrow and bookkeeping departments and some of our sales division's activities are now quartered in other downtown Detroit locations. When the two floors are finished about April 15, 1965, all these operations will be moved into the Griswold Street building which is our Michigan State office."

The architectural and engineering firm of Lester H. Davies, Inc., has drawn the plans and will supervise construction, which will be done by K & C Associates, Inc., Both are Detroit firms.

Situated in the heart of Detroit's financial district, the Lawyers Title Building is across the street from the site of Old City Hall, which the city is redeveloping as a plaza and a memorial to Detroit pioneers and as a landscaped beauty spot at the city's hub. The municipal project, which includes a major underground parking garage, is expected to start this year.

Elected to Board

Richard S. Reynolds, Jr., Chairman of the Board and Chief Executive Officer of Reynolds Metals Company, has been elected to the Board of Directors of Lawyers Title Insurance Corporation, Richmond, Virginia, it was announced recently.

Reynolds attended Davidson College, North Carolina, and later the University of Pennsylvania, where he was graduated from the Wharton School of Finance with a B. S. degree in the Class of 1930.

In 1930, he became a member of the New York Stock Exchange and, with two partners, formed the banking firm of Reynolds & Company. In 1938, he severed all connections with Reynolds & Company to join Reynolds Metals Company as Assistant to the President. He served as Treasurer of Reynolds from 1938 to 1944; Vice President and Treasurer from 1944 to 1948; and was made President August 31, 1948. He was elected Chairman of the Board and Chief Executive Officer, February 22, 1963.

Reynolds is Board Chairman of Robertshaw Controls Company, and a Director of The British Aluminum Company, Ltd., London; Manufacturers Hanover Trust Company, New

York; and the Central National Bank, Richmond. He is a member of the President's Advisory Committee on Labor-Management Policy, and is on the Board of the Council for International Progress in Management.

Appointments Announced

John B. Waltz, President of Commonwealth Land Title Insurance Company, Phila., Pa., has announced the appointment of J. Walter Gallagher, Jr., as Manager of the Norristown Branch Office and Domenic J. Malatesta as Manager of the 7059 Caster Avenue Branch Office.

Mr. Gallagher has been with the Company for 16 years and has had extensive settlement experience. He graduated from Upper Moreland High School and attended Temple University. He is a member of the Friendship Lodge of Jenkintown, the Christian Business Men's Committee and served with the United States Air Force for three years.

Mr. Malatesta joined the Auditing Department of the Company in 1946 and subsequently was transferred to Settlement work at the Castor Avenue Office. He is a graduate of Central High School, Pierce Business School and was a member of the 11th Airborne Division during World War II.

Changes at the Title Guarantee Company

Aime C. Bettex, First Vice President of The Title Guarantee Company, New York, N.Y., has been designated as the company's officer who is second in command to Herman Berniker, newly elected President.

Purcell B. Robertson and Howard J. Missbach of the company's main office in Manhattan, James Pedowitz, at Mineola, Ramon R. Blanco at White Plains and Robert A. Kersten, in Buffalo were promoted to the office of Senior Vice President. Max Weiss of the New York office was promoted to Vice President.

ARIZONA TITLE & TRUST COMPANY

Arizona Title Opens New Home Office

Arizona Title Insurance and Trust Company, Phoenix, Arizona, moved its home office into the new and modern structure of the Arizona Title Building on July 13, 1964, initiating the first move in downtown development.

For the past 17 years, Arizona Title occupied a building at 124 North First Avenue and in 1962, moved into temporary quarters in the six-story Arizona Title Complex awaiting completion of the new Arizona Title Building.

On the upper level of the first floor offices, are colorful Indian Statues, creating an atmosphere of Arizona heritage.

A private elevator lifts Arizona Title customers directly to the second floor where the Title and Plant Department, General, Trust and Payment Accounting, Trust Department and Subdivision Department, and a coffee and luncheon lounge are located.

