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TITLE NEWS

THE OFFICIAL PUBLICATION OF THE
AMERICAN LAND TITLE ASSOCIATION ®

ALTA

MANAGEMENT SEMINAR



APRIL 22-23, 1966

FEBRUARY, 1966



A MESSAGE FROM THE CHAIRMAN OF THE ABSTRACTERS SECTION

It is my privilege this month to use our President's space in Title News, and I would like to take this opportunity to say a few additional words about our forthcoming Management Seminar.

As you know from our recent newsletter, the Abstracters Section has planned a two-day meeting in April of this year, dealing entirely with Management and Management problems. These sessions will be in lieu of our Regional Conferences that have been held in recent years. I also want to emphasize that although the Seminar is being sponsored by the Abstracters Section, it is not intended for Abstracter members only. All members of ALTA are cordially invited to participate in these meetings, and it is hoped that we will have representation from both Sections of our Association at this Seminar.

May I also remind you that this program will not be just an informal gathering of title men to discuss some of the Management problems that we have encountered in the past. It will be a planned, organized, professional presentation by outside experts, designed to assist us in dealing with our Management problems. The entire program is being co-sponsored by the Small Business Administration, and that organization has been of material assistance in arranging the program and securing speakers for this occasion. I urge you all to make plans to have your company represented at these meetings. The benefits will be great.

This Seminar will be held in Chicago on April 22nd and 23rd at the Sheraton-O'Hare Motor Inn, near the O'Hare Airport.

A brief outline of the subject matter to be presented is as follows:

1. The functions of management
2. Personnel management
3. Managements use of accounting information
4. Taxation as a key factor in business decisions.

Registration is to be made with our National office, and hotel reservations are to be made direct with the hotel. We suggest that you get yours in early. Attendance at this Seminar will be more than worth your while.

Sincerely,

TITLE NEWS

THE OFFICIAL PUBLICATION OF THE
AMERICAN LAND TITLE ASSOCIATION

EDITORIAL OFFICE: Premier Bldg., 1725 Eye St., N.W., Washington, D.C. 20006 296-3671

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VOLUME XLV

NUMBER 2

1966

ON THE COVER: Here is something that has been badly needed for a long time—a Management Seminar for ALTA members, professionally conducted by experts in the various management fields. For many years there has been a demand for this kind of Seminar.

Here is your opportunity! For a modest fee, you can attend this two-day clinic and receive up-to-date information vital to you in the operation of your business.

JAMES W. ROBINSON, *Editor*
FRANK H. EBERSOLE, *Assistant Editor and
Manager of Advertising*

THE ECONOMIC OUTLOOK FOR 1966



By Gerhard Colm, NPA Chief Economist
and Carol S. Carson, Assistant Economist

The Economic Outlook for 1966 has undergone significant changes during the course of the current year. Early in 1965 concern was expressed about the fact that a substantial increase in social security payroll taxes would become effective in January 1966 before the actual beginning of the Medicare program would affect expenditures. Compared with the de-

velopment from 1964 to 1965, a slowdown in the rate of economic growth was expected, without achieving the interim goal of reducing unemployment to 4 percent.

With the intensification of the war in Vietnam and no early settlement in sight, it appears likely now that the increase in government expenditures will ex-

ceed substantially the prospective increase in receipts. There is concern about the pressure for higher prices.

Considering the recently announced revisions in the Federal budget outlook for fiscal 1965, we estimate the GNP (in current dollars) for the calendar year 1966 at about \$716 billion—which is \$44 billion, or 6.5 percent—above the GNP estimate of \$672 billion for the year 1965.¹ Assuming an average price rise of 2¼ percent for 1966 (compared with almost 2 percent for 1965), we obtain a 4.2 percent increase in GNP in real terms for next year. If a forecast in this range materialized, the economic expansion will celebrate its fifth birthday and may bring us to a situation in which policy will have to be equally concerned with supporting continued economic growth on the one hand and preventing an inflationary price rise on the other.

¹ Our estimate for 1965 made at this time last year was \$660 billion, which would be equivalent to about \$667.5, or about \$4.5

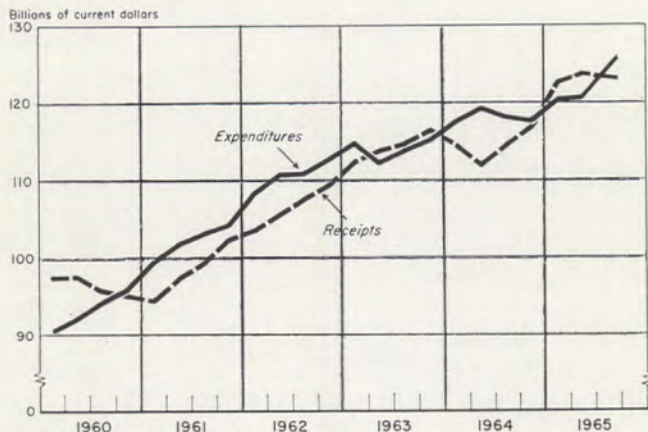
Fiscal Policy in the Current Expansion

The major aspects of fiscal policy since the recession low in first quarter 1961 are familiar: the increase in expenditures, particularly for defense, 1961-62 that was carried out with the *economic* determination not to raise taxes; the 1962 change in depreciation guidelines and investment tax credit to stimulate investment; the \$11+ billion Revenue Act of 1964; and, most recently, the \$4.6 billion excise tax cut, of which about \$1.7 billion was made effective in mid-1965. The result of these measures in the national income accounts was an increase in the annual expenditure rate, from the first quarter 1961 to third quarter 1965, of about \$27 billion and a net reduction in tax liabilities by close to \$15 billion annual rate. During this time, however, the taxable income expanded so much that this was accomplished with-

billion below present estimates, in terms of the revised national income and product accounts.

Chart I

FEDERAL BUDGET, NATIONAL INCOME ACCOUNTS BASIS, 1960-1965
Quarterly Data at Seasonally Adjusted Annual Rates



Source: Survey of Current Business

out an increase, and even with a small decrease, in the annual rate of deficit (see Chart I).

To aid in the appraisal of fiscal policy, the Council of Economic Advisers has introduced the concept of the so-called Federal "full-employment budget." This analytical device measures what the Federal government surplus or deficit in the national income accounts would have been had the economy been fully employed. A large surplus would indicate a restrictive impact on the economy; a deficit, an expansionary impact. Chart II (panel B) shows that during calendar year 1960 this measure averaged a surplus of \$13 billion, the highest level in the past decade, coinciding with the drop into the 1961 recession (panel A); that throughout 1961 and the first half of 1962 the full-employment surplus declined, coinciding with the recovery from the recession; that the surplus rose to around \$11 billion for the final three quarters of 1963, coinciding with indications of a leveling out of the

GNP increase; and that the surplus dropped sharply to less than \$1 billion with the passage of the Revenue Act of 1964 and has since remained below \$5 billion. This last decline in the surplus coincided with an average annual GNP increase of 6.7 percent (4.4 percent in constant dollars). The coincidence of these time series cannot prove but seems to support a presumption of the crucial role of fiscal policy in supporting economic growth in the period.

A different approach has been used by Arthur Okun of the Council of Economic Advisers. He derives his conclusions from a comparison of the actual development with a hypothetical projection of what the development would have been without the tax reduction. The amount added to economic activity by the Revenue Act of 1964 was found to be almost \$25 billion by the second quarter of 1965. This amount would rise to over \$30 billion in the fourth quarter of that year and ultimately reach \$36 billion. Translated into jobs by mak-

Table 1. Estimate of Federal Expenditures for 1966
(national income accounts basis unless noted,
in billions of dollars)

Estimate of fiscal 1966 Federal expenditures:						
Original Budget estimate, January 1965						\$127
Adjustment to revised national income accounts						1
						\$126
Increase in estimate, November 1965, Administrative Budget						\$ 6
Adjustment to national income accounts basis						1
Revised estimate						\$131
Federal expenditures (half-year data at seasonally adjusted annual rates):						
Full fiscal years		Calendar half-years			Full calendar years	
1965	\$118.3	actual 1st half 1965		\$120.5	1965	\$124.0
1966	131.0	{estimated 2nd half 1965		127.5		
		{estimated 1st half 1966		134.5	1966	136.5
		{estimated 2nd half 1966		138.5		
Increase, from calendar 1965 to calendar 1966						\$ 12.5
Less increase in grants-in-aid, which appear as expenditures of state and local government						2.0
Increase in direct Federal expenditures, from calendar 1965 to calendar 1966						\$ 10.5

ing use of what has become known as the "Okun Law," this means that without the Revenue Act unemployment would have been more than 1 percentage point over the actual 4.7 percent for the second quarter 1965.² These results and comparisons suggest that the Revenue Act of 1964 provided the powerful stimulus that has been anticipated by its proponents.

Outlook for the Major Sectors

The economic outlook for 1966 is for a further advance of about \$44 billion. The composition of this advance will be discussed sector by sector, beginning with those which are mainly determined exogenously.

GOVERNMENT. *Federal government* expenditures for calendar 1966 must be estimated on the basis of the recently published revised estimates of expenditures for fiscal 1966. From these estimates will be deducted estimated expenditures for the second half of the current calendar year, and to these will be added estimates for expenditures in the second half of the calendar year 1966—that is, the first half of the fiscal year 1967 (see Table 1). The latter can be only guesses at the present time.

The largest item in the increase over 1965 is the rise in defense expenditures due to the war in Vietnam and the military pay increase. Other major items include outlays for Medicare, grants-in-aid for the various aspects of the "Great Society" program (appearing in the summary table as state and local government expenditures), pay in-

crease for civilian employees, expenditures for veterans, the space program, increased farm price supports, and service on the national debt.

The expansionary effect of this increase in expenditures is offset to some extent by the expected increase in revenues. This increase is due largely to the expansion of the tax base, especially for corporate profits and personal income. In addition, an increase in the payroll tax financing social security becomes effective January 1. This consists of an increase in the tax rate from 7.25 percent to 8.4 percent of the taxable earnings base and an increase in the base from \$4,800 to \$6,600. The total increase in revenues from this tax increase for the year will amount to about \$5 billion. On the other hand, excise taxes will be reduced by an annual rate of \$1.7 billion on January 1 as a second installment of the package passed in June 1965. (One wonders whether this reduction would have been scheduled for January had the Vietnam development been foreseen). Considering both the estimated increase in expenditures and in revenues, it is clear that the Federal budget will exert an expansionary effect on the economy as a whole.

