


# TITLE NEWS

THE OFFICIAL PUBLICATION OF THE  
AMERICAN LAND TITLE ASSOCIATION 



OCTOBER, 1966



## PRESIDENT'S MESSAGE

OCTOBER, 1966

Fellow ALTA Members:

We are looking forward to seeing many of you at the 60th annual convention in Miami Beach later this month. James Kidd, General Convention Chairman and Ginny Weatherford, Ladies Chairman, have worked hard to make plans for your entertainment and enjoyment at the convention. All details have been checked and re-checked to try to make sure everything is ready for you on October 16. Many of our members plan to dress formally for the Surf Breaker on Sunday evening and the banquet on Wednesday evening at the Fontainebleau. Several of the men have indicated they will wear summer formal jackets on Sunday and the traditional black tuxedo on Wednesday. Our chairman had checked and advised this is proper for Miami Beach in late October.

A note from Oklahoma Land Title Association President, Dick Godfrey, in their September Title-Gram especially caught my eye and I want to share it with you: "When I think of a Lawyers Title Guaranty Fund, this story comes to mind: A man came into a wood one day with an ax in his hand and begged the trees to give him a small branch which he wanted for a particular purpose. The trees were good natured and gave him one of their branches. What did the man do but fit it into an ax head, and soon set to work cutting down tree after tree. Then the trees saw how foolish they had been in giving their enemy the means of destroying themselves."

Vera Rose and I have thoroughly enjoyed the opportunity you have given us this past year. It has been a wonderful, heartwarming experience we shall never forget. Our thanks to each of you for the honor to have served as ALTA President in 1965-66 and for your hospitality to us during each and every visit we made.

Our final thought: We need people who do not scurry for the protection of a committee, who do not postpone decision-making indefinitely because they need more information, and who do not seek the protective covering of anonymity. The great need is for men and women who will do their total best because they know that talent without action is sterile and knowledge without commitment is idle conceit.

*Don B. Nichols*



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ON THE COVER

Symbolic of the tradition of cooperation and inter-dependence of two great organizations is the cover of this issue of TITLE NEWS. ALTA's President, Don B. Nichols, is greeted by Jack Justice, President of the National Association of Real Estate Boards, at a press luncheon in Miami Beach, August 11. (See Page 18)

JAMES W. ROBINSON, *Editor*

# THE ABSTRACT AND ITS RELATION TO THE TITLE BUSINESS



BY

BILL THURMAN, VICE PRESIDENT, RATTIKIN TITLE COMPANY,  
FORT WORTH, TEXAS

## The Pre-Abstract Stage

**T**he sale and purchase of real estate is a very ancient custom and practice. We find in the Book of Genesis of the Holy Bible the story of a real estate transaction which occurred nearly 4,000 years ago. In this story it is related that the Hebrew patriarch, Abraham, purchased from Ephron, the Hittite, a field containing a cave suitable for the burial of his wife, Sarah, who had just died in the village of Hebron. Abraham, being a man of wealth and consequence, had refused to take the land as a gift. He paid 400 shekels of silver in cash to the seller. In the language of the Scripture: "The field and the cave that is therein were made sure unto Abraham for a possession of a burying place by the Sons of Heth." (Genesis 23:20)

It is then related that as evidence of the passage of title, Abraham was led about the boundaries of the land and a public proclamation of the change of ownership was made at the City gates to all who entered that day.

Evidence of conveyance of land has been found on clay tiles which were excavated by archaeological digging in areas which housed the Governmental records of the Assyrian King, Ashurbanipal and the Babylonian Emperor, Hammurabi, each of whom lived many centuries prior to the Christian era.

Coming down to more recent times, we find upon examining grants from the Mexican Government to settlers and colonists of the State of Coahuila and Texas, recitals that the colonist was taken by the hand and led around the boundaries of his land; that to evi-



dence his new ownership he pulled grass, broke twigs, upturned and threw stones while announcing in a loud, clear voice that he was in possession of the land. To give him evidence of his title, a certified copy or "Testimonio" of the Grant was made and delivered to him. The original was filed or lodged with the Alcade or local judge, or a notary public appointed by him, who retained it as a permanent record.

Today in our paper civilization, to evidence the act of sale, the seller signs a document which is typed or printed on paper declaring the conveyance of title to the purchaser. The seller then appears before a notary public and makes a ceremonious declaration to the notary of the act or sale. The notary signs, affixes his seal and the document is then delivered by the seller to the purchaser as evidence of the passage of title. In order that a record of the transaction may be preserved and made evident to the public who may thereafter want to deal with that particular land, the deed is filed with the county clerk of the county in which the land is situated. The clerk records it in a book forming a part of the deed records and indexes it in the name of the seller and the buyer in order that the public may readily find the record of the transaction.

Regardless of the ceremonies attendant upon these transactions or the physical manifestations of the act, the purpose is to pass the title to a certain specific tract of land from one to another, and to create tangible evidence of the transaction, both for the benefit of the purchaser and the enlighten-

ment of others who may thereafter deal with the same property. In a similar manner, mortgages and liens are created on real estate, notes secured by liens on real estate are sold and the records of these transactions are kept and maintained by the county clerk of the county in which the land is situated.

Finding out what actually happened to title to a given parcel of land was first accomplished in this state by simply examining the indexes in the offices of the county and district clerks and county surveyor beginning with the original patent, and compiling a chain of title by running each name separately until the whole chain of deeds, mortgages, contracts and the like was put together. Suits by and against all parties in the chain were checked. If breaks occurred, probate minutes and indexes were checked for wills, administration, guardianship. Similarly, judgment indexes were examined. This method had the defect of being slow and unwieldy, and to a degree, uncertain. Also it failed to turn up deeds, mortgages and judgments by or against persons who did not appear in the record chain, such as heirs of a deceased person, affidavits of heirship by third parties, or even hostile deeds by parties claiming title from other sources. This work was done either by lawyers, or persons who became adept at this method of searching titles. When done by the lawyer, he combined his search with an evaluation and analysis of what he had found, and furnished his client an opinion on the title.