National Delinquency

Mortgage delinquency rates continue to drop throughout the residential mortgage field reports the latest National Delinquency Survey of the Mortgage Bankers Association of America. Following a record high last December 31 of 3.30 delinquencies per 100 loans, the 400 reporting MBA-member firms showed a decline to 3.01 delinquencies per 100 loans as of last March 31 and, with the current report, a further decline to 2.82 delinquencies per 100 loans as of June 30.

Analyzing more than 3 million FHA-insured, GI-guaranteed, and conventional mortgage loans held or serviced on June 30, 1964(by the 400 respondents, including mortgage banking firms, commercial banks, and mutual savings banks, the MBA survey showed that FHA-insured loans delinquent 30 days or more fell from 3.18 per 100 as of March 31 to 3.02 per 100 loans on June 30. During the same period, GI-guaranteed loans fell from 3.37 to 3.13 delinquent 30 days or more, and conventional loans fell from 1.83 on March 31 to 1.67 per 100 loans on June 30.

Total number of loans delinquent—out of 3,130,580 mortgage loans analyzed — fell from 94,170 last March 31 to 88,384 on June 30. Loans in both the more-than-60 and more-than-90 day delinquent categories dropped to less than one-half of one percent of the total number of loans analyzed. Only .47 loans per 100 were delinquent more than 60 days, and .28 (less than one-third of one percent) were delinquent more than 90 days.

In-foreclosure rates have also shown a steady drop, from .41 per 100 loans March 31 to .39 per 100 loans as of June 30. Only 12,253 mortgage loans of the more than 3 million analyzed were in the process of foreclosure on June 30.

Following is an abbreviated chart of the full report showing, by loan classification, a breakdown of those loans delinquent 30-, 60-, and 90-days:

ALL LOANS — DELINQUENT MORTGAGES — IN FORECLOSURE
(per 100 mortgages held or serviced)

	Number	Total	30-Day	60-Day	90-Day	
TOTAL	3,130,580	2.82	2.08	.47	.28	.39
From 3/31/64		–.19	–.04	–.09	–.06	–.02
From 6/30/63		–.27	–.21	–.03	–.02	+.03
GI	1,152,277	3.13	2.31	.52	.31	.38
From 3/31/64		–.24	–.04	–.10	–.08	–.04
From 6/30/63		–.38	–.30	–.03	–.04	+.02
FHA	1,425,140	3.02	2.20	.52	.30	.52
From 3/31/64		–.16	–.03	–.08	–.06	–.02
From 6/30/63		–.25	–.20	–.02	–.02	+.05
CONVENTIONAL	553,163	1.67	1.27	.25	.15	.08
From 3/31/64		–.16	–.06	–.06	–.03	same
From 6/30/63		–.12	–.09	–.03	same	same

VIGINTILLIONTH NOT LEGAL IN ILLINOIS

Here is a decision from a court case relative to a description in a tax deed, as follows:

"The east vigintillionth of a vigintillionth of the east 1/64 inch of a lot one in the S. W. Quarter of section 25, town 38, range 7, in the county of Kane and state of Illinois. Recorded in the recorder's office of said Kane county, July 10, 1888, in book 250, page 286."

The court held that a tract of land described as above may be perhaps pictured in the imagination but such a tract could not be bounded. It could not be located nor could a person take possession of such a tract of land personally. Such a tract could have no existence for the purposes for which lands are acquired and held. Under such circumstances the conveyance may be regarded as void. (Glos V. Furman, 45 N.E. 1020, 164 Ill. 585).

Reprinted from the Illinois Surveyor.

Vernstrom Elected

The board of directors of Oregon Title Insurance Co., Portland, Oregon, has elected Roy N. Vernstrom, Vice President and Manager, following the resignation of Max deSully.

During the past two years Vernstrom was managing director of Portland Metropolitan Future Unlimited, and prior to that time served in various management capacities with Pacific Power & Light for fourteen years, concluding as assistant general manager.