State and local governments are expected to continue their steadily rising expenditures for goods and services. In 1966 the increase is likely to be about \$4.8 billion above 1965, which represents a rate of increase slightly higher than in 1965. State and local governments, despite the specific purpose grants-

² According to the "Okun Law," a 1 percentage point reduction in the unemployment

rate is associated with an increase in real GNP of slightly more than 3 percent.

in-aid mentioned above, and despite increased revenues that may be attributed to the Federal tax cut, remain under pressure to develop revenue sources to cope with an industrialized and increasingly urban society. The result is a trend toward both higher tax rates and extension of the tax base.

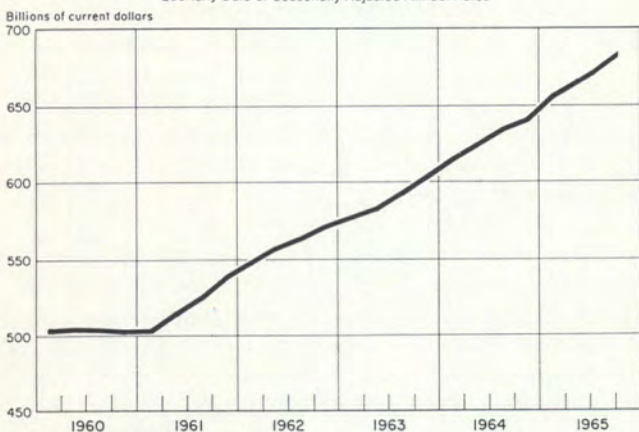
BUSINESS FIXED INVESTMENT. Conditions appear to be favorable for a continued expansion of producers' durables and plant construction into 1966. Cor-

porate profits after taxes in the third quarter were at a new high, and manufacturers' capacity utilization is now said to be slightly above 90 percent, compared with 87 percent in 1964 and the "preferred" rate of 92 percent. However, because business investment has taken place at such a fast rate during the recovery — indeed, faster than expansion in other sectors of the economy—it is likely that, as this increased or modernized capacity comes "on

Chart II

A. GROSS NATIONAL PRODUCT, 1960-1965

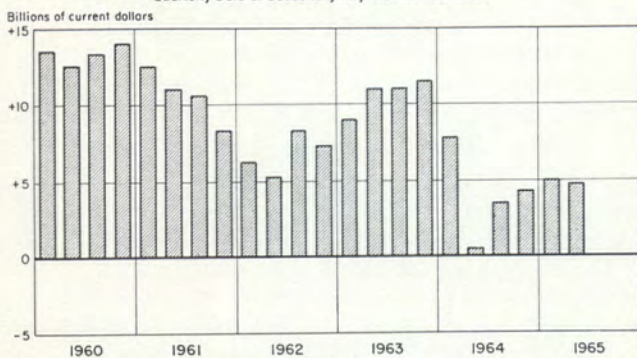
Quarterly Data at Seasonally Adjusted Annual Rates



Source: Survey of Current Business

B. FEDERAL FULL-EMPLOYMENT BUDGET SURPLUS OR DEFICIT, NATIONAL INCOME ACCOUNTS BASIS, 1960-1965

Quarterly Data at Seasonally Adjusted Annual Rates



Source: "Fiscal Policy Issues of the Coming Decade," hearings before Sub-Committee on Fiscal Policy of Joint Economic Committee, 89th Congress, 1st Session, p.7.

stream," utilization of capacity may be reduced in future years. The fact that business has had to resort increasingly to the use of outside sources of finance suggests that the danger of corporate "oversaving" is at least not yet imminent. Still, this possibility requires watchful attention.

The Commerce-SEC fall survey of business investment plans anticipates a rise in expenditures in the first half of 1966 that by the second quarter would be 14 percent above the total for 1965. The survey, however, was conducted before the early December increases in the interest rates. Thus a conservative estimate, giving weight to this dampening factor, would place the estimated increase somewhat lower, possibly 12-13 percent for the year as a whole. Other indicators—capital appropriations, machine tool orders, and contracts for nonresidential construction—also support this substantial upward trend.

The more inclusive category of producers' durables and all non-residential construction we estimate to show an increase of 11 percent over 1965, as compared to 13 percent for 1965 over 1964.

RESIDENTIAL CONSTRUCTION. Since 1963 the housing sector has added very little to the economic expansion. Despite a steady mortgage market at fairly easy terms and rates, and despite sizable increases in aggregate disposable income, private residential construction in 1965, in real terms, is even somewhat lower than in 1964. Looking ahead, the picture is still uncertain. In most recent months the number of housing units started has continued to de-

cline. Also, some experts in the mortgage field foresee a tightening of credit terms in 1966 as alternative users of available funds make greater demands. For the year 1966 as a whole, only a relatively small increase of \$800 million in residential expenditures is indicated.

INVENTORY AND NET EXPORTS. The steel situation continues to be the major influence in inventory movement. At this point the duration of the runoff is still unclear, since it is currently being questioned in the steel and steel-using industries just how much steel inventory will be desirable in light of the current fast pace of automobile sales and against the possibility of rising defense requirements. At any rate, the over-all additions to stock in 1966 are likely to be less than in 1965 by \$700 million.

The outlook for exports is not dissimilar to 1965. The European Economic Community's mild optimism over the real growth in GNP for the six member nations continuing into 1966 helps balance the effects on U.S. exports of the somewhat bleak picture in Great Britain. Attention will also be given to how domestic price changes affect U.S. competitiveness. Steel is a case in point, as foreign steel continues to offer effective price competition.

CONSUMER EXPENDITURES. For projections of consumption expenditures, several different kinds of factors have to be considered, including the direct and indirect effects of government measures on consumers' incomes, the particularly volatile durable goods segment of consumer ex-

penditures, and any other discernible change that may influence trends in consumption.

In the discussion of the Federal government sector above, we mentioned both plus and minus effects on consumer expenditures: the increase in the payroll tax, which, for the employee's half, increases the amount taken out of the individual's pay check and, for the employer's half, may mean some foregone wage increases that lower the disposable income available for consumption expenditures or may mean price increases that reduce real consumption; the further cuts of \$1.7 billion at an annual rate in excise taxes, which are scheduled for the turn of the year; and Medicare payments at a \$2 billion annual rate, which will become effective on July 1.

The October survey by the Census Bureau shows that the number of people who intend to buy a new car in the coming year is higher than last year at the same time, and significantly higher than in 1963. The auto companies, too, foresee another good year. The question may center on how much more credit—and about two-thirds of all new cars are sold on credit—can be expanded within the consumer's repayment ability. Currently, repayments are running at a very high level as a percentage of disposable income. With regard to other durables, intentions to buy are running fairly high.

Arriving at an estimate of consumer expenditures involves taking factors such as government actions and consumer intention into account, as well as the indirect impact of the autonomous increases in business investment and gov-

ernment. For 1966 we calculate an increase in personal consumption expenditures of almost \$26 billion. This represents a rate of increase less than that of the total economy, in contrast to 1965 when, under the influence of the tax cut, consumer expenditures increased more than in proportion with the rest of the economy.

WAGES, PRICES, AND INTEREST RATES. The President's wage-price guidelines urge that generally wage increases be equal to the national trend rate of increase in productivity and that prices likewise be raised, lowered, or held stable according to relative productivity changes. These guidelines appear to have at least weathered the tests during 1965. Several wage agreements earlier in the year exceeded the prevailing 3.2 percent trend productivity rate and were generally larger than in the past four or five years. A major test, however, was the steel industry settlement. By the government's calculation, this was right at the 3.2 percent wage increase, which is close to the estimated long-range increase in productivity. That the guidelines did not suffer more from these tests during 1965 was probably due only in part to the fact that in crucial cases the partners to collective bargaining were persuaded to exercise restraint. In part it was probably due to the fact that, because of automation, unions are placing highest priority on the need to provide job security for their members. During 1966 no major collective bargaining agreements are coming up for negotiation, although, with tightening of

the labor market, "wage drift"³ in some fields may take place.

It appears that in 1966 price trends will be of even greater concern, and that the Administration will take an increasingly active interest in price developments and their relationship to the guidelines. In wholesale price level, where price increases on nonferrous metals were largely responsible for a rise in the prices of industrial commodities beginning in mid-1964, the most recent months show some slowdown in the rate of increase. The consumer price index has mixed components—furniture, shoes, and some other items are expected to have higher price tags, but the upward pressure on food prices may subside. On balance, we may expect that prices in 1966 may increase somewhat more than they did in 1965, which in turn showed a slightly greater price rise than previous years of the current expansion. More as a symbol than as a real forecast, we have assumed in our summary table that prices in 1966 (GNP basis) will increase by an average of $2\frac{1}{4}$ percent as compared with nearly 2 percent in 1965.

Interest rates have edged somewhat higher throughout the year. Yields on 3-month Treasury bills at the end of November were over 4 percent per year, compared with the 1964 average of 3.54 percent. Long-term bonds are also somewhat higher. In part, the higher rates reflected the greater demand by corporations for external funds to support continued high capital expenditures. Federal Reserve

has pursued a policy of holding the banks in a fairly tight position, without thus far restricting economic expansion. Then in early December the Federal Reserve increased the discount rate—the rate at which banks borrow from the Federal Reserve—by a half percent to $4\frac{1}{2}$ percent. This seems to signal the Federal Reserve's intention to restrain inflationary pressure. If more inflationary pressure develops, or if the balance of payments does not maintain improvement during 1966, some further mild increase in rates cannot be ruled out.

SUMMING UP. The expected increases in government expenditures and business investments are the main factors determining the increase in consumer incomes and expenditures. The impact of the expected increase in these expenditures is calculated by the usual multiplier analysis but is tempered, on the one hand, by the depressive effects of the payroll tax and, on the other hand, somewhat aggravated by the stimulus to business fixed investment and inventory that could stem from increased military effort. A GNP estimate of \$716 billion is implied by the analysis, but it should be considered as the center of a broader \$10 billion range. Our assumption with regard to defense expenditures — namely, that they expand by \$4 billion to \$4.5 billion — is by its nature arbitrary at this point; any change from this assumption would affect other sectors and total GNP. Allowing for a $2\frac{1}{4}$ percent price increase, the

³ "Wage drift" is an increase in wage earnings that does not result from an increase in wage rates through collective bargaining.

It may result, for example, from upgrading employees and their positions or from increased hours of overtime work.

real rate of increase over 1965 would be about 4.2 percent. This rate compares with the estimated rate of 4.9 percent of 1965 over 1964.