## The Abstract Stage

With the passage of the years and increase of the number of volumes in each Courthouse this method became impractical. At this point the abstract and the abstracter were born and we begin the Abstract Stage. The abstracter started making extracts of all documents and records of the county and arranging them in a system of indexes keyed to the property itself, and keeping the system posted or filed daily. He indexed the judgments under names of the defendants, the probate minutes and records under the names of the decedents, the affidavits of heirship under name of the decedents, divorces and suits affecting legal status under names of both parties. Out of this plant could be compiled the complete recorded history of the title to any parcel of land in that county. This was usually done by making a memorandum of chain of title from the plant, and having the references either copied in full, or in extract form depending upon custom of the country and wishes of the title examiner. Most careful title examiners prefer full copies rather than to rely on the abstracter to state his own conclusions as to effect of documents, or to cut them to bare skeletons. This written material, bound into a cover with proper index, certification and maps, with possibly addition of tax certificates, constitutes the abstract of title.

Webster's Standard Dictionary defines an abstract of title as follows: "A brief and orderly statement of the original grant and all subsequent conveyances and encumbrances relating to the title

and ownership of real estate."

Thompson, in *Title to Real Property*, describes it as follows: "A methodically written or printed history of the title transactions to a designated tract of land, from some original source to the present, consisting of a summary of the essential parts of every recorded instrument of conveyance and a brief statement of all liens and encumbrances affecting the said tract of land."

The abstract across the country varies in many ways. Some are typed, some are made of photostats of the original records, some are letter size, some legal, etc. Costs vary even more than the forms, but generally a certain amount per page.

At this point it should be noted that the abstract of title is simply the history of the known recorded data that affect a particular parcel of land, and that possession of the abstract and a deed to the land is no assurance that the title is good, or that it is not burdened with mortgages, easements, leases or other defects. That assurance can only be obtained by having the abstracts examined by a skilled, competent, and experienced attorney, able to evaluate correctly what he reads. This evaluation is usually called the Title Examination.

The Abstract-Attorney examination method of title evaluation was for many years the usual and accepted device used in all parts of Texas and most all States, and is still used in a great number of Texas Counties (as well as other States). It is used almost exclusively in assembling a drilling block, and in determining whether



it is safe to drill for and produce oil and gas without undue risk of litigation. Under this system, by custom and practice, the seller pays the cost of preparing the abstract, the buyer the cost of examination of title. Under this system the safety of the buyer of the land depends upon the care and integrity of the abstracter, the skill, competence and experience of the title examiner.

Let us consider for a moment some of the difficulties and problems inherent in the Abstract-Attorney examination method of obtaining assurance that a given title is safe and can be successfully defended in the courts. If you will review some of the things which can happen to a title, it immediately is apparent that not all of them are to be found in the public records which the abstracter has searched and which his certificate covers. Here are some: A will probated or administration pending in another county; a receivership or divorce in another county; a bankruptcy in another county, or even another state; a marriage in another county or even another state; adoption not of record in the county; special assessments for street improvements by a city governing body; claims of mechanics and materialmen arising out of new construction and not yet filed; oral sales or partitions supported by consideration, possession and improvements; unrecorded deeds or leases where the purchaser or lessee is in possession; simple adverse possession of a squatter, or a road which has ripened into a permanent easement by prescription. Is it any wonder that under the Ab-

stract-Attorney method of title assurance the attorney had to qualify his opinion with the statement that his examination was limited to the abstracts, and that he did not purport to cover such matters as unfiled mechanics' and materialmen's liens, assessments for street improvements, rights of parties in possession, conflicts, encroachments and shortages, and other unrecorded hazards? Consider that the attorney was not liable to his client for honest mistakes in judgment, but only for negligence, and the practical difficulties in collecting a large judgment against the average individual lawyer whose income is limited to his law practice. Consider also that individuals move from county to county, out of the state, and even die.

Let us now examine some further defects that can and do occur in titles and which cannot be discovered from an examination of the abstracts. Here are some of them: Forged deeds, mortgages and wills in the chain of title; deeds and wills made by persons of unsound minds; deeds and wills executed under duress or undue influence; conveyances altered before recording; deeds delivered after the grantor's death; deeds made under a power of attorney which was revoked by death of the principal; deeds of corporations executed without authority; deeds by minors; deeds by persons allegedly single, but actually married; false affidavits of death and heirship; faulty taking of acknowledgments, particularly of married women, where the homestead is involved; errors in recording or indexing; marriage,

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birth or adoption of children after will made, or discovery of a later will; omissions from abstract through faulty abstracting.

### The Title Insurance Stage

It was only common sense that there should be some protection for the buyer against defects such as these not of record, and those defects which were of record but could not even be detected. So the Title Insurance Stage began. The sale of real estate has become so involved and complicated that the safest way to protect one's investment in real estate is through title insurance. Title insurance provides the needed assurance for the buyer that a Title Insurance Company will be responsible for any title loss and/or defend his Title in the Courts for him. The majority of real estate transfers are handled with a title insurance policy because it is faster, more efficient, and affords the much needed protection to the buyer. With the increased number of records, complexities and increased real estate values, the use of title insurance will continue to become more prevalent. So the abstract itself may not be as much in demand in the future, but the skills of the abstracter, and a more

modern and efficient abstract plant will be even more important and imperative. The Title Insurer still needs the search of the title by a competent abstractor from a complete abstract plant and the careful examination of the title by a competent attorney. So, even though we have seen an evolution from the Abstract Stage to the Title Insurance Stage, the abstract, the abstractor and the Title Examiner are still, and will always be, very muchly needed.

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## MEETING TIMETABLE



**October 2-3-4, 1966**

Ohio Title Association  
 Statler-Hilton Hotel  
 Cleveland

**October 16-17-18-19, 1966**

### ANNUAL CONVENTION

American Land Title Association  
 Fontainebleau Hotel, Miami Beach, Florida

**November 4-5, 1966**

Land Title Association of Arizona  
 Scottsdale, Arizona

**November 10-11-12, 1966**

Indiana Land Title Association

**November 17-18-19, 1966**

Florida Land Title Association



# IN THE NEWS



## O'CONNOR ELECTED

Francis E. O'Connor has been elected Senior Vice President of Chicago Title and Trust Company, Chicago, Illinois and becomes head of the company's Public Relations Division. He succeeds Joseph D. Shelly, Senior Vice President, who will retire on December 31. Mr. Shelly will continue as President of the Chicago Title and Trust Company Foundation until his retirement.

Mr. O'Connor was previously Vice President with supervisory responsibility for the company's title operations throughout Illinois outside of Cook County. Russell P. Sedgwick, Vice President, succeeds Mr. O'Connor in this position.

