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TITLE NEWS

THE OFFICIAL PUBLICATION OF THE
AMERICAN LAND TITLE ASSOCIATION ®

"OUR 61st YEAR"



SEPTEMBER, 1968



PRESIDENT'S MESSAGE

SEPTEMBER, 1968

Our Association year is drawing to a close and this is the last time that I will be privileged to use this space in Title News.

It has truly been a pivotal year in ALTA affairs. A year in which far-reaching policy decisions have been made and implemented by your officers and Board of Governors, a year in which we have been drawn together in common purpose and a year in which we have been willing to "get involved" in matters of vital concern to our membership. All of these things manifest growth and maturity and we should be proud that our association has progressed to this point.

Arrangements for our Annual Convention have been completed and I am sure that the program presented in Portland will be a fitting climax to one of the most important years in our Association's history. I hope you have seen the official program and if you have, there is little I can add to encourage your attendance at the 62nd Annual Convention of the American Land Title Association and our first in the city of Portland, Oregon. I do hope you will be there.

I think I would be remiss if I did not at this time express my gratitude and appreciation to your other officers, members of our Board of Governors, the chairmen and members of our various committees and all of the others who have so willingly given of their time and talent during the year. It is to them that we owe our thanks for successfully guiding our Association through another year.

I cannot conclude without expressing grateful appreciation to everyone for all of the personal courtesies, consideration and help extended to me from every corner of the country during the year.

Sincerely,

Alvin R. Robin

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<i>FEATURES</i>	Title Insurance—Who Needs it? 2
	Your Stake In Elections And What You Can Do 5
	Day By Day Public Relations For The Small Office 7
	Eastland Elected In Texas 12
	Unemployment Compensation And The Family Corporation 14
	Acceleration 17

<i>DEPARTMENTS</i>	A Message From The President <i>inside front cover</i>
	Names in the News 21
	Meeting Timetable 24

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ON THE COVER: The American Land Title Association was one of thirteen national organizations which recently honored Philip N. Brownstein, left foreground, for an unprecedented six years' service as Commissioner of the Federal Housing Administration. Mr. Brownstein, also Assistant Secretary of the Department of Urban Development, was presented an engraved silver tray by President Lloyd E. Clarke of the National Association of Home Builders. Mr. James G. Schmidt, President of the Commonwealth Land Title Insurance Company, Philadelphia, third from the left, background, was one of the distinguished representatives of the American Land Title Association at the reception.

MICHAEL B. GOODIN, *Editor*
DONAILEEN C. WINTER, *Assistant Editor*

TITLE INSURANCE— WHO NEEDS IT?

By
Warren J. Pease, Vice President and Division Manager,
Washington Title Division, Pioneer National Title Insurance Co.
Seattle, Washington



Warren J. Pease, Vice President and Division Manager of Washington Title Division,

Pioneer National Title Insurance Company, began his business career with Title Insurance and Trust Company in Los Angeles, California, in 1930. He has progressed through virtually every department of the company and many of its subsidiary companies.

In 1954 he was elected president of Riverside Title Company, Riverside, California, and in 1958 was elected president of Pioneer Title Insurance Company in San Bernardino. He was transferred to Seattle in January of 1962 and in November of 1963 was elected president and chief executive officer of Washington Title Insurance Company. Upon the merger of Washington Title Insurance Company into Pioneer National Title Insurance Company, he was elected Division Manager.

After all the hunting is finished, you're ready to buy your new home. You pay the closing costs and down payment, sign the papers, and as long as you keep up the mortgage payments, it's yours.

Things weren't always so easy. Many pioneers knew the dismay of losing everything they'd built into homes and farms, simply because they had no clear title to the land they'd bought.

The difference today is the protection of Title Insurance.

What is Title Insurance?

While title insurance is a lot like other kinds of insurance, it differs slightly. Title Insurance may be defined as "an insured statement of the condition of the title to a piece of real estate." A title insurance policy insures the owner of the property, or others with an interest in it, against loss by encumbrance (mortgage, easement etc.), defective titles, or adverse claims against the title.