One measure of the adequacy of the projected 1966 rate of expansion is its potential effect on unemployment. The rate of increase in productivity (GNP per man-hour) has slowed down substantially in 1965, due to cyclical factors in the later stages of recovery which draw less efficient plants into production and result in various production bottlenecks.⁴ For 1966 it would at best be expected that the continuation of a cyclical slowdown movement and the rising trend may offset each other. We expect a rise in productivity in 1966 of somewhat less than the 3

percent rate of increase estimated for the next decade. Civilian labor force growth in 1966, based on demographic factors and labor force participation rates, can be estimated at 1.6 percent. If a small allowance is made for reduced hours, the aggregate of these factors shows that the 4.2 percent rate of real growth alone would not significantly reduce the rate of unemployment. However, as in 1965, "Great Society" programs such as the youth programs, which had the effect of lowering the statistical unemployment rate by as much as two-tenths to three-tenths of a percentage point, and the possible increase in the armed forces over the year may further push the unemployment rate close to 4 percent.

⁴ The low increase in productivity estimated for 1965 may be in part influenced by

statistical discrepancies.

Table 2. Components of the Gross National Product
Actual 1964, Projected 1965 and 1966
(billions of current dollars unless specified)

Item	1964		1965		1966		
			change		change		
			dollars	%	dollars		%
Consumer expenditures	\$398.9	\$428.2	\$29.3	7.3%	\$454.1	\$25.9	6.0%
Private investment	92.9	102.3	9.4	10.1	109.9	7.6	7.4
Residential construction	27.5	27.7	0.2	0.7	28.5	0.8	2.9
Business fixed investment	60.5	68.3	7.8	12.9	75.8	7.5	11.0
Change in inventories	4.8	6.3	1.5	31.2	5.6	-0.7	-11.1
Net export	8.6	7.3	-1.3	-15.1	7.3	0	0
Govt. purchase of goods & services	128.4	134.2	5.8	4.5	144.7	10.5	7.8
Federal	65.3	66.7	1.4	2.1	72.4	5.7	8.5
Defense	49.9	50.2	0.3	0.6	54.5	4.3	8.6
Other	15.4	16.5	1.1	7.1	17.9	1.4	8.5
State and local	63.1	67.5	4.4	7.0	72.3	4.8	7.1
GNP	628.7	672.0	43.3	6.9	716.0	44.0	6.5
Price deflator for GNP (1958=100)	108.9	110.9		1.8	113.4		2.25
GNP, constant dollars (1958=100)	577.6	606.0	28.4	4.9	631.4	25.4	4.2
Addendum:							
Total Federal expenditures less grants-in-aid	107.9	112.4	4.5	4.2	122.9	10.5	9.3

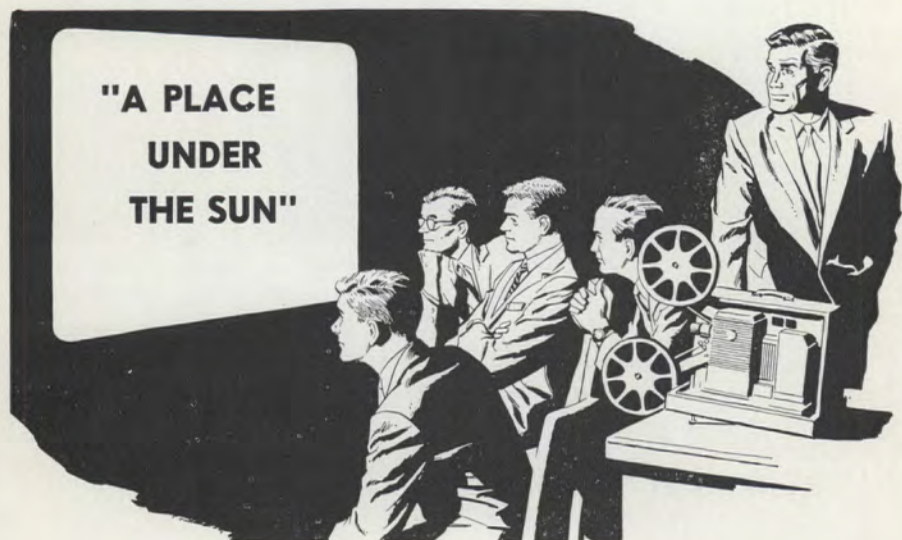
Sources: 1964 — *Survey of Current Business*, August 1964
1965 and 1966 — National Planning Association

* * *

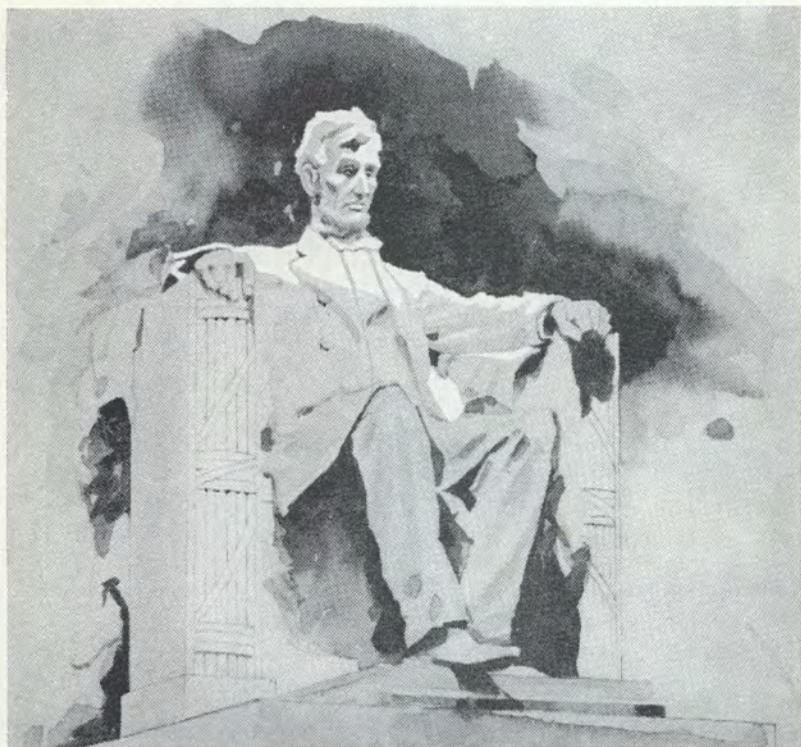
The intensified war effort in Vietnam is designed to prepare the ground for a settlement of the conflict by negotiation. Thus, while the prospect for increasing war expenditures dominates the economic outlook for 1966 and must be taken into consideration in determining economic and fiscal policy, the hope for subsequent arms reduction must also still be considered in longer-range business and government planning. Many of the recently initiated "Great Society" programs will be essential in support of economic growth in future years. Sustained economic control of infla-

tion engendered by a possible further step-up in military expenditures, or by over-responding to the threat of such developments by excessive monetary restraint or drastic cutback in desirable expenditure programs. When the gap between the potential and the actual production was \$50 billion or more it was relatively easy to prescribe fiscal policy and to predict its effect on economic development. Prescription and prediction become more difficult when the gap is narrowing to \$20 billion or less and bottlenecks begin to appear, quite besides the uncertainty about the future size of military requirements.

ORDER YOUR COPY TODAY



A LINCOLN STORY WITH A TITLE TWIST



Lincoln Family Lost Three Farms Due To Defective Land Titles. Old Abe's Father, Thomas, Cleared Of Historical Charges Of Wanderlust And Shiftlessness:

BY DEANNE AND DAVID HELLER, ALTA PUBLIC
RELATIONS CONSULTANTS

Except for defective land titles, Abraham Lincoln, born in Kentucky, might have remained a

Kentuckian all his life—and American history might have been drastically changed.

Three times, Abraham Lincoln's father, Thomas Lincoln, bought farms in Kentucky—and each time he had legal difficulties with the title to the farm he thought he owned. In the famous biography which Abraham Lincoln prepared on his life while a candidate for President in 1860, the 16th President wrote:

"From this place (Knob Creek Farm) he (Thomas Lincoln) removed to what is now Spencer County, Indiana, in the autumn of 1816, Abraham then being in his eighth year. This removal was partly on account of slavery, but chiefly on account of the difficulty in land titles."

Thomas Lincoln spent 34 years in Kentucky and some historians have written harshly of him because of alleged shiftlessness. However, Historian Louis A. Warren, defending the reputation of Lincoln's father, wrote:

"Thomas Lincoln secured titles to three farms which he purchased in good faith. The first one, when he came to sell it, had lost 39 acres and represented a loss to him of 18 pounds. The second farm he bought for cash and a small obligation. He later learned that the obligation was larger than had been represented and the holder of the title demanded money instead of merchandise such as the agreement called for . . . The third tract he purchased . . . he lost through a suit of ejectment . . . These land transactions were enough to make a man seek a country where he could be sure of a good title, and Thomas Lincoln had come to the conclusion that Indiana of-

fered such an opportunity."

Historian Warren's conclusion: "Thomas Lincoln of Hardin County in 34 years in Kentucky has not one black mark against his name."

The American Land Title Association, in pointing to this important but almost unknown bit of Lincoln history, notes that it was from experiences such as Lincoln's father suffered that the important American industry of insuring land titles has grown. There is an important moral, even for readers today. Hidden hazards may attach to real estate. Forgeries, faulty surveys, hidden liens, conveyances by a minor or mentally-incompetent person, the false representation of ownership or of a married person as being single—these and many more may cloud the title to land. And not even a complete search of all the land records may reveal them.

Kentucky's "Lincoln Country" is today one of the most fascinating and enjoyable of tourist attractions. The Sinking Spring Farm, near Hodgenville, where Abraham Lincoln was born, and where Thomas Lincoln paid \$200 for a faulty title to 300 acres of land, is now a National Park. At the Visitors' Center, operated by the National Park Service, the fascinating saga of the Lincoln family's wanderings in Kentucky—because of defective land titles—is told in a free color slide film. It is an interesting lesson in history. Many other intimate reminders of the Lincoln family remain in Kentucky. Lincoln spoke affectionately of the Bluegrass State all his life. But his family left for Indiana, where, at that time, deeds to land were more reliable because of a federal land survey.

NEBRASKA PIONEER EXPANDS OPERATION



JOSEPH W. McNAMARA, JR.



GENE P. SPENCE

Mr. Ward Lindley, Chairman of the Board of the Spence-Lindley Abstract and Title Company, Omaha, Nebraska, has announced that his firm has purchased the Douglas County Abstract and Title Company in Omaha, and the Fidelity Title Insurance Company, Lincoln.

Mr. Lindley stated that the Douglas County Abstract Company would remain in the Omaha Loan and Association Building under the management of Dorothy Ryan, the former owner. The personnel of that company will remain the same.

The Board of Directors of the combined companies took office

Thursday, December 9. Ward Lindley will serve as Chairman of the Board; Thomas Skutt, Sidney Sweet, Earl Nelson, Gene P. Spence, Joseph W. McNamara, Jr., and Allen Garfinkle are members of the Board. Gene P. Spence who has served as Secretary-Treasurer of the Nebraska Title Association, was named as President of the combined firm. Ward Lindley, Jr., was elected Vice President and Treasurer.