O'CONNOR



Mr. O'Connor has been associated with Chicago Title and Trust Company since 1941. He received an LL.B. degree from DePaul College of Law in 1940 and also holds an MBA degree from the University of Chicago. He became a Vice President of the company in 1960. He is a director of the Illinois Land Title Association and a member of the Public Relations Committee of the American Land Title Association. He is a member of the Chicago and Illinois State Bar Associations, active in the Illinois State Chamber of Commerce. He is also a director of the McHenry County Title Company and the Rock Island County Abstract and Title Guaranty Company.

## CHANGES IN KANSAS CITY

Walker F. Collins has retired as Assistant Counsel of Kansas City Title Insurance Company. W. M. McAdams, President of Kansas City Title, has announced that Estel E. Jenkins will assume the duties of assistant counsel.

### Walker F. Collins:

Collins is a graduate of William Jewell College and holds a J. D.

COLLINS



Degree from the University of Chicago Law School. He joined Kansas City Title in 1951 from Missouri Abstract and Title Insurance Company, of which he was Vice President.

Collins is a member of the Missouri, Illinois and Kansas City Bar Associations. His experience in the title insurance business dates back to 1934.

#### **Estel E. Jenkins:**

Jenkins joined Kansas City Title in November, 1954, from Missouri Abstract and Title. He holds an LL.D. Degree from the University of Kansas City and is a member of the Missouri Bar Association and Phi Alpha Delta law fraternity.

Jenkins is a member of the Veterans of Foreign Wars and the American Legion.

#### **AMERICAN BUYS BRYN MAWR COMPANY**

American Title Insurance Company, Miami, Florida has acquired substantially all of the outstanding stock of The Title Insurance Corporation of Pennsylvania, Bryn Mawr, Pennsylvania, from a group of bank and trust companies.

The announcement was made jointly by Jay R. Schwartz, presi-

dent of American Title, and Gordon M. Burlingame, President of TICP, who will continue to head the Pennsylvania company. No management or personnel changes are contemplated in the TICP organization.

TICP, has nine branch offices in Pennsylvania, and is represented throughout the state by an extensive list of examining attorneys. The company also is licensed and active in 10 other states, Puerto Rico and the Virgin Islands.

TICP derived in excess of \$1,000,000 from 1965 underwriting operations. It will continue all of its functions as a subsidiary of American Title, which had consolidated operating and underwriting income of \$9,586,000 in 1965.

The purchase price was not disclosed, but TICP's 1965 annual report showed capital and surplus of \$1,057,000 and unearned premiums (statutory reserve) of \$350,000.

Board Chairman Joseph Weintraub of American Title and Mr. Schwartz have been elected to the board of TICP.

TICP was founded in 1954, but is an outgrowth of continuous operations since 1888. The Company

**JENKINS**



**SCHWARTZ**





initially acquired the title departments of the Bryn Mawr Trust Company, and the Montgomery Norristown Bank and Trust Company, assuming the title insurance liabilities of these operations and obtaining their title assets and title plants.

Subsequently, TICP made similar acquisitions of the title departments of Wayne Title and Trust Company, Jenkintown Bank and Trust Company, Doylestown Trust Company and the Phoenixville Trust Company.

Mr. Burlingame, who had been with the Bryn Mawr Trust Company since 1925 and head of its title department since 1937, was one of the organizers of TICP, and has been President of the Company throughout its existence.

The Company's branch offices are located in Bala-Cynwyd, King of Prussia, Lansdale and Norristown in Montgomery County; Doylestown, in Bucks County; Wayne in Delaware County; Paoli and Phoenixville in Chester County; and Philadelphia.

### RELIGA PROMOTED

Stanley F. Religa has been named an Assistant Vice President of American Title In-

#### RELIGA



surance Company. He will assist John Ely Weatherford, Senior Vice President in charge of the National Title Division.

In announcing Mr. Religa's appointment, Mr. Weatherford said that in addition to his duties in the National Title Division, Mr. Religa will have a primary responsibility for agency operations throughout the state of Florida.

Mr. Religa is a veteran of more than 25 years in the title business. He entered the field in Chicago in 1940 after attending Wisconsin State College at Oshkosh. After serving in the armed forces throughout World War II, he returned to the title business in Chicago.

In 1950 he received a bachelor of laws degree (LL.B) from John Marshall Law School, Chicago, and was admitted to the Illinois Bar the same year. He moved to Florida in 1952 and was associated with several land title companies, the last of which was another nationwide title insurance company, before joining American Title this month. Mr. Religa was admitted to the Florida bar in 1965. He was a member of the law fraternity, Delta Theta Phi, at John Marshall and is active in its alumni group in Miami.

### ALBUQUERQUE COMPANY BOUGHT

New ownership of First Title Guarantee and Trust Company of Albuquerque, New Mexico, has been announced by Paul V. Crowley, President of the company.

Dallas Title Company recently acquired First Title Guarantee and Trust after many years repre-

sensation by the local company as its agent.

The main office at 217 Gold Avenue S.W., Albuquerque, and the branch at 1330 San Pedro N.E., will continue to operate with the same officer and staff personnel.

First Title Guarantee and Trust Company has issued title insurance policies of Dallas Title from the start of business in Albuquerque more than ten years ago according to Crowley.

### COMMONWEALTH PROMOTIONS

James G. Schmidt, President of Commonwealth Land Title Insurance Company, Phila., Pa., has announced the recent promotions of Russell C. Pinker to Assistant Vice President and Messrs. William E. Baldwin, John A. Day, Sr., Paul H. McCarthy and Joseph A. McTear to Assistant Title Officers.

Mr. Pinker, Assistant Vice President, started with the company in 1937 and has a broad experience in Settlement work and branch office management. His present assignment is assisting in the administration of branch office activities. Mr. Pinker is Secretary of the Oxford Circle Realty Board, a director of the Hercules Building and Loan Association

and is a member of the Philadelphia Board of Realtors, the Northeast Philadelphia Realty Board and the North Philadelphia Realty Board. He attained the rank of Captain in the U.S. Army having served four years during World War II and later in Korea.

Mr. Baldwin, Assistant Title Officer, has been in the title insurance business since 1922 and is the title search supervisor in the Bucks County Area. He is a member of the Association of Title Examiners. Mr. Baldwin is an avid sportsman and holds membership in the South Jersey Beagle Club, the Merchantville Fishing Club and the New Jersey Beach Buggy Association.