Active in civic affairs, Vernstrom is a past president and general campaign chairman of the Tri-County United Good Neighbors, and chairmanned the successful Hilton Hotel three million dollar debenture sales campaign.

To Citizens of Year 2012

Items of special significance to Arizona, to the City of Phoenix, to the Osborn School, to Financial Corporation of Arizona and to the citizens of 2012 were placed in the cornerstone of Financial Center on August 4, 1964.

Ceremonies centered around the five-foot high cornerstone of the central fountain at Financial Center, headquarters for FCA and its affiliated companies, now under construction at Central Ave. and Osborn Rd.

David H. Murdock, FCA president and chairman of the board, said that items placed in the cornerstone were chosen because of their relevance to Arizona in 2012, the 100th anniversary of statehood and the year in which the cornerstone is to be opened. All materials were microfilmed by the Phoenix Division of Recordak to fit into the fallout proof ⅛ inch thick lead box, he added.

JAMES ROLANDO (left)
DAVID MURDOCK (right)

In addition to statements by the Governor of Arizona, Senator Barry Goldwater and other leading citizens, a statement was also offered by J. H. Sharpe, President of Union Title Company. Sharpe said that private ownership of property in Arizona will be more than triple by 2012 and that there will be more and larger cities

throughout the state because of revolutionary developments in air conditioning, transportation and water supplies.

Mr. Sharpe's Message follows:

To Whom It May Concern:

To those of us in the title insurance business, the element of time is probably less awesome than to most people. In our business it is our responsibility to trace back through the years, establish original ownership, and bring the subsequent chain of title on real property down to date.

We work with the most constant commodity of all — land. Yet, at the same time land is a commodity that quickly reflects growth and development.

Today we are in an era where huge parcels of land are being subdivided into small segments for homes and for the development of commercial and industrial buildings. However, despite the rapid increase in the number of individual ownerships in the Fifties and early Sixties, less than 17% of the land in the state of Arizona is privately owned. The bulk of our State's population is concentrated in Maricopa County.

Those of you who read or hear these words, forty-eight years from now may be interested in my predictions as to what the intervening half century may bring.

First, I believe that private ownership of property in Arizona will more than triple by 2012. The trend is forever westward, and through the years the movement to Arizona will be constant and heavy.

Second, there will be more and larger cities throughout our state. Revolutionary developments in air conditioning, transportation, and the creation of water supplies will aid this development.

Thirdly, and most basically, the title business will still be the means of guaranteeing man's ownership of real property. And, real property still will be man's soundest and most basic investment.

Congratulations to you all who have the wonderful opportunity of living in the year 2012.

Very truly yours,
J. H. Sharpe
President
Union Title Company

Million Dollar Key

An eight column manual adding machine that will list twice the total listed by any other eight column adder has been developed by Remington Office Machines, Division of Sperry Rand Corporation.

Called the Model 10811, this full keyboard machine lists the usual 8 columns and totals the usual 9. However, in addition it features a new million dollar key which enables the operator to list one million in the ninth column. This exclusive key in effect doubles the machine's listing capacity.

Superseding the Remington 10611 which listed six columns, the new machine retains all the distinctive features of the earlier model including the Cycolac case, single stroke totaling, direct subtraction, and subtotaling. In spite of the increased capacity the suggested list price will continue to be $99.50—the same as the price of the earlier model.

Remington adding machines stress lightness and durability. They are designed for any job where mobility is important and are known for their ability to stand up in such heavy duty situations as construction sites and loading docks.

Deatly; 3 Others Named by T. I.

William H. Deatly, President of The Title Guarantee Company, New York, a subsidiary of Title Insurance and Trust Company, Los Angeles, has been named executive vice president, administration and finance, of the parent company, according to Ernest J. Loebbecke, board chairman of the title and trust firm. Deatly is a former president of the American Land Title Association.

DEATLY

He was succeeded in his New York post on October 1 by Herman Berniker, who has been serving Title Guarantee as executive vice president.

Announcement of the changes in the company's management structure were disclosed following the August board of directors meeting.