Ward Lindley has been an abstracter in Omaha, Nebraska, since 1924. Abstracting will continue to be a large part of the overall title service provided by the merged companies.

WRITE BY HAND

...or any other way



William _____ and his wife
Robert _____
Know all men by these presents that I William
and Betsey his wife of the town of Westfield County of Monroe
and State of New York in consideration of One hundred dollars to me
in hand paid by Robert _____ of the town aforesaid the receipt
whereof is hereby acknowledged have bargained sold and quit Claimed
and by these presents do bargain sell and quit claim unto the said
Robert _____ and unto his heirs and assigns forever all my right
title and interest claim and demand in and to all that certain piece
or parcel of land situate in the town of _____ County of said (viz) fifty
acres of land to be taken off from the South end of the South east di-
vision of lot number seventy in said town and bounded on the
East South and West by the lines of said division and on the North
by a line parallel with the South line of said division and so far
distant therefrom as will include fifty acres of land also one other
piece of land a part of North part division of number fifteen in
said town and bounded as follow commencing at the West east
corner of said division and running South by the West line of
said division six rods through east eight rods thence North six rods
thence west six rods to the place of beginning containing forty
eight rods of land including all Rightward of my title be able
all and discharge the incumbrances thereto belonging in witness
whereof I have hereunto set my hand and seal this day and year
first above written
Signed and delivered
In presence of _____
on the 14th day of April 1853.
Williams _____ Sp.
Betsey _____ Sp.

Monroe County's
On the 14th day of April 1853 personally came before
the above named William _____ and Betsey his wife known to me
the said _____ and _____ all well and of legal age

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The Proposal for the Redevelopment of the New York City Waterfront

*An address by Coverly Fischer, Vice President
and Divisional Manager, Home Title Division, Chicago
Title Insurance Company*

**Delivered at the Peter Minuit (Real Estate) Post
of the American Legion, New York City,
November 18, 1965**

The titleman is led down many paths; through strange jungles; across vast deserts in his search for the truth about titles to real estate. In this article Coverly Fischer, a distinguished explorer of the tangled title trail, takes us on a fascinating journey beneath the waters of Manhattan Island's great rivers and along the shore line of the most valuable tract of land in the world.

The author was born in Brooklyn, New York, July 25, 1903. He received his B.A. degree in 1925 from Williams College. Mr. Fischer joined Home Title Insurance Company in 1930; became a Vice President in 1947; Senior Vice President in 1957, and President in 1962. When the company merged with the Chicago Title Insurance Company on September 9, 1963, he assumed his present position as Vice President and Manager of Home Title Division, Chicago Title Insurance Company.

Mr. Fischer is a Past President of the Welfare and Health Council of New York City, Trustee and member of the Executive Committee, National Council on Crime and Delinquency; a Director of the Federation of Protestant Welfare Agencies, Inc.; a Trustee of the House of St. Giles, the Cripple; a Director and Assistant Treasurer of the Brooklyn Home for Children. He is a member of the Board of Deacons, First Congregational Church of Darien; on the Advisory Committee of the Riverdale Children's Association; a Director of the Realty Foundation of New York; a member and Director of ACTION; and a member of the New York City Youth Board.

I wish to briefly speak about a pending program which I believe will not only add millions of dollars to the New York City treasury but may be the greatest stimulus to the development of Manhattan real estate during the next two decades.

I refer to the plans that are presently being formulated for the relocation and modernization of our City's shipping facilities and the redevelopment of a major por-

tion of Manhattan's water front along the Hudson and East Rivers, to furnish the commercial, housing, cultural and recreational facilities that will be needed to maintain our great city as the leading business, cultural and foreign trade center of the nation.

The New York City authorities have for some time been giving thoughtful study to this problem of utilizing lands now under the waters of the Hudson and East

Rivers for the purpose of making new sites available not only for commercial, industrial and civic uses, but also for additional housing facilities.

Some of you may have studied the report of the consultants of the City's Department of Marine and Aviation published in 1963 proposing a 640 million dollar redevelopment plan for offshore improvements on lands now flowed by the Hudson River from the Battery to 72nd Street, and the still more comprehensive report published just a year ago by the City Planning Commission projecting plans for the modernization and redevelopment, not only of the Hudson and East River water frontages, but the entire Port of New York.

We find that these plans have aroused the interest of many of the real estate developers in this area and several projects have progressed from the architects' drawing boards to the stage of serious discussion with proposed sponsors, financing agencies and contractors. At the same time, the title industry has been faced with the problem of determining the insurability of the titles to such properties.

This problem does not involve any question as to the parties in whom title is vested. Title to lands in the beds of navigable rivers in the United States is, in general, vested either in the states in which the rivers are situated, or in the owners of the land bordering on the rivers. Title to the lands we are talking about tonight, is, in general, vested in the City of New York, which under proper circumstances has the power to sell or



COVERLY FISCHER

lease portions of them to private developers. Title as such, therefore poses no problem.

Our headache is caused by the fact that our forefathers, in drafting the Constitution of the United States, saw fit to grant to Congress the power "to regulate commerce with foreign nations, and among the several states, and with the Indian Tribes".

Although the poor Indians don't remain much of a problem, historically the courts have interpreted this clause to give Congress paramount authority, regardless of questions of legal title, to regulate the use of navigable waters and to establish harbor lines thereby controlling the extent to which the offshore waters may be filled in or the shoreline otherwise changed in the development and construction of wharves, piers and other improvements, which might impede the use of the waters for the purpose of navigation.

The Greenleaf-Johnson Lumber

Company case, which came before the Supreme Court of the United States in 1915, is the most significant of a long line of cases interpreting this power of the Congress. That case holds that even though the developer has indisputable title to lands under navigable waters and furthermore has obtained approval of the improvements upon such lands prior to construction, from the State and from the Federal agencies to which Congress has delegated the power and duty to control navigable waters, Congress may nevertheless at a later date establish new harbor lines, and if considered an obstruction to navigation, require the removal of any improvements constructed outside such lines,—and *without compensation* to the then owner.

This line of cases has over the years resulted in the enforced removal or relocation, without compensation to the owners, of wharves, bridges, hydro-electric dams, underwater transit tunnels and other improvements considered impediments to navigation. Technically they can just as well apply to high rise apartments and office buildings constructed over such lands along the Hudson and East Rivers.

In the past some mortgage lenders have accepted this risk on isolated transactions when the probability of any such Federal action during the term of the loan was considered remote and the amount of the mortgage not substantial. Under similar circumstances the Title Companies have occasionally cooperated in bringing a proposed transaction to a successful closing by insuring a lender against any

monetary loss he might suffer by reason of any such subsequent action on the part of the Federal Government. However, even when insurance against monetary loss has been furnished, it has at the same time been necessary for the title company to take an exception in its policy with respect to this right of the Government to the extent that the very existence of the right impairs the marketability of the title, and is ground for rejection of title on the part of a subsequent purchaser or assignee of a mortgage.

Although on occasion these risks have been assumed by lenders and title companies on the basis I have just mentioned, in these days when our courts appear to be handing down decisions giving broader and broader interpretations of governmental powers, and when projects running possibly into the billions of dollars in a concentrated area are involved, it is neither practical nor sound business judgment on the part of investors and title companies to so substantially increase their exposure to the kind of risk we have been talking about.

As an example, it is difficult to believe that the claim by the State of New Jersey to title in the lands now or formerly flowed by tidal waters and lying below the mean highwater mark, commonly referred to as the tidelands, a claim which under certain circumstances has not been asserted by the State since it came into being;—is now being upheld by the courts to the extent that the State is successfully appropriating lands for highway purposes without compensation to the owner in possession, despite the facts that:

1. The record title of private ownership extends back over more than 200 years.
2. The properties have been assessed and real estate taxes paid on them over the years by the private owners.
3. Under the same circumstances the State has in the past paid compensation to the private owners of record.

Furthermore, when the Governor of the State recently vetoed legislation to correct this inequitable situation, he stated: "Considering the vast areas and meadowlands which exist throughout the State, it is apparent that this legislation would seek to abandon all State claims, from the most secure to the most tenuous, to property worth untold millions of dollars but certainly in excess of 100 million".

Well I must admit that the proposed legislation did appear to be pretty broad and I am confident that ultimately legislation will be adopted that will be equitable to all concerned.

However, it is startling that in the meantime the courts are upholding claims to lands without compensation under the circumstances I just related to you, a substantial number of which claims, fortunately for the owners, are covered by title insurance.

To get back to Manhattan,—if the right of the Federal Government to change the shoreline without compensation for the reasons discussed earlier, is going to impede this essential development of our Manhattan river front, what are we going to do about it?

Well the answer seems obvious. Federal legislation through Con-

gressional action is required. Legislation which on a broad scale will provide, in essence, that if the Federal Government has once given its consent to proposed improvements, then any subsequent requirement that such improvement be removed be considered merely another exercise of the sovereign's power of eminent domain and just compensation paid. Piecemeal legislation, project by project, seems time consuming and impractical, and because of its possible discriminatory nature is too apt to involve the question of constitutionality.

The precise wording of the broader legislation suggested will undoubtedly require tedious hours of legal draftmanship, but the result will be well worth the effort.

My proposal to you, therefore, is that we in New York, to whom such legislation will mean so much,—start the ball rolling by urging the Real Property Committee of the Association of the Bar of the City of New York to set up a special project with the Law Committee of our New York State Title Association for the drafting of such legislation. When this is accomplished, and because the same problem arises in the development of water front properties throughout the Nation, the endorsement of the American Bar Association should also be obtained. Then if all in the real estate field, brokers, investors, lenders, title insurers and all others, cooperate in the efforts to obtain the necessary Congressional action, we will succeed in taking this important step forward in the real estate and economic development of our great City of New York.



1966 MID-WINTER CONFERENCE AN OASIS IN THE DESERT

For miles and miles; as far as the eye can see, the desert stretches in flat monotony until it reaches the foothills of the Purple Mountains. In the center of that vast expanse of white sand, there is a jewel, a fresh green luxurious establishment known as the San



Marcos Resort and Country Club. Here, in March 1966, when the temperature averages a pleasant 74 degrees, the ALTA will hold its Mid-Winter Conference.

The conference begins Monday, March 21, with a reception and Hawaiian luau dinner, alongside the famous swimming pool of the San Marcos Resort. General sessions will be held Tuesday, Wednesday, and Thursday mornings, March 22, 23, and 24. Afternoons will be free for shopping, sightseeing, swimming, horseback riding, and a world of other outdoor entertainment.

The first golf outing in ALTA's history will be held on Tuesday and Wednesday afternoons.