Mr. Day, Assistant Title Officer, a long time employee of the Company, is well qualified for his position as supervisor of title searchers assigned to Montgomery County. He attended Northeast Public High School and Temple University. Mr. Day devotes considerable time to Church activities.

Mr. McCarthy, Assistant Title Officer, began his title career with the Company in 1926 and is experienced in plant operations as well as searching titles to real estate through the Philadelphia

PINKER



BALDWIN



DAY





five county area. At present he is in charge of personnel who search titles in Delaware County.

Mr. McTear, Assistant Title Officer, was graduated from La-Salle College and later received his law degree from Temple University. He was engaged in the private practice of law from 1940 to September, 1960 when he joined the Company as a title examiner at Media and Delaware County. Mr. McTear entered service with the U.S. Army during World War II as a private and attained the rank of Lieutenant. He is a member of the Veterans of Foreign Wars, Media Post No. 3460.

#### MOVES TO NEW QUARTERS

After 65 years at 176 Broadway, THE TITLE GUARANTEE COMPANY has completed a move on Monday, August 15, 1966 to 120 Broadway, N.Y., N.Y. the 41 story, Equitable Building occupying the entire block bounded by Broadway, Cedar, Pine and Nassau Streets.

The long term lease of the space was announced by Herman Berniker, President of The Title Guarantee Company. The lease covers 30,500 square feet on the third floor which will house all of the title company's main office

McCARTHY



facilities on a single floor and create a service area designed for maximum efficiency and improved customer comfort and services. Over 14,000 square feet are provided on the fourth floor for administrative services and filing space.

#### ELECTION AT LAWYERS

Carl B. Hall of Birmingham, Alabama, has been elected Title Officer of Lawyers Title Insurance Corporation by the Company's Board of Directors. He had been an Assistant Title Officer in the Birmingham Branch Office.

Hall received his undergraduate and law degrees from the University of Alabama. In 1953 he joined Title Guarantee & Trust Company in Birmingham which Lawyers Title purchased in 1961.

#### TITLE MAN'S DREAM

I kneel at my bedside  
In the presence of my Lord.  
He places the Soil of Heaven  
In my hands . . .  
"And this I give to thee".  
I rise from my knees on earth,  
And take the Soil of Heaven,  
Replacing it from whence it came.  
Livery of Seisin is complete—  
I am tenant of  
The Chief Lord of the Fee!

McTEAR





State Association

CORNER



AIME C. BETTEX

# NEW YORK ADDS "LAND" TO NAME

## BETTEX NAMED PRESIDENT

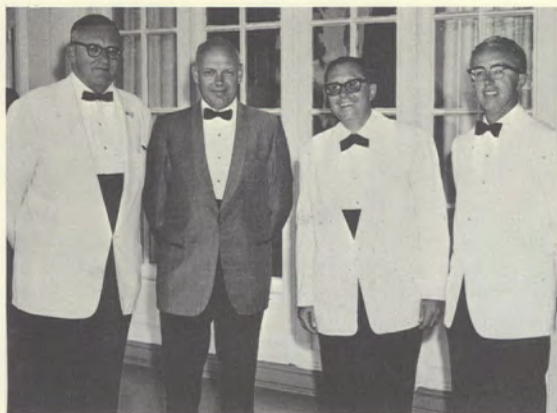
ALTA PRESIDENT, DON B. NICHOLS, (CENTER) SHAKES HANDS WITH NASSAU COUNTY CLERK, FRANKLIN H. ORNSTEIN AS RETIRING PRESIDENT ARTHUR SELTZER WATCHES.



At the 46th Annual Convention of the New York State Title Association (now the New York State *Land* Title Association), Aime C. Bettex, First Vice President of the Title Guarantee Company, New York, New York, was elected to serve as President for the ensuing year. Edward T. Brown was re-elected as Executive Secretary.

The newly elected President, Aime C. Bettex, has been active in the title insurance industry for 46 years. He is active in civic





ABOVE: left to right; convention speaker Dean William H. Mulligan of Fordham Law School; ALTA President Don B. Nichols; Arthur J. Seltzer, retiring New York President and William J. McAuliffe, Jr., Executive Vice President of ALTA.



DON NICHOLS (RIGHT) POSES FOR THE ALTA PHOTOGRAPHER WITH THE NEWLY ELECTED PRESIDENT (CENTER) AIME C. BETTEX AND THE RETIRING PRESIDENT, ARTHUR J. SELTZER.

and community affairs and has earned a reputation for his integrity and ethical conduct.

Representing the American Land Title Association was its National President, Don B. Nichols. Also on hand to report to New York members was William J. McAuliffe, Jr., ALTA's Executive Vice President.

The convention was held at Otesaga, July 10-13, 1966, in Cooperstown, New York. Serious business discussions were tempered by some delightful social events, which included a golf tournament, a boat trip, a country style square dance and a bus tour for the ladies.

# THE LAWYER AND TITLE INSURANCE

Remarks made by James G. Schmidt, Esq., President of Commonwealth Land Title Insurance Company, Philadelphia, Pa., as a panelist on the subject: "The Lawyer and Title Insurance", at the annual convention of the American Bar Association, August, 1966.

Just ninety years ago, when our Nation was celebrating the centennial of its independence, the first title insurance company in the world was incorporated in Philadelphia by a group of lawyers and conveyancers, the latter being laymen to whom lawyers had been referring the arduous and burdensome work of searching titles. The story behind this incident was the case of *Watson vs Muirhead*, 57 Pa. 161, which held that a conveyancer was not liable for damages to a purchaser resulting from an error in judgment. After this decision, a group of lawyers conceived the idea of a title insurance company which would not only insure the accuracy of a search, but also protect a purchaser from loss resulting from an honest mistake in rendering an opinion, and from matters not on the public record. The first title insurance company was what we would today call a plant company with a daily take off. It is evident that the original plant company was not created to take work away from lawyers, but was created by lawyers to serve them and their clients.

The company which employs me at the present time is the successor to the company incorporated in Philadelphia in 1876. When I be-



came an employee, I received a very thorough training in title searching and title law before I was permitted to prepare a report of title. I was instructed that on no occasion should I advise or counsel the public as to legal matters. However, I would be able to review these problems with attorneys representing sellers, purchasers or mortgagees of real property. My days were spent in reviewing these matters with real estate lawyers of Pennsylvania, and over the years I am confident that I have discussed more than a half million such cases with members of the bar. Other



lawyers on our company's legal staff have done as much or more, and have thus rendered a real service to the practicing attorney.