At that time it was also announced that Richard H. Howlett, senior vice president and secretary of Title Insurance and Trust Company, had been elected to the additional office of general counsel, and Paul A. Pflueger, Jr., formerly financial vice president of the firm, was elected senior vice president, finance.

Deatly joined Title Guarantee in 1933, and subsequently served as comptroller, vice president and vice president and general manager prior to being elected president in 1950. He will continue to serve on the board of directors of the New York company and will become Chairman of its executive committee. Active in civic, professional and trade associations, Deatly is a member of the New York State Society and the American Institute of Certified Public Accountants. He is treasurer and chairman of the finance committee of the Episcopal Mission Society in the Diocese of New York, a trustee of Excelsior Savings Bank, New York, and a past president of the New York State Title Association.

His successor, Berniker, an attorney, was admitted to the bar in 1928. He is a member of a number of bar associations including the New York State and American Bar. He has been active in The American Land Title Association and is currently serving as a member of the Standard Forms Committee. He entered the title business in 1926 and was elected Executive Vice President of Title Guarantee in 1950.

BERNIKER

Howlett has been with the Los Angeles-based firm since 1946 and has served in a number of capacities, including that of associate counsel and attorney in the company's opinion section. He will continue his present duties as senior vice president and secretary, but with the additional responsibility as general counsel.

HOWLETT

Active in the investment business since 1935, Pflueger joined the company in 1952. As financial vice president, he has been in charge of the investment department since that time. He will continue to have responsibility for the company's investment portfolio as well as all investments connected with trust activities. In addition, he has responsibility for the full utilization of all company funds.

PFLUEGER

Need Not Economize Land

We need not economize on the use of land; there is plenty to go around, according to Dr. Robinson Newcomb, Washington, D. C., one of the leading construction economists in the United States.

Dr. Newcomb, writing in the July issue of **The Appraisal Journal**, contends that the urban explosion may be more a thing of the past than of the future as the result of two major population trends. **The Appraisal Journal** is published quarterly by the American Institute of Real Estate Appraisers, an affiliate of the National Association of Real Estate Boards.

The two primary factors affecting the use of land which are changing are, first, the type of household formation now under way and, second, the shift in the character of household formation itself, he states.

Dr. Newcomb, of the firm of Newcomb, Gillogly Associates, explains that there is a shift in age distribution of the population and the proportion of young and old families is increasing. These are the age groups more interested in apartment living and, since apartment structures use less land per person housed than do single family structures, this trend is reducing the pressures for land.

This easing in the demand for land, Dr. Newcomb says, is being reinforced by the shift in the character of household formation. He explains that during the first decade after World War II, the number of married couple households increased at an annual rate of over 3 per cent. But as the marriage rate returned towards normal and as incomes continued to rise, single persons and other types of households began to occupy a greater proportion of available space. Married couple households require about half as many housing units to house the same number of people as non husband-and-wife households.

Census projections for the 1960's and 1970's indicate that much of this rapid growth in "other households" is over. From now on, Dr. Newcomb states, the number of husband-and-wife households is expected to grow at about the same rate as other households, so the net additions to the number of housing units will be smaller per unit of growth in the population in the next two decades.

The amount of land used for urban purposes was 75 per cent greater in 1950 than in 1950, but the population increased only 19 per cent. Urban land use, therefore, grew about four times as much as the population. But because of the shift in the age distribution of the population, the shift in the character of household formation itself, and because a larger proportion of the existing population has adequate space than was true in 1940 and 1950, urban land use may grow only about 2.5 times as much as has the population in the 1960's and only about 50 per cent more than the population in the 1970's.

Urban land growth in the United States as a whole is becoming manageable. People are getting more space but they are no longer threatening to create a hopeless urban sprawl in the process, Dr. Newcomb states, and maintains also that the expansion in urban land use is far less than the additional amounts of land made surplus each year by the increased productivity of agricultural land.