This Mid-Winter Conference will

be different! All room reservations at the San Marcos Resort will be made through the ALTA office. If you haven't already sent in your registration form, do so at once. There will be a ladies' luncheon and style show, a western style steak dinner, and square dancing and other western entertainment.

For the benefit of ALTA ladies—dress is informal at the San Marcos. With the swimming pool alongside the sleeping cottages; with the beautiful championship 18-hole golf course, a stone's throw away; with tennis courts and riding stables nearby, sporting attire is natural and encouraged. Slacks, shorts, and riding habits are acceptable in the dining room, *but* you must dress for dinner.





State Association

CORNER



NEW OFFICERS AND BOARD. TOP ROW: Board Members, Charles Hansen, Borden Steele, Jack Gereke, Duard Boone, Walter Henkel. BOTTOM ROW: Secretary-Treasurer, Hugh Robinson; Immediate Past President, Eugene Burns; new President, Ralph Hunsche; Vice President, Arthur Nystrom.

HUNSCHE HEADS MISSOURI ASSOCIATION

Outgoing President, Gene Burns, H. G. Tolbert, President of Oklahoma Land Title Association, William J. McAuliffe, Jr., Executive Vice President of American Land Title Association, and Bryan B. Parker, President of Kansas Land Title Association.





ALTA's Executive Vice President, William J. McAuliffe, Jr., (back to camera) discusses title problems with Missouri members.

The 1965 Annual Convention of the Missouri Land Title Association was held on September 19-20-21, at the Lamplighter Motor Inn, Springfield. The following officers were elected to serve for the ensuing year:

President, Ralph Hunsche, St. Louis

Vice President, Arthur N. Nystrom, Independence

Secretary-Treasurer, Hugh B. Robinson, Carrollton

BOARD OF DIRECTORS

Jack T. Gereke, Kansas City

Mason Schubel, Hillsboro

Borden D. Stoll, Plattensburg

An oasis party launched the

1965 MLTA Convention on Sunday evening with a large crowd in attendance. Business sessions convened Monday morning. The Attorney General of the state of Missouri, Norman H. Anderson, was the principal speaker.

During the afternoon session William J. McAuliffe, Jr., Executive Vice President, American Land Title Association, reported on the activities in the Washington office.

A luncheon and style show was arranged for Monday noon for the wives of the Missouri members attending the Convention. The annual banquet and dance was held on Monday night.

A typical scene from the Annual Banquet





Leon Feingold of Modern Abstract and Record Service, Janesville, Wisconsin, was re-elected President of Wisconsin Title Association for the ensuing year.



Board of Directors: Otto S. Zerwick, Madison; Harold A. Lenicheck, Milwaukee; Leon Feingold, Janesville; Al J. Ach'en, Shawano; Nic S. Hoyer, Milwaukee.

FIFTY-NINTH ANNUAL CONVENTION FOR WISCONSIN



Gerald Ippel, Los Angeles; John L. Gehringer, Waukesha; Mr. and Mrs. John D. Binkley, Chicago; Mrs. Harold A. Lenicheck, Milwaukee; Mrs. John L. Gehringer, Waukesha.



Schoolroom style was the order of the day at the business sessions.



Beautiful girls took care of the registration desk.

The fifty-ninth annual convention of the Wisconsin Land Title Association was held October 28, 29 and 30, in Elkhorn, Wisconsin. Representing the American Land Title Association was National President, Don B. Nichols, Vera Rose Nichols, and William J. McAuliffe, Jr., Executive Vice President.

The convention was distinguished by an interpretation of the *Uniform Commercial Code* as it relates to the title industry by Robert Kratovil, General Counsel and Secretary, Chicago Title Insurance Company; by a discussion of the proposed new probate procedures by Professor James B. McDonald of the University of Wisconsin, and by a grass-roots forum on every day problems affecting the title industry.

The following officers were re-elected to serve another term:

President — Leon Feingold,
Janesville

Vice-President — Harold A.
Lenicheck, Milwaukee

Secretary-Treasurer—Thomas
J. Holstein, LaCrosse

TITLE CLAIMS

*By Lawrence R. Zerfing
Executive Vice-President,
Pennsylvania Land Title
Association*

This article was written by a pioneer who started his career with a pioneer firm, the Commonwealth Land Title Insurance Company. Actually Mr. Zerfing was launched into the title insurance business in 1916 with the West Philadelphia Title and Trust Company. He joined the Real Estate Title Insurance and Trust Company in 1925 as a title examiner. In December 1940, he became Title Officer of the Land Title Bank and Trust Company (successor by merger to Real Estate Title Insurance and Trust Company) and in 1942 became Vice President. In 1953 he was elected President of Land Title Insurance Company, and then in 1956, upon a merger of that firm with the Commonwealth Land Title Insurance Company, became its Executive Vice President.

After his retirement from the Commonwealth Land Title Insurance Company, the Pennsylvania Land Title Association beckoned, and Mr. Zerfing became its Executive Vice President. He also serves as General Manager of the Pennsylvania Title Insurance Rating Bureau.

Mr. Zerfing is a Past President of the American Land Title Association, an organization he has served faithfully and well for many, many years.

Millions of words have been written on the subject of TITLES and TITLE INSURANCE; in some instances a very black picture is painted pointing out the many risks inherent in the purchase of real estate and if the average purchaser were aware of the many problems which might arise, he might be too scared to make the investment at all. The fact that billions of dollars are invested in real estate by the purchasers and mortgage holders is a real tribute to the system of title insurance existent in our Country.

It is not the purpose of this article to point out the dangers in investing in real estate; it will merely recognize that dangers ex-

ist; it is not the intent to say only that title insurance will protect you; it will if you understand it, but the intent of this article is to point out what will be done by the title insurers when defects appear.

First let us understand what a title insurer is—it is a corporation formed under State law for the express purpose of insuring titles. To use in part, the language of the law of one of the states—“The business of title insurance shall be deemed to be (i) the making as insurer, guarantor or surety, or proposing to make as insurer, guarantor or surety, of any contract or policy of title insurance; (ii) the transacting, or proposing to transact, any phase of title in-



LAWRENCE ZERFING

insurance, including solicitation, negotiation preliminary to execution, execution of a contract of title insurance insuring and transacting matters subsequent to the execution of the contract and arising out of it, including reinsurance; and (iii) the doing, or proposing to do, any business in substance equivalent to any of the foregoing. . . .”

The laws of each State provide for the amount of capital and surplus which each corporation must have before commencing business, and although the amounts vary by State, they are generally substantial, and this is as it should be, there should always be sufficient assets to make good any just claims which may be made.

In addition to understanding what a title policy covers, it is well to understand what it does not cover or protect against. It does not insure that the property is in good condition nor does it in itself insure that there are no violations of ordinances or regulations af-

fecting the use of the property; it does not insure that a purchaser can use the property for any particular purpose; these are not questions of title. In addition, a title policy must be examined to find out what title risks the Company excepted from its coverage because practically any title can be insured if the defects not insured against are excepted.

A Company in meeting its obligations to its stockholders, as well as in fairness to its policyholders, is as obligated to resist unfair and improper claims as it is to pay and settle just claims promptly. When claims are made under a title policy, the companies will make every effort to dispose of the claims as rapidly as possible, it is a good business to do so and if the claims are proper ones, they are legally responsible to do so. Any criticism of the companies with respect to claims generally is due to misunderstanding concerning coverage afforded by the policy and impatience in getting the job done. For example, if the claim is for a shortage in real estate taxes which should have been paid by a prior owner, the problem is relatively simple, either something is due or it is not due; if the former, it can and will be paid promptly; if the latter there is generally not much delay in having the authorities strike off the charge. If the claim is a complicated one, such as an outstanding interest in someone else, that can take a great deal of time—the company just can't ask the alleged holder of the interest for a deed of release without much investigation as to the validity of the claim, procuring appraisals,

agreement as to value, verifying identity of owners of interest and the like, and if a minor or incompetent should be involved, court proceedings could take months—and all this cannot be speeded up by the title companies no matter how anxious they are to clear up the problem.

A matter of real distinction exists between title insurance and most other types of insurance; the home buyer wants his property and not just dollars in settlement. In many cases it would greatly simplify title companies efforts in settlement of claims if they could pay off the insured in dollars—but that would not dispose of the defect in the title nor prevent subsequent similar claims.

Perhaps a few examples of the steps taken by title companies in disposing of claims would be interesting and show why many claims cannot be disposed of in a few hours or even weeks.

1. A real estate developer and builder in a suburban area bought a fairly large tract of land and built some 30 houses and sold them to individual buyers—the deeds being made by him and “his wife”. About ten years after the sale of the first of the houses, the builder died and another woman not only claimed to be his widow, but proved it, and demanded her interest in the properties sold. Under the law her interest was one third of the value of the properties at the time of the respective sales. The title companies involved were required to exhaustively examine the decedent’s records to determine what he paid for the tract, determine the taxes and other costs he paid during his ownership, the cost

of construction and many such items before a proper settlement could be made with the widow. These records incidentally were stored in large cardboard boxes without any order of filing so that it took several weeks merely to check those records. The titles will be eventually cleared by the procuring of proper deeds from the widow but the time consumed and costs are substantial.

2. In another case an insured owner found his cesspool overflowing and in correcting this condition found that his neighbor was connected to the same cesspool. The title problem was created when the neighbor insisted he had the legal right to use the cesspool because of a prior state of ownership; such claim if established would have constituted an easement which was not excepted on the insured’s title policy. The title company carried on the litigation necessary to establish that the neighbor had no legal right to use the cesspool and he was compelled to provide other means of drainage.

3. A fairly recent case was one in which a man bought a lot out of a development in 1923 for \$1,000.00. The value of the lots did not increase quickly and he continued in ownership until his death about 1950. A few years after his death one of his sons learned about his father’s ownership of the lot but did not divulge this information to his brothers and sisters; instead he sold the lot for \$2,500.00, forging his father’s signature. The purchaser erected a building and agreed to sell it to someone else for \$25,000.00, some questions were raised when that transaction was being completed

and the forgery was discovered and because of the insurance of the lot to the builder, the title company was required to go out and procure deeds from the other children and their spouses. In the meantime, the son who had actually made the sale had gone into bankruptcy and it was necessary that those proceedings be opened in order to get a release from the trustee in bankruptcy.

4. Perhaps one of the most unusual cases to come before a title company was one in which property was sold by an executor for \$80,000.00. This conveyance was made pursuant to what at least appeared to be a good power of sale in the will. A little over a year after the sale, an attack was made on the power of sale by one of the persons entitled to a share in the estate. When this case was before the lower court the court itself tried to elicit some information as to why this title was being attacked, it was admitted that the sales price was a fair one and the only information which could be developed was a contention that the power of sale had expired. The court dismissed this case which was immediately appealed to the highest state court. At the hearing of the appeal, several of the justices likewise seemed to be unclear as to why the attack was made, especially in view of the fact that there was no complaint as to the selling price and no one was harmed, the highest court therefore found against the claimant.