During the course of our business we frequently recommended purchasers or sellers of real property to attorneys. Members of our legal staff lecture before the various bar associations from time to time on the methods of handling the problems of a real estate transaction. Forums are held for attorneys on the legal aspects of the transfer of real property. Our company participates with the other Pennsylvania companies in the programs of the Pennsylvania Land Title Association, and their meetings are attended by many practicing attorneys, and publications of this Association are distributed to attorneys who cannot attend. All of this indicates that our relations with the organized bar have been very close and very pleasant.

Considering the very happy relations which we have had with the bar, I was shocked to read in the American Bar Association Journal and other legal periodicals articles dealing with the relations of the practicing attorneys and title insurance companies incorporating such terms as "the problem area," "explosive problem" and "the call to arms." The following statements have appeared: "The title companies make no bones of their objective to eliminate the lawyer from participation in commercial land transactions;" "Commercial title companies \* \* \* are gradually taking over the handling of the entire real property transaction;" "He (the attorney) can refer his client to a lay title insurance agent, in which case he may not see his client

again." "In some places in this country, such as \* \* \* Philadelphia, \* \* \* the legal profession, as such, has been eliminated from the real estate practice \* \* \*."

I am sure that attorneys, in their desire for fair dealing, are anxious to know the truth, so let us check the facts. In our Philadelphia real estate closings, in at least sixty per cent of the cases, there is an attorney present representing either the seller or the purchaser. Our staff will not advise the public—will not prepare legal papers for the public, and we do not advertise that we provide such service. Outside of the Philadelphia area, we carry on our business in Pennsylvania and thirty-four other states, in most cases, through local attorneys. On the national level, I would think that a practicing lawyer is involved in about 80% of our transactions, and we would be very happy if that percentage were to be increased to 100%.

Turning to other title companies, I would think that their experience would be similar to ours. Certainly none of them has as their objective the elimination of the lawyer from the real estate transaction. The statement of Donzel Stoney, quoted so frequently and reprinted in Pamphlet No. 1, on Bar Related Title Assuring Agencies, was an isolated comment made in 1926, and there is no evidence that any other title man, in the forty years which have elapsed since 1926, has expressed the same philosophy. Personally, I have been quite active in both the American Land Title Association and the Pennsylvania Land Title Association, and have never heard a statement or an inference that title companies were planning



to take over the real estate practice from the attorney.

Pamphlet No. 1, quoted above, states "the examination of documents affecting title should be handled by persons trained in the law." With this I agree. The work is in a specialized field and requires an acquaintance with the general principles of the law of real property and a large amount of practical knowledge which can only be derived from experience. The staffs of title insurance companies have acquired such experience today. When a practicing attorney becomes an agent or approved attorney for a title company, we make every effort to give him the benefit of our experience. If we have been active in his area of operation, he has at his disposal our accumulated search work, he will receive our written rules of procedure, and in handling any real estate problems, he can save himself considerable time and effort in discussing the problems with us.

It has also been stated that a title company is more concerned with insurability than marketability, and for this reason will often omit an encumbrance from the title report. I can assure you that this is not the approved practice. Title companies uniformly list all encumbrances shown by the search, giving the attorney for the purchaser or mortgagee the opportunity to decide whether the property should be acquired subject to the possible cloud. If the purchaser still wants the property, the attorney may request the title company to insure against loss resulting from the encumbrance, and the officers of the title company, having gained experience in assessing risks, can determine whether the risk can be taken. The

Title Policy should list the encumbrance and the risk assumed.

This willingness to insure against loss by reason of a special risk, whether it be mechanics liens, antecedents debts, encroachments, ancient liens, etc., is just one of the services rendered to the public by a commercial title insurance company. The advantages of title insurance to the public are numerous, but the most important advantage of a title insurance Policy by a reputable company is that the company will stand behind the Policy and assume the defense of litigation, even though the cost might exceed the amount of the Policy. David Yelen, of the Florida Bar, in an article appearing in the American Bar Association Journal, says that "the justification must be found in the benefits to the public." He admits that "sometimes it is cheaper to obtain title insurance than to have an abstract made and examined." He also admits that title examination by a title company takes less time than the search by the average lawyer. He is unable to prove that the Florida Fund has a better or worse claims experience than a commercial company. As you realize, our losses can arise from errors in the search, mistakes or dishonesty in the closing, honest errors in rendering a title opinion, and matters not on the public record such as forgeries, unknown liens, matters affecting marital status and competency of the parties. The Bar Fund pamphlets claim that title companies over-emphasize and over-dramatize the latter possibility of loss. However, you must admit that there is an element of drama in cases such as the one where a builder sells more



than a hundred custom built homes, with his second wife joining in the Deeds, and its develops that he had failed to get a divorce from his first wife, and after his death she claims an interest in all of the properties. The risk of loss from this type of case is quite serious, as is shown by the fact that 80% of our losses last year resulted from matters not on the public record. But very little of our advertising stresses this type of loss because most of our ads, 50% of which are in legal periodicals, are concerned with service.

All of the committees appointed to study the subject of title insurance have admitted its value to the public. The use of title insurance has grown because it serves a useful function and purpose in our society. It complements the work of the lawyer in the real estate transaction, and it is not the practice of law in any professional sense. It is a commercial operation in the insurance field, regulated by the Insur-

ance Departments of the various States. Lawyers, as members of the organized Bar, should not be engaged in such a commercial enterprise, any more than they should form a life insurance company, because such a company might be involved in estate planning or a bank, because it engages in trust work. The lawyer should retain his historic position as a legal adviser in a real estate transaction, and in this capacity advise on the negotiations leading to the original contract of sale, the appropriate form of taking title, estate planning and tax factors. He should review for his client the results of the title report or title binder, and advise as to the effect of the items appearing thereon. I am confident that the increased use of title insurance will lead to more purchasers using the services of lawyers, and that title companies and the lawyers can co-operate with each other to their mutual advantage and for the benefit of the public.