Atchison Heads Firm

John H. Atchison was elected President and Managing Officer of The Johnson County Title Company, Inc., at a recent meeting of the Board of Directors in the new offices of the firm at 110 North Cherry, Olathe, Kansas.

Atchison was previously Vice President of the firm, and is also an Assistant Secretary of Kansas City Title Insurance Company, the parent company.

Atchison was employed by the firm as Branch Manager in 1959. He was previously engaged in the private practice of law in Garden City, Kansas, and employed as Branch Manager of a Kansas City savings and loan association.

He holds a BS Degree from Kansas State Teachers College, Emporia, Kansas, and an LL. B Degree from the University of Kansas.

Atchison and his wife, Madelyn, and two children, live at 5087 Outlook, Mission, Kansas.

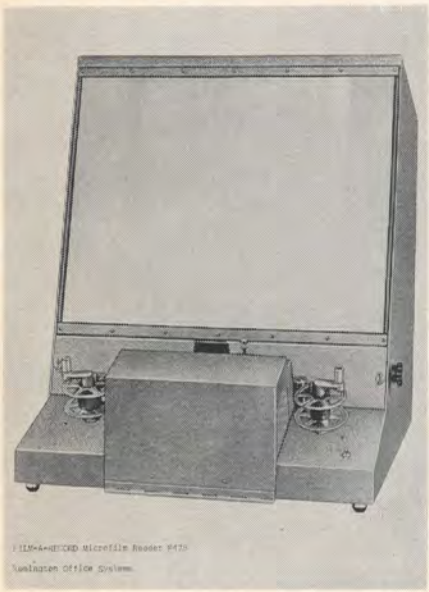
Other officers elected at the meeting were Sam C. Sherwood, Jr., Vice President; John D. Petterson, Secretary-Treasurer; and Vernon Couch, Assistant Secretary.

Atchison and Sherwood were also elected to the Board of Directors of Johnson County Title.

New Microfilm Reader

A new microfilm reader specially designed for brilliant image readability of large size documents on 35 mm roll film or mounted in 35 mm microfilm aperture cards or jackets has been developed by Remington Office Systems, Sperry Rand Corporation.

Easy to operate, the new reader (known as the FILM-A-RECORD Reader F478) features an 18 inch by 24 inch non-reflective screen made of special translucent plastic crystals. Scanning is eliminated as the reader projects an entire Military "D" aperture image on the screen. It readily accepts any card or jacket size up to 8" x 5".



A 500 watt lamp provides a brilliant and even illumination over the entire screen. A blower cooled operation and uniquely designed lamp housing preserves the life of the film. The film is held in focal plane during projection by optical flats to assure perfect focus and to prevent warping and distortions.

As an added feature, a finger-tip control panel located conveniently at the front of the reader provides for maximum efficiency and comfort.

Further information can be obtained from any Remington Office System sales office or franchised dealer. or by writing to Remington Office Systems, 122 East 42nd Street, New York, New York 10017.

New Planetary Cameras

Two new Planetary Cameras equipped with automatic exposure control devices and featuring continuously variable reduction ratio of 12 through 20 have been introduced by Remington Office Systems, Sperry Rand Corporation.

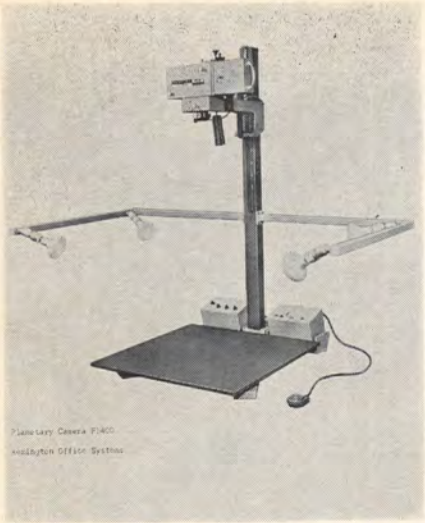
One microfilm camera known as the F1400 model, will produce one roll of film either 16 mm or 35 mm at any reduction.