The reason for this attack on the title was disclosed after the hearing when a person who was not a

party to the suit but had familiarity with it, told an attorney that the real reason for the bringing of this action was because the claimant was in the country illegally, was threatened with deportation and he used the litigation as a reason for extending his stay in this country. Incidentally, it was learned later that the claimant, after the court's decision was handed down, married an American girl which at that time was sufficient ground to give him permanent residence in the United States. The title company's regret was that the love bug didn't bite much earlier.

Here was a case in which there was nothing wrong with the title and if this had not been an insured title, the owner would have been required to defend it, which cost the title company \$7,500.00.

The foregoing are a few of the unusual cases, not nearly as frequent as the forgeries, misrepresentations and the like which, for obvious reasons, cannot be detailed here. Of course these actions or claims do not arise in every transaction; if they did, title companies could not exist, but they appear with enough frequency that if the individual home buyer had to carry the defense of such actions, the costs could easily destroy all his savings which he had so laboriously accumulated.

These are some of the problems which arise from time to time in title work and show why adjustments take time. Title insurers want to and will dispose of claims just as soon as they can but it may take longer than replacing a fender on your car.

December 1965

IN THE NEWS



WARN HONORED BY NCCJ

Hale Warn, Executive Vice President of Title Insurance and Trust Company, Los Angeles, receives the Distinguished Service Silver Medallion for his leadership activities during the past year for the National Conference of Christians and Jews, Southern California Region. Presenting the award is Walter N. Marks, NCCJ General Chairman. Looking on is Robert M. Jones, Executive Director of the National Conference's Southern California Region. Warn, a veteran of 29 years in the title insurance field, the last six of



Hale Warn (center) is awarded the distinguished Silver Medallion.

which have been spent in his current position, headed a committee of more than 100 business, professional and industrial leaders which raised approximately \$100,000 for the NCCJ's regional budget for program services for the year.

A. W. LONG HEADS NEW DIVISION

Alvin W. Long has been elected Senior Vice President of Chicago Title and Trust Company, Chicago, Illinois, in charge of the company's newly formed Corporate Planning and Development Division, effective January 1. Mr. Long has been Senior Vice President of Chicago Title Insurance Company, a wholly-owned subsidiary of Chicago Title and Trust Company.

The Corporate Planning and Development Division will consist of the Management Systems Departments which include Systems Development, Systems Planning and Data Processing; and the Corporate Planning Department.

Mr. Long became associated with Chicago Title and Trust Company in 1945 and has held various responsible posts in the company's Title, Law and Administrative Divisions. He was appointed Assistant Secretary in 1956, became As-

ALVIN W. LONG



sistant Vice President in 1957 and in 1960 he was elected Vice President. In 1963 he was elected Senior Vice President of Chicago Title Insurance Company.

Mr. Long received his LL.B. degree from John Marshall Law School in 1949 and completed the University of Chicago Executive Program in 1955, earning an M.B.A. degree. He is a member of the Illinois State Bar Association, Economic Club of Chicago, Alumni Council of the Executive Program Alumni Club, Union League Club, Law Club of Chicago and the Executives' Club of Chicago.

J. G. SCHMIDT ELECTED PRESIDENT

Mr. James G. Schmidt, formerly Executive Vice-President, has been elected President of Commonwealth Land Title Insurance Company succeeding John B. Waltz who was elected chairman of the Executive Committee of the Board of Directors, both changes were effective January 1, 1966. Mr. William R. K. Mitchell will continue as Chairman of the Board.

Mr. Schmidt started his career with the Company in 1925 and for the past three years has filled the position of Executive Vice-Presi-

dent. He is a past President of the Pennsylvania Land Title Association, and served on the Board of Governors of the American Land Title Association. He is a member of the Philadelphia, Pennsylvania and American Bar Associations, and has been active in the Real Estate Trust and Probate Section of the Pennsylvania Bar Association. He has also served as a member of the Advisory Committee on Decedents Estate Law of the Joint State Government Commission, and is recognized as a foremost authority on real estate law and practice in Pennsylvania.

Also the Commonwealth Land Title Insurance Company, Philadelphia, has announced the promotions of Eugene W. Smith to Title Officer and Daniel J. Herron to Assistant Title Officer. Both men are assigned to the National Title Division of the Company.

Mr. Smith has 25 years service with the Company, interrupted only by a tour of duty in the South Pacific with the U. S. Marine Corps during World War II. He has had extensive experience as a Title Search Specialist prior to his transfer to the National Division in January, 1964.

Mr. Herron is a graduate of

SCHMIDT



WALTZ



E. SMITH



West Catholic High School and attended St. Joseph's College majoring in Real Estate and Business Law. He joined the Company in July, 1953 and has been associated with both the Montgomery and Delaware County title plants as a Search and Title Examiner. Mr. Herron was transferred to the National Division in October of this year.

Guy C. Bell, a former officer of the Delaware County Trust Company joined Commonwealth Land Title Insurance Company in 1954 and is Vice President in charge of the Title Claims Department. Mr. Bell is active in the Historical Society of Delaware County, a former member of the Board of Governors of the Rolling Green Golf Club and is Treasurer and Trustee of the Delaware County Hospital.

Lyle F. Hilton, Vice President in charge of the Legal Department, joined the Company July of 1962 as a Title Officer. He was a staff attorney of another title insurance firm and practiced law in Berks County following his graduation from Dickinson Law School in 1952. Mr. Hilton is a member of the American and Pennsylvania Bar Associations, Pennsylvania Land

Title Association, Kiwanis and is active in the Boy Scouts of America.

Robert F. McMackin, Vice President, National Title Division, graduated cum laude from La Salle College 1949 and subsequently attended Temple University School of Business Administration. He began his employment with the company in May 1955 as a title examiner. Mr. McMackin is commanding officer of a Navy Reserve Security Group and holds the rank of Commander in the U. S. Naval Reserve.

Alvin Freiberg, Assistant Vice President, received his LLB degree from Temple Law School in 1954. He practiced law in Philadelphia for a number of years and was appointed Assistant Counsel for the General State Authority in Harrisburg for the period 1961 to 1963. Mr. Freiberg joined the Company July 1, 1963 as a Title Officer in the Claims Department and was recently reassigned to the Legal Department. Mr. Freiberg is a member of the Philadelphia, Pennsylvania and the American Bar Associations and is active in Post 706 JWW.

Carl E. Othoson, Title Officer is the Assistant Manager of the Norristown Title Plant. He has wide

HERRON



BELL



McMACKIN



experience in all phases of title plant operation, title searching and examination having started his career with the company in 1930. Mr. Othoson is a member of the Masons, Artisans and Lu Lu Temple.

HOME TITLE PROMOTIONS

Coverly Fischer, Vice President and Divisional Manager of Home Title Division, Chicago Title Insurance Company, New York, N.Y., announced that at a recent meeting of the Divisional Board of Directors, the following appointments and promotions were made, effective January 1st:

Carl D. Schlitt, Vice President and Chief Counsel, was promoted to Vice President and General Counsel. He will continue with his responsibilities as top legal attorney of the Division.

Edward F. Healey, Vice President and Assistant Chief Counsel, was promoted to Vice President and Chief Counsel.

Stanton S. Roller, Vice President and Manager of the New York Office, will be in charge of National Sales and Public Relations and was also made an Administrative Officer of Home Title.

Richard W. Almond was pro-

moted to Vice President and will succeed Mr. Roller as Manager of the New York Office.

TRUEX APPOINTED

The appointment of Mr. William F. Truex as Assistant Title Officer in the Freehold Office of Chelsea Title and Guaranty Company was announced from the Atlantic City, N.J. Home Office by P. C. Burgess, President.

Prior to joining Chelsea, Mr. Truex was engaged in the title insurance field in many capacities since 1960. He is a native of Monmouth County. He is an alumnus of Manasquan High School and of Glassboro State College.

LESTER G. FLESNER APPOINTED EXEC. V.P.

The appointment of Lester G. Flesner as Executive Vice President of the American Institute of Real Estate Appraisers was announced by Institute President Robert L. Free, of Cleveland.

Mr. Flesner, previously was Director of Service to State Executives Associations of the Chamber of Commerce of the United States, in Washington, D.C. He is succeeding Arthur C. Cody, who is retiring after 21 years with the Institute. To take charge of the

FREIBERG



OTHOSON



appraisers' headquarters in Chicago Mr. Flesner has moved to Glenview, Illinois, from his former home in Falls Church, Virginia.

The Appraisal Institute is the only national organization of professional appraisers affiliated with the National Association of Real Estate Boards, and also is the only one that requires every member to maintain a membership in a Realtor Board. Since it was established in 1932 it has had only one other chief administrative officer in addition to Mr. Cody. He was Harry Grant Atkinson, who retired in 1961.

"During his long association with the Institute as Executive Secretary and later as Executive Vice President, Mr. Cody won the affection and the respect of its members all across the nation," said Mr. Free. "During his years of invaluable and devoted service the organization has grown tremendously in both numbers and prestige. Its comprehensive program for educating and qualifying real estate appraisers of the highest competence and integrity, which Mr. Cody did so much to help develop, has no equal.

"When Mr. Cody joined the administrative staff in 1944 the Appraisal Institute had scarcely 1,000

members and its budget for the year totalled approximately \$90,000. Now its membership has passed the 3,000 mark, and the income and expense budget for its extensive education programs and membership services exceeds \$1,600,000 a year. Although Mr. Cody is retiring from active service, the Institute is fortunate that he has agreed to continue to serve it as a consultant whenever we may wish to draw on his wealth of experience and judgment."

In the appointment of Mr. Flesner to succeed Mr. Cody the Institute selected an executive with extensive experience in both teaching and organization management, Mr. Free reported. At the Leadership Recognition Dinner during the annual management conference of the American Chamber of Commerce Executives in Houston, Texas, in October he was one of the first recipients of that organization's new designation and highest award, Certified Chamber Executive.

In his former position at United States Chamber of Commerce headquarters in Washington, Mr. Flesner conducted executives' seminars, management clinics, communications symposiums, community relations forums and various

CODY



FLESNER



other educational programs for the national Chamber's forty-six different State Executives Associations. He also helped establish and directed the national Chamber's accreditation program for local chambers of commerce.