*P.S. I would like the members of the American Land Title Association to know that the panel discussion on "The Lawyer and Title Insurance" was a most cordial experience and in my case has a beneficial effect of describing the unique character of title insurance, not only as a service to the public, but also as a benefit to the lawyer in his efforts to serve and protect his client. I think this discussion has helped us to achieve with our lawyer friends a better understanding of our services and our products.*

*Jim Schmidt*

### **BROADRIPPLE HOTEL**

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**Rate \$4.00 single, \$6.00 double.**

**Salt Water Pool and facilities of ocean front hotel  
for our guests.**



FRANK CONDON, RETIRING PRESIDENT RECEIVES PLAQUE OF APPRECIATION FROM NEW PRESIDENT, J. RAYMOND DONLAN.

# DONLAN HEADS ILLINOIS ASSOCIATION

The 59th Annual Convention of the Illinois Land Title Association began Wednesday evening, June 15, with an informal gathering sponsored by the ILTA at the Bel-Air Estate Hotel, St. Louis, Missouri. Business sessions continued through Thursday and until noon on Friday. The Thursday evening cocktail and dinner party was combined with a trip to the theater to see "Music Man." Don B. Nichols, ALTA President, made a brief appearance at this home state convention, as he was scheduled to speak in another state the follow-

OLD FRIENDS MEET AT THE ILLINOIS CONVENTION. MR. AND MRS. DON B. NICHOLS EXCHANGE PLEASANTRIES WITH MR. AND MRS. HUGH ROBINSON. HUGH IS SECRETARY OF THE MISSOURI LAND TITLE ASSOCIATION.







### OFFICERS AND MEMBERS OF THE BOARD OF DIRECTORS FOR THE ENSUING YEAR.

Standing, left to right: Richard Febuary, John D. Byers, Charles A. McCarthy, Charles B. Roe, Francis E. O'Connor, Robert C. Moehle.  
Seated, left to right: Herbert Kaiser, J. Raymond Donlan, Marjorie R. Bennett, Sarah E. Ridgely, Frank E. Condon.

ing morning. Don's address centered around the amusing and sometimes frightening experiences he and Mrs. Nichols have had in their travels around the country.

Marjorie Bennett, of the Menard County Abstract Company, was re-elected Secretary of the Illinois Land Title Association.

The newly elected President, J. Raymond Donlan, is a Vice President of Chicago Title and Trust Company, serving as Manager of the St. Clair Division. Mr. Donlan was also recently elected President of the Belleville, Illinois Chamber of Commerce.

ONE OF THE FEATURED SPEAKERS, JOHN D. BYERS, MC HENRY COUNTY TITLE COMPANY, WOODSTOCK, ILLINOIS.



# MORE CONVENTION SPEAKERS

The appearance of a distinguished government official on the program of the American Land Title Association is not especially new. In fact, this particular government official has already participated in ALTA conventions. The 1966 meeting in Miami Beach, however, will be different!

E. Gordon Smith, Vice President, Lawyers Title Insurance Corporation, Dallas, Texas, has agreed to moderate a "Government Pot Pourri" which will provide the opportunity for ALTA members to learn first-hand the attitudes of important federal servants toward the title evidencing profession.

We are pleased to announce that A. M. Prothro, known to his friends as "Dolph," General Counsel of the Federal Housing Administration, has accepted Gordon Burlingame's invitation to participate in this roundtable discussion. Dolph scarcely needs an introduction to members of the American Land Title Association—see the January 1966 issue of *Title News*.

Just for the record, Mr. Prothro has served the FHA in various capacities for more than 31 years; 7 years as Director of the Legal Division and 5 years as General Counsel. He supervises the 50 attorneys who are responsible for all legal work of the FHA, including the important function of



**A. M. PROTHRO**

closing loans throughout the country in multifamily housing transactions.

He is a graduate of Baylor University in Texas and of the George Washington University Law School in Washington, D.C. He served in the Army for five years during World War II and is active in the Army Reserve with the rank of Colonel. In his spare time, Dolph teaches real property law in the American University where he has been a part-time professor since 1948. He makes his home with his wife and three children in McLean, Virginia, where he is active in church and civic affairs.



Also participating in the "Government Pot Pourri," which will be conducted Tuesday afternoon, October 18, will be Col. Robert Newton Reid, General Counsel of the Federal National Mortgage Association, Washington, D. C.

Col. Reid is well known to ALTA members, having served in his capacity as FNMA's General Counsel for the past sixteen years. Stanley Baughman, Fanny Mae's President, has been a distinguished spokesman for the concept of mortgage loans secured by reliable title evidence based upon sound title insurance underwriting practices. Mr. Baughman was a speaker at the ALTA's Annual Convention in San Francisco in 1963.

Col. Reid was born in Ottawa, Illinois, March 28, 1908. He resides at the University Club in the nation's capital. He was educated at the University of Chicago, having been graduated in 1929 with a Ph.B. and in 1930 with a J.D.

Bob Reid was admitted to the Illinois Bar in 1930, the U. S. Supreme Court Bar in 1949; the Maryland Bar in 1961 and the District of Columbia Bar in 1961. He served with the Wickersham Commission on Law Observance and Enforcement in 1930 and 1931. Mr. Reid practiced law in Chicago from 1930 until 1939 with the law firm of Follansbee, Shorey and Schupp.

Col. Reid's Government service includes a position at attorney for the Farm Credit Administration (Central Bank for Cooperatives), as attorney and counsel for the Reconstruction Finance Corporation. His association with the Federal National Mortgage Association be-



**ROBERT NEWTON REID**

gan in 1942, with time out to establish an outstanding war record with the United States Army from 1942 to 1946. Mr. Reid was named Assistant General Counsel of FNMA in 1949; Vice President in 1950; Director in 1954, and General Counsel in May of 1950. Col. Reid is the recipient of the coveted decoration, the Army's Legion of Merit, which was bestowed upon him in 1945.

Col. Reid is a member of the American Bar Association, the Federal Bar Association, the Reserve Officers Association, the American Legion, Sons of American Revolution (Life), Delta Sigma Phi (Life), Phi Alpha Delta, the National Lawyers Club (Life), the University Club of Washington, D. C., and is an active Mason. We look forward to Col. Robert Newton Reid's contribution to the discussions at the "Government Pot Pourri" at the time of the Annual Convention.

# CONVENTION PLANS OUTLINED AT PRESS LUNCHEON



LEFT TO RIGHT: JAMES H. KIDD, GENERAL CONVENTION CHAIRMAN; JACK JUSTICE, PRESIDENT, N.A.R.E.B.; ALTA PRESIDENT, DON B. NICHOLS; MELBOURNE L. MARTIN, PRESIDENT FLORIDA LAND TITLE ASSOCIATION.