A sister model, F1410 model, featuring a dual head, will produce two rolls of film simultaneously — one roll for safekeeping and another which can be used for unitized distribution or for other administrative purposes.

These new Planetary Cameras with exclusive controls have been designed to meet the demands of county recording, title companies and other general commercial work.

Further information can be obtained from any Remington Office System sales office or franchised dealer,

or by writing to Remington Office Systems, 122 East 42nd Street, New York, New York 10017.



Joe Smith Named to the A. B. A. Committee

Joseph H. Smith, Executive Vice President of the American Land Title Association, has been appointed to the important "Improvement of Land Title Records" Section of the Real Property Probate and Trust Law Committee of the American Bar Association.

A short note to thank you for the wonderful coverage in the July issue of Title News regarding both our national president, Mr. Carey Winston, as well as our Association. We were very pleased with this coverage, and especially appreciative of your kind words on page 5.

The American Land Title Association and MBA have always had a warm mutual regard for each other and have consistently cooperated on all problems affecting our industry. I am sure this cooperation will continue in the future, and the respect in which your members are held by mortgage bankers will grow as the complexities of our industry grow.

My warmest regards and, again, thank you for the kind words in your July issue.

Sincerely,
Frank McCabe, Jr.
Executive Vice President
Mortgage Bankers
Association of America

In Memoriam

Edward Slote

Edward Slote, a well-known figure in the Title Insurance field, died on the 15th day of June, 1964, after a short illness. He was sixty-one years of age. A graduate of St. John's Law School in the year 1930. He was admitted to the New York Bar in 1931. He resided at Bayside, Long Island, New York, for many years. Mr. Slote had been connected with various title companies during his career and at the time of his demise he was Vice President and Regional Counsel for the Nassau and Riverhead offices of Guaranteed Title Division of the American Title Insurance Company, New York, which position he had for the prior owners of the Company for the past seven years. He is survived by his widow, Sylvia; a son and daughter and one grandchild. He will be greatly missed by his many friends in the Association.

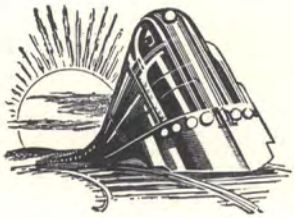
J. William Cotter

J. William Cotter of Haverford, Pa., an authority in the title insurance field and President of the Title Abstract Company of Pennsylvania, died recently.

Mr. Cotter was a member of the Board of Directors of the Girard Trust Corn Exchange Bank here. He belonged to the Overbrook Golf Club and the Seaview and Atlantic City Country Clubs.

Surviving are his widow, the former Mary Mildred Hurley; a son, J. William, Jr.; two daughters, Candice Christine and Bona Lee, and a sister.

Meeting Timetable



OCTOBER 11-12-13
Nebraska Title Association
New Tower Hotel Courts
Omaha, Nebraska

OCTOBER 16-17
New Mexico Land Title Association
Albuquerque, New Mexico

OCTOBER 18-19-20
Ohio Title Association
Commodore Perry Hotel Toledo, Ohio

OCTOBER 22-23-24
Wisconsin Title Association
Uphoff's Motel Lake Delton, Wisconsin

OCTOBER 25-26-27
Missouri Land Title Association
Belair East Motor Hotel
St. Louis, Missouri

NOVEMBER 8-9-10
Indiana Land Title Association
Claypool Hotel Indianapolis, Indiana

NOVEMBER 12-13-14
Florida Land Title Association
Lucayan Beach Hotel Freeport, Bahamas

NOVEMBER 13-14
Land Title Assoication of Arizona
Phoenix, Arizona

FUTURE MID-WINTER CONFERENCES

1965—Washington, D.C.
1966—Chandler, Arizona
1967—Washington, D.C.

FUTURE ALTA CONVENTIONS

1965—Chicago
1966—Miami Beach
1967—Denver
1968—Portland, Oregon


AMERICAN LAND
TITLE ASSOCIATION
SINCE 1907