Born in Oklahoma and an alumnus of Oklahoma State University, Mr. Flesner received his Bachelor and Master of Science degrees in Agriculture and Vocational Education. While teaching for almost ten years in public schools and at Northeastern State College in Tahlequah, Oklahoma, he became a director and president of the Tahlequah Chamber of Commerce. During this period he embarked on his organization management career and became the first fulltime executive for the Tahlequah Chamber.

From 1946 to 1950 he served as manager of the Guthrie, Oklahoma, Chamber of Commerce, and in 1949 was president of the Oklahoma Chamber of Commerce Executives Association. From 1951 to 1953 he was manager of the Borger, Texas, Chamber, and then joined the United States Chamber as Southwestern Division district manager in charge of its Houston office. In 1958 he moved to Washington headquarters as Director of State Executives Associations and Assistant Manager of the national organization's Local Chamber of Commerce Service Department.

PROMOTIONS AT TEXAS TITLE

A number of promotions in the county-wide organization of Texas Title & Abstract Co. were announced recently by W. H. Cothrum, Chairman of the Board

of Directors and Chief Executive Officer.

Key promotions anticipated to add valuable experience in Texas Title operations include elevation of Messrs. Frank Hopkins, R. A. Metcalf, M. R. McClure and Ellis Kahn to the position of Senior Vice President and Title Officer. These officers will also serve as members of the company's newly created Executive Committee.

Other promotions included:

Vernon S. Smith was elected Vice Chairman of the Board.

Sam W. French assumed the duties of Executive Vice President of the company on January 1, 1966.

Orrin D. Hawley has been appointed Vice President in charge of abstracting.

Mrs. Jane Watkins was elected Vice President and Controller of the company.

William E. Cothrum was elected Vice President in charge of Public Relations.

Mrs. Mickey Hankins will take over duties as Secretary of the Board of Directors.

DOWD MADE V.P.

Announcement of the promotion of Lawrence J. Dowd to Vice President of Lawyers Title Insurance Corporation was made De-

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cember 24, 1965 by Frederick A. Thomson, Senior Vice President, at his office, 735 Griswold St., Detroit, Michigan. The promotion was voted at a recent meeting of the Lawyers Title Board of Directors at the home office of the corporation in Richmond, Va.

Dowd joined Lawyers Title in Detroit in 1943. Since early in 1963 he has been the corporation's Michigan state manager.

A native of Detroit, Dowd was born March 8, 1907. His educational background includes four years at the University of Detroit High School. He holds degrees of A.B. and LL.B. from U. of D. Following his admittance to the State Bar of Michigan, Dowd practiced law in the offices of Victor H. DeBaeke for five years. He was also an instructor at U. of D. College of Law. He later joined Malcom McDowell Associates, a mortgage banking concern, remaining there in an executive capacity until 1943. At that time he became one of the owners of a title agency for Lawyers Title Insurance Corporation in association with Thomson, who announced his long-time associate's promotion.

During his high school and college days, Dowd became a name athlete in Detroit. He was rated among the top 10 handball players in Michigan at a time when that sport was in its heyday. He was a member of the championship K. of C. Council No. 305 team and helped bring a number of handball and basketball titles to Detroit.

Dowd's brother, Thomas P. Dowd, is a vice president of Lawyer's Title, and his sister (Sister Amadeus) is dean of Marygrove College in Detroit.

D. V. McCALLUM RESIGNS

Donald V. McCallum, president of Title and Trust Company, Portland, Oregon announced that he had submitted his resignation from the company, effective December 31, 1965. McCallum said that he had resigned for personal reasons and that he has no definite plans for the future at this time.

McCallum is an alumnus of Reed College, Portland, and Willamette University Law School, Salem. He also attended New York University Law School. From 1942 to 1945, and again from 1950 to 1954, McCallum served in the United States Army. During his tours of duty he was a paratrooper and later served as assistant to the chairman of the military staff committee of the United Nations General Assembly. He also served as Assistant United States Army Attache at the American Embassy in London. From 1934 to 1937, McCallum managed the Baker Abstract and Title Company for his family. In 1937, he began the study of law. From 1945 to 1950, McCallum practiced law in Baker where previously he had been active in civic and community affairs of the city.

McCallum joined Title and Trust Company in 1957, as executive vice

McCALLUM



president and was elected president of the company in 1958. Prior to his affiliation with the Portland firm, he was executive vice president of Security Title Insurance Company, Los Angeles, and managed its San Diego office. He has been extremely active in Portland civic and community activities having served as campaign chairman of the United Good Neighbors and president of the Portland Chamber of Commerce.

McCallum is president of Sunriver Properties, Inc., which is developing 5600 acres of land on the Deschutes River in Central Oregon and chairman of the United Republican Fund, an organization of over 8000 volunteer workers which on November 15th commenced a campaign to raise over one million dollars for the Republican party in Oregon.

He resides with his family at 02206 S. W. Greenwood Road, Portland.

Also at Title and Trust

PROMOTION FOR SCOTT

Richard E. Scott was promoted to Assistant Vice President and Manager of the Lincoln County Branch of Title and Trust Company in Newport, Oregon, effective October 25, 1965.

SCOTT



Scott was formerly Assistant Manager of the Linn County Branch of Title and Trust Company in Albany. He joined Title and Trust Company in 1963. He is a graduate of Gonzaga University Law School and a member of the Washington Bar Association.

For many years Scott was a resident of Spokane, Washington, where he was engaged in the practice of law and was very active in community affairs.

EVENTS AT T.I.

The Antelope Valley office of Title Insurance and Trust Company opened December 2, 1965 at 44426-A 10th Street West, Lancaster, California with Denver F. Cook as manager.

In addition to Cook, the office will be staffed by Robert Velt huysen, title officer; Patricia Miller, secretary, and Marilyn Dittman, secretary-receptionist.

The Antelope Valley office of Title Insurance and Trust Company will employ communications facilities for liaison with the company's main title plant in downtown Los Angeles.

The new office's manager is a native Californian, received his high school education in Los Angeles City schools, and is a graduate of Los Angeles City College. He has been with Title Insurance and Trust Company for 21 years, serving successively in the positions of searcher, unit title officer, long order title officer and subdivision title officer.

Velthuysen is a graduate of San Diego High School. He was employed at Title Insurance and Trust Company's office in Los Angeles in 1960, beginning as a searcher and later becoming searching in-

structor. He then spent 3½ years as an engineer, and for the past year has been a title officer.

Mrs. Miller is a native of Monrovia, attended high school in Pasadena, and later studied at John Muir Junior College in that city. Previous business experience as a legal secretary, and as an executive secretary with a savings and loan association, well qualifies Mrs. Miller for her secretarial position at Title Insurance and Trust Company.

Mrs. Dittman, a native Californian, received her education in Turlock schools. Though a newcomer to Title Insurance and Trust Company, she and her family are well known in the Antelope Valley. Mrs. Dittman was formerly Marilyn Troth. While living in the north, Mrs. Dittman worked as a bookkeeper for a realtor. Also, she has held a bookkeeping position with a northern title insurance company.

Also At T.I.

The election of John Dosa as Vice President of Title Insurance and Trust Company, Los Angeles, Calif., was announced by Ernest J. Loebbecke, Chairman of the Board and Chief Executive Officer. Dosa was elected during a recent meeting of the company's Board of Directors.

An earlier announcement by James D. Forward, Jr., Senior Vice President and San Francisco Division Manager for the company, stated that Dosa had been appointed manager of Contra Costa County operations which became effective November 1, 1965.

Dosa succeeds Louis A. Spillman as manager of Contra Costa County operations. Spillman has

been named manager of the title firm's Title Operations Processing Center for Contra Costa and Alameda Counties.

T.I. PLANS MERGER

Ernest J. Loebbecke, Chairman of the Board of Title Insurance and Trust Company, has announced plans for the merger of three of its wholly owned subsidiary companies into one company. The companies involved are Washington Title Insurance Company (Washington), Title and Trust Company (Oregon), and Union Title Company (Indiana). He stated that the merger will result in the creation of an entirely new title insurance company which will be in a position to expand its title services on a nation-wide basis. The name of the new company will be Pioneer National Title Insurance Company, incorporated in California, and also wholly owned by Title Insurance and Trust Company.

Loebbecke stated that basically, the merger will affect only the name and size of the company in the states involved and that their operations, people and policies will remain unchanged.

In addition to Loebbecke, who will serve as Chairman of the Board of the new company as well as Chairman of the Board and Chief Executive Officer of Title Insurance and Trust Company, principal officers will be George B. Garber, Los Angeles, President; William H. Deatly, Los Angeles, Vice President and Treasurer; Richard H. Howlett, Los Angeles, Vice President, Secretary and Chief Counsel; Warren J. Pease, Seattle, Vice President and Division Manager; Herbert A. Altstadt, Portland, Vice

President and Division Manager; and Walter A. McLean, Indianapolis, Vice President and Division Manager.

TITLE UNDERWRITERS ELECTS WEATHERFORD

John Ely Weatherford, Senior Vice President of American Title Insurance Company of Miami, Florida, was elected vice president of the National Title Underwriters Association at its recent annual meeting in New Orleans.

The national association is limited to some 15 title underwriters doing business nation-wide. Mr. Weatherford is a Past President of the Florida Land Title Association.

GRAY APPOINTED

Herbert Altstadt, Vice President and Manager of the Title and Trust Division of Pioneer National Title Insurance Company, Portland, Oregon, announced that Gerald B. Gray has been appointed Manager of Branch Operations.

Gray will manage all branches of Pioneer National Title Insurance Company in Oregon outside of Multnomah County. He joined Title and Trust Company in 1938. Mr. Gray has served as a title officer, branch manager and his

most recent assignment was Associate Counsel and Plant Supervisor for Title and Trust Company. Gray is a graduate of the University of Oregon School of Law and is a member of the Oregon State Bar. He is also a member of the Washington County Bar.

He has been active in school board affairs for many years in Washington County and is presently a member of Beaverton District No. 48 School Board. He is a Past President of the Oregon Land Title Association.

KANSAS CITY TITLE PROMOTES THREE

W. M. McAdams, President of Kansas City Title Insurance Company, Kansas City, Missouri, has announced the appointment of John J. Barnes, Jr., Roger K. Boothe and Lee T. Magee as Assistant Secretaries of the company. *John J. Barnes, Jr.:*

Barnes joined Kansas City Title in October of 1963. Barnes is a member of the Missouri Bar, the Kansas City Bar Association, the Kansas City Real Estate Board, and Sigma Nu Fraternity.

Barnes is a native Missourian and attended elementary and high school in St. Louis. He holds an A.B. degree from Washington and

GRAY



BARNES



BOOTHE



Lee University, Lexington, Va., and an LL.B. degree from Washington University, St. Louis.