At a luncheon sponsored by the ALTA at the Fontainebleau Hotel Thursday, August 11, the Miami Beach newspaper editors, TV directors and radio announcers were briefed regarding the details of the forthcoming 60th Annual Convention of the American Land Title Association at the Fontainebleau Hotel October 16-20, 1966. Members of the press were provided with background material, a variety of news releases and the opportunity to ask questions of some of the city's leading title men. The ALTA movie, "A Place Under the Sun," was shown and engendered



PRESIDENT, DON NICHOLS ENJOYS A TALK WITH (LEFT) JIM KIDD AND MEL MARTIN.

considerable favorable comment.

A special guest at the press luncheon was Mr. Jack Justice, President of the National Association of Real Estate Boards. His presence was a fortuitous circumstance as representatives of one of the local television stations were on hand with TV cameras with instructions to secure an interview on the subject of the housing implications of the Civil Rights Legislation. Mr. Justice eagerly filled this assignment.

That same evening Alvin R. Robin, Chairman of the Abstracters Section, met with President Nichols and the manage-





A FINE TURNOUT OF NEWSPAPER, RADIO AND TELEVISION EDITORS HELPED TO MAKE THE PRESS LUNCHEON A HUGE SUCCESS. ALTA MEMBERS WERE HOSTS TO THE PRESS AT THE TABLES PICTURED ABOVE.

ment seminar speakers who will be presenting an abbreviated version of the Chicago Management experience at the time of the Annual Convention.

On the following morning, chairmen of the local committees met with President Nichols and Chairman Robin to review all of the convention details. Committee reports were submitted and in some cases revised. General

Chairman, James H. Kidd was present as was Melbourne L. Martin, President of the Florida Land Title Association. Mrs. Martin (Sis) presented the report of the Ladies Hospitality Committee.

Based upon the discussions held at this meeting, it is clear that ALTA members will be royally entertained when they go to Florida for the 60th Annual Convention.

# HELP ALTA TELL THE TITLE STORY

*Interesting, Dramatic  
Case Histories Needed:*

**In The American Land Title Association's Public Relations Effort, Interesting And Dramatic Case Histories . . . Title Problems Involving Historic Figures Or Historic Sites Are Like Money In The Bank. Editors Will Publish Material Telling The Title Story If It Is Presented In Readable Fashion. This Is An Appeal For Help.**

**R**ecently, a single man "borrowed" a wife to make the purchase of real estate easier. The case offers a new twist on the type of fraud known in the title insurance industry as the "John's Other Wife" case. Here's what happened:

"A real estate agent told the prospective buyer of a home that it would be easier for him to obtain credit if he were married. To sign the required papers, the buyer casually 'borrowed' a woman who was married to another man to pose as his wife. The false 'wife' signed many legal papers. Then the buyer married another girl and went into the service. The fraud came to light in a foreclosure action."

The above is a true case, variations of which are familiar to every ALTA member. It is the kind of case that ALTA needs for its public relations effort. The dramatic, the intriguing, the historic example stick in people's minds. Having a file of interesting cases which prove the value of title insurance is like money in the bank in ALTA's public relations effort.

## **Many People Don't Understand Problems**

Title insurance and the hazards to obtaining clear title are well known to everybody in our industry, of course. What we must keep in mind is that these things may be mysteries to many members of



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the property-buying public.

"Why should I buy title insurance? Aren't the chances of anything happening to my home remote?" These are questions which naturally occur to every prospect. It is to the benefit of the entire industry that ALTA try to educate home buyers. This is no easy task.

*The Dramatic Example Sticks In The Mind:* In news releases, and special feature stories, the colorful, dramatic example sticks in the mind. The story can make its point that title insurance is a "must" and still be entertainingly written, too. In fact, it *must* be readable and entertaining if it is to find publication in today's fiercely-competitive publicity field.

This brings up a way in which ALTA members can help . . . and you can have some fun, too . . . Send us the best case history or interesting example of the value of title insurance. Names don't have to be mentioned, of course. Just describe the situation and the facts.

A number of ALTA members

have already sent in case histories and examples. These are being used every month in our publicity effort.

*Don't Overlook Publicity In Your Paper:* You can be a big help to your association by sending in case histories and examples. And here's a bonus. Don't forget the possibility of gathering together a few interesting cases, writing them up, and sending them to the real estate editor of your local newspaper. We'd bet that the chances of your company winding up with a good feature story in the home town paper would be good. The fact that your example may be published in your local newspaper or state realty magazine will benefit you and the ALTA.

Your association hopes to inspire ALTA members to become more "publicity conscious." There's a big job to be done. Local publicity helps the company getting it—and the entire title insurance industry.

Has your company had some interesting cases lately? If so, please let us hear about them. Please send examples to Jim Robinson at the ALTA Washington office.



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PLEASE STAND UP?**

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# BUILDERS . . . DON'T BE LED ASTRAY

Earl J. Sachs  
Vice President, Title Insurance and  
Trust Company

Recently a well known builder who has been in the business for many years called my office for assistance with regard to a rumor he picked up that a client had "hoodwinked" him.

About the first of the year the client entered into a contract with our builder friend to construct an addition on his luxurious home at a cost of \$17,000, plus any extras.

He stated that he was a little short of money at the present time due to the expansion of his restaurant business. He further stated that his home was clear of any mortgages or trust deeds and he did not want to borrow any money on his home as it might affect his credit.

By reason of these facts, and having convinced the builder that everything he told him was true, our builder agreed to construct the addition with his own funds with the understanding that upon completion the total of \$17,000 was due and payable, plus interest at 9%.