Roger K. Boothe:

Boothe joined Kansas City Title Insurance Company in February, 1965. He has served as office attorney since that time. Boothe has been a member of the Property Law Committee of the Missouri Bar since 1963, and he is a member of Phi Alpha Delta legal fraternity.

Boothe is a native Missourian and attended elementary and high schools in St. Louis, and holds A.B. and LL.B. degrees from the University of Missouri.

Lee T. Magee:

Magee joined Kansas City Title in July of 1962. He formerly served with the Department of Health, Education and Welfare, and is a member of Delta Theta Phi law fraternity.

Magee attended elementary and high school in Omaha, Nebraska, and holds degrees from the University of Nebraska and the Creighton University School of Law.

TG's DICK BLAKE RETIREES AS COUNSEL

Richard V. Blake, Counsel in the Brooklyn, New York office

MAGEE



of the Title Guarantee Company has retired after 43 years of service and Emerson L. Morgenstern has been transferred from the New York office to become Counsel for Kings County. He will be assisted by Sidney Rosenthal, Assistant Title Officer. Dick Blake will continue with TG on a consultant basis.

Mr. Blake received his Bachelor of Arts and Law Degrees from Notre Dame University. He is admitted to the Connecticut Bar where he practiced law for over 7 years and also in New York State.

Mr. Blake first joined the Title Company as an examiner. He moved up through the ranks, became Assistant Solicitor and later was elected Counsel of Title Guarantee in 1949.

Mr. Morgenstern joined Title Guarantee in 1937 and except for military service during World War II has been with the company continuously. He has held the positions of Examiner, Reader, Assistant Title Officer and Title Officer. He was elected Counsel in June 1965. Mr. Morgenstern attended Brooklyn College and received his LL. B. from St. John's University Law School. He is a member of the Bar of the State of New York.

4 PROMOTIONS AT SECURITY

Four promotions involving San Diego, California executives of Security Title Insurance Company and Land Title Insurance company — both subsidiaries of the Safeco Insurance Group is announced by Ernest J. Billman, President of Security Title.

Thomas A. Clarkson, President of Land Title, has been appointed San Diego County manager for

both Security Title and Land Title. He will remain President of the latter company.

Clarkson has been a resident of San Diego since 1930 and president and manager of Land Title since its organization as a title insurance company in 1945. Prior to that he was Chief Deputy Tax Collector for San Diego County.

David C. Schurch, Vice President and Manager of Security Title's operations in San Diego, has been assigned to the newly created post of regional counsel for Security and Land Title. He will handle regional legal matters under the direction of Chief Counsel Bruce M. Jones of Security Title and will be attached to Security's Home Office legal staff, but will continue to make his headquarters in San Diego.

Schurch, who has had 42 years experience in the title business, is a graduate of the School of Law of the University of Southern California. Prior to joining Security Title, as manager of its San Diego office in May, 1960, he was for many years vice president and chief counsel for Union Title Insurance Company.

James L. Ware, Vice President and Assistant Manager of Security Title in San Diego, has been promoted to branch manager, succeeding Schurch. Ware started his title career as an examiner with Land Title in 1948 and joined Security Title in 1961 as Vice President and Assistant Manager.

Robert H. Bollum, Vice President and Chief Title Officer of Land Title, has been moved up to manager of the company. A graduate of Indiana University, he has been with Land Title since 1946. Like

Ware he started his employment with Land Title as an examiner. And in 19 years has served in a number of positions in the title department.

TRANSAMERICA NAMES BECKETT

Horace W. Brower, Chairman of the Board of Directors of Transamerica Corporation, San Francisco, California, announced that John R. Beckett succeeded him as Chief Executive Officer on January 1, 1966.

Brower will retain the title of Board Chairman and will continue to give his counsel to Transamerica and to its major subsidiary, Occidental Life Insurance Company of California. He retired as chief executive of Occidental in August 1965, and was elected President of the American Life Convention in October 1965.

Beckett has served as Transamerica's President since 1960. Prior to coming to Transamerica, he was a well-known investment banker.

A native Californian, Beckett was born in San Francisco. He attended public school in the Bay Area and was a graduate of Stanford University in 1939 (M.A. 1940).

PROMOTIONS AT LAWYERS TITLE

Bruce L. Byrd was elected Assistant Counsel of Lawyers Title Insurance Corporation by the Board of Directors meeting in Richmond, Virginia on December 15, 1965. The board also promoted four other members of the Home Office Legal Department.

Fred H. Klostermeyer and James A. Taylor, III, were elected Title

Officers; Roger L. Tuttle and Albert Fitzpatrick were named Assistant Title Officers.

Byrd, who had been a Title Officer, joined Lawyers Title in 1955. He is a graduate of the T. C. Williams School of Law of the University of Richmond.

Klostermeyer and Taylor joined Lawyers Title in 1962. Klostermeyer is a graduate of the University of Virginia Law School; Taylor is a graduate of T. C. Williams School of Law of the University of Richmond.

Tuttle, a graduate of the University of Mississippi Law School, joined Lawyers Title in April, 1965. Fitzpatrick received his law degree from the T. C. Williams School of Law of the University of Richmond. He joined Lawyers Title in 1963.

in memoriam



JOSEPH HIGGINBOTHAM, DIRECTOR, DIES

Joseph I. Higginbotham, who had been a director of the Dallas Title & Guaranty Co., Dallas Texas, longer than any other board member, died in Dallas Oct. 26, 1965, after a brief illness. He was 57.

Born in Dublin, Erath County, he moved to Dallas as a youth. He attended the Terrell School and was graduated from Williams College, Williamstown, Mass.

His many affiliations included membership in the First Community Church, Dallas Salesmanship Club and Northwood Country Club. He was president of Higginbotham-Bartlett Lumber Co. and was a director of the Great National Life Insurance Co., Higginbotham Brothers Co., Higginbotham-Bailey Co. and Higginbotham-Pearlstone Co. and a past director of the First National Bank. He was a trustee of Hockaday School.

Arthur J. Seltzer, President of the New York State Title Association and Edward T. Brown, Executive Secretary, examine Title Insurance Exhibit established at the New Homes Exhibit Room in the lobby of the Dimes Savings Bank of Brooklyn.



LETTERS



STATE OF KANSAS OFFICE OF THE ATTORNEY GENERAL

TOPEKA, KANSAS

November 29, 1965

Mr. R. L. Carrier
Vice Chairman
Abstracters Board of Examiners
Cottonwood Falls, Kansas

Re: Disclosure by Abstracters of
Privileged Information under
L. 1965, Ch. 348, Sec. 31

Dear Mr. Carrier:

By your letter of November 22, 1965, you have asked the question: "Under the present statutes, is there any way that the probate court may be required to make the order of adjudication available to abstracters and searchers of land records, so that a purchaser or mortgagee will not unknowingly be dealing with a landowner who has been actually adjudged insane or incompetent?"

The question may also be stated as follows:

May an abstractor or other person searching the title to real estate have access to the records of a probate court relating to the determination, under *L. 1965, Ch. 348*, that an individual is a "mentally ill person"?

L. 1965, Ch. 348, Sec. 31, reads in part as follows:

"The probate court, hospital or medical records of any 'patient' or former 'patient' that are in the possession of any probate court, 'psychiatric hospital,'

'general hospital' or 'other facility for "care or treatment"' shall be privileged and shall not be disclosed except as * * *

The law then makes it a crime to disclose such records.

L. 1965, Ch. 346, Sec. 7, which amends *K.S.A. 59-514*, reads as follows:

"The books and records of the probate court shall be open to inspection by all persons at all times, except as provided in adoption proceedings and in section 31 of the act entitled 'act for obtaining care or treatment for a mentally ill person.' * * *

We are of the opinion that the law is unequivocally clear that a probate court is not to disclose its files or the nature of its files relating to proceedings under *L. 1965, Ch. 348*. The legislature has apparently concluded that it is more important to protect individuals who have submitted themselves to the procedure available under *L. 1965, Ch. 348*, than it is to protect prospective purchasers and mortgagees of real estate from the possibility that an individual may have been adjudicated a "mentally ill person" under the provisions of *L. 1965, Ch. 348*. Of course, the mere fact that a person may have been found to be a "mentally ill person" does not conclusively establish that that person is not legally competent to contract.

It is our opinion, therefore, that a probate judge is bound to refuse to make the records of his court available because of the above-quoted portions of the law under *L. 1965, Ch. 348, Sec. 31*, and *L. 1965, Ch. 346, Sec. 7*.

We trust that this is the information which you desired.

Very truly yours,
ROBERT C. LONDERHOLM
Attorney General

KCG/rv

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MEETING TIMETABLE



March 21, 22, 23, 24, 1966

MID-WINTER CONFERENCE

American Land Title Association
San Marcos Hotel & Country Club
Chandler, Arizona

April 14-15-16, 1966

Texas Land Title Association
Sheraton-Dallas, Dallas

April 28-29-30, 1966

Arkansas Land Title Association
Velda Rose Towers, Hot Springs

April 29-30, 1966

Oklahoma Land Title Association
Skirvin Hotel, Oklahoma City

May 1-2-3, 1966

Iowa Land Title Association
The Town House, Cedar Rapids

May 10-11-12-13-14, 1966

California Land Title Association
Arizona Biltmore Hotel, Phoenix, Arizona

May 22-23-24, 1966

Washington Land Title Association
Alderbrook Inn, Union

May 15-16-17, 1966

Pennsylvania Land Title Association
Skytop Lodge, Skytop

June 8-9-10-11, 1966

Oregon Land Title Association
Salishan Lodge, Gleneden Beach

June 15-16-17, 1966

Illinois Land Title Association
Belair Motel, St. Louis, Missouri

June 16-17-18, 1966

Land Title Association of Colorado and
Wyoming Land Title Association
Stanley Hotel, Estes Park, Colorado

June 16-17-18, 1966

New Jersey Title Insurance Association
Seaview Country Club, Absecon

June 23-24-25, 1966

Idaho Land Title Association
Flamingo Motel, Idaho Falls

July 10-11-12-13, 1966

New York Land Title Association
Otesaga Hotel, Cooperstown

August 18-19-20, 1966

Montana Land Title Association
Viking Lodge, Whitefish

August 25-26-27, 1966

Minnesota Land Title Association
Howard Johnson Motel, St. Paul

September 9-10, 1966

Kansas Land Title Association,
Ramada Inn, Topeka

September 25-26-27, 1966

Missouri Land Title Association,
Ramada Inn, Jefferson City

September 29-30; October 1, 1966

Wisconsin Title Association
Park Motor Inn, Madison

October 16-17-18-19, 1966

ANNUAL CONVENTION

American Land Title Association
Fontainebleau Hotel, Miami Beach, Florida

American Land Title Association