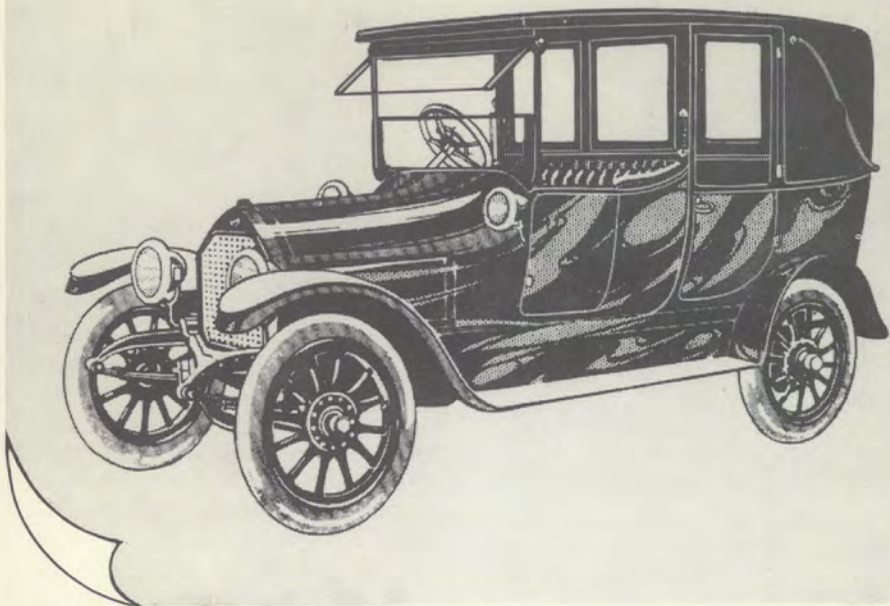
The builder's purpose in calling was to verify whether or not the client's house was clear as stated by him.

Investigation disclosed that the property in question was subject to (1) Deed of Trust in the

amount of \$84,000, recorded October 25, 1963, (2) Assignment of Rents and Agreement not to sell or encumber the property as security for a loan in the amount of \$8,750, recorded March 14, 1964, (3) Mechanics Lien for \$765, recorded October 30, 1964, (4) Mechanics Lien for \$1,056, recorded January 4, 1966, with action to foreclose said lien and money judgment issued against the owner, and (5) two additional judgments against the owner in the amount of \$150 and \$160, respectively.

This sad but true story reminds me of the old cliché—"What's the use of closing the door after the horse has left the barn". If our builder client had secured from a title company what is known as a "lot book report" for \$10. he would have found that the property was subject to an \$84,000 Deed of Trust. (A lot book report will disclose the apparent record owner and any mortgages or deeds of trust against the property.) And if he wished, he could have secured a preliminary title report for one-half of the title insurance premium, which additional investigation would have disclosed the Agreement, prior Mechanics Liens and Judgments.



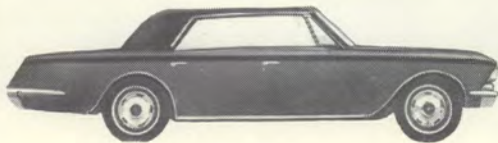


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# In Memoriam



## DONALD BURDINE

Donald Burdine, Vice President and Manager of the Law Department of Title Insurance and Trust Company, Los Angeles, succumbed to a heart attack while on vacation at Lake Tahoe, California.

A native of Washburn, Missouri, Burdine was a graduate of the Los Angeles College of Law.

For a time he served in the Los Angeles County Assessor's Office and during World War II, was with the United States Army in the European Theater of operations attaining the rank of major.

He joined Title Insurance in June, 1947, and served as an examiner in the Court House Opinion Section, Assistant Trust Officer, Associate Counsel and Assistant Manager of the Law Department.

He was later appointed Manager of the Law Department and in May, 1964, was elected a Vice President of Title Insurance and Trust Company.

Prior to his association with TI, Burdine had conducted his own general practice in Maywood, California.

Burdine resided in Malibu with his wife and daughter who survive him.

## BURDINE



## THOMAS YOUNG

Thomas H. Young, Senior Vice President of Commonwealth Land Title Insurance Co., Philadelphia, Pennsylvania, died recently at Lan-kenau Hospital. He was 66 and lived at 68 Yale Road, Havertown.

Mr. Young was President of the Board of Trustees of Union Methodist Church in Brookline. He was Treasurer of the Philadelphia Board of Realtors, a member of the Haverford Township School District Authority, and a member of the Board of Trustees of the Brookline Fire Co.

In 1920, he joined the Real Estate Title and Trust Company as a clerk. The firm became Commonwealth Land Title Insurance firm through a series of mergers.

Surviving is his wife, the former Margaret Bartman; two sons, Thomas H., Jr., and Richard B.; a daughter, Mrs. Nicholas Opalenick; a brother and seven granddaughters.

## LIEURU W. LUCKE

Mrs. Lieuru W. Lucke, 65, was killed in a bus accident near Twin Falls, Idaho.

Mrs. Lucke was born April 22, 1901, in Hill City, Kansas. She was the daughter of Orin L. and Gertrude Winner. She came to Gooding in 1909, returned to Kansas, lived for a short time in Colorado and in the Mountain Home area and returned to Gooding in 1916. She was graduated from Gooding High School in 1917 and was employed by the telephone company for a time and then began work in the abstract business.

She was married to Harold J. Lucke, March 17, 1920. From 1922 to 1924 she was Gooding County Deputy Treasurer. In March, 1934, she purchased the Security Title and Trust Co., and in 1941 she bought the Gooding County Abstract Co.

She had been a member of the



Gooding Business and Professional Women since 1923, and served in local offices and as State President from 1959 to 1961. In 1964 she was chosen a member of Who's Who of American Women. She served two terms as President of the American Legion auxiliary, also as District Director and Idaho Welfare Director of the auxiliary. She was Treasurer of the Gooding County Fair Board for 16 years, a member of the Gooding

County Red Cross, Secretary-Treasurer of the Northside Communities, Inc., was state committeewoman of the Gooding County Republican Women for 19 years, a member of the Chamber of Commerce and a 50-year member of the Gooding First Baptist Church. She was also a past President of the Idaho Land Title Association (1959-1960) and had served on numerous committees and other offices.

# LETTERS



August 17, 1966

**Mr. Jack Justice**  
**President**  
**National Association of Real Estate Boards**  
**c/o American Land Title Association**  
**1725 Eye St., N. W.**  
**Washington, D. C. 20006**

Dear Mr. Justice:

I have just read your article in the July, 1966, issue of "Title News", regarding "A bill of rights for property owners".

As a homeowner in California and as a citizen, I heartily concur with you and your views. Each point you raise is well taken. Personal freedom will soon be a meaningless phrase if the "do-gooders" have their way much longer without thought for the individual.

Again, may I say how pleased I was to find your article, I intend to call it to the attention of as many as possible.

Very truly yours,  
(Mrs.) Alice J. Callaway  
7517 East Parkway  
Sacramento, California 95823

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**American Land Title Association**

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