Before issuing a policy, a title insurer searches and examines all public records that might have information on the property. The findings, including any money obligations outstanding against the property, easements and other matters which may affect the rights of ownership, possession and use

of the property, are then written into the policy.

Standard Policy

A title insurance Standard Policy is based only on public records, primarily those of the county in which the land is located. It insures that the "record title" is good, with any exceptions being spelled out in the policy. It also insures against some things not in the public record, such as forgery, identity of parties, incompetency of former owners, interest of missing heirs, and status of individuals not having the "right" to sell property.

A Standard Policy does not insure against matters disclosed only by actual inspection or survey of the property, such as overlaps or encroachments by fences or structures over the property lines. Nor does it insure against unrecorded easements, liens or money obligations; unrecorded utility rights of way, public or private roads, community driveways and other types of encumbrances; or the rights or claims of persons in possession of the property which are not shown by the public records.

It is important to remember that a Standard Policy is based on public records. The title company does not inspect the property before issuing such a policy.

Extended Coverage Policy

At the option of the person buying insurance, a policy may be specially written to cover matters disclosed by a physical inspection and/or survey of the property. Any exceptions to coverage, then, will be those the inspection (and the survey, if required) determines to be proper. An additional premium

is charged for such an Extended Coverage Policy.

In both the Standard Policy and the Extended Coverage Policy, the title company may disregard many technical objections which could be raised against the title. Each objection is considered separately and may or may not be covered, depending upon the risk involved. The title company is responsible to the insured for problems which may arise later as a result of its deciding not to make a coverage exception in a particular area.

Several Types of Policy Available

A type of title insurance policy is available to meet the requirements of almost any form of real estate transaction. Owner's Policies are issued to real estate owners, Purchaser's Policies are issued to purchasers of real estate under contract, Mortgage Policies are issued to Mortgage Lenders, and several special forms of policies are available in addition to the basic three.

A policy for one party in a real estate transaction does not protect the other parties. For instance, a Mortgagee's policy will not protect the owner, who should obtain his own protection. In most cases, where a new owner is also the borrower, the two policies may be issued simultaneously at a reduced rate.

You May Not Pay the Premium

In the State of Washington, title insurance premiums are customarily paid by the seller. This is not a rule, though. The buyer and seller may agree between themselves who should bear the cost, or they may decide to split the cost.

Just because he was insured when he bought the property, a seller should not assume coverage is unnecessary for his buyer. Policy coverage is against all matters that appeared on record up to the date of issuance of the policy, and a purchaser is entitled to full information and protection as to the condition of the title right up to the date of his purchase.

During a person's term of ownership, many documents may be recorded, some of which may affect title to the land. Taxes and assessments may have accrued and not been paid. There may have been court actions affecting title.

In addition, there may be matters of record preventing either the seller or buyer from selling, buying or mortgaging the land until such matters have been cleared. Problems such as federal tax liens, judgments, incompetencies, divorce actions and other conditions will be disclosed by a title search, so appropriate action may be taken or agreed upon by the two parties.

Premiums Uniform and Paid Only Once

Title insurance premium rates are uniform throughout the state under schedules filed with the Insurance Commissioner. Premiums are determined by the amount and type of coverage provided. The premium is paid only once, at the time of issue, and the policy remains effective as long as the title remains in the name of the insured, his heirs or other persons to whom the insured has willed his property.

Issuance of a title insurance policy is usually the last part of a transaction. An Owner's Policy usually is issued after the deed to the buyer is delivered and recorded, and a Purchaser's Policy after the contract has been executed by both parties or after the signed contract has been recorded.

Title Insurance Companies Are a Warehouse of Information

Thanks to Title Insurance, and the way issuing companies operate, you are assured that you will never lose your investment in the property you buy—a real advantage that didn't exist in the "good old days."



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YOUR STAKE IN ELECTIONS AND WHAT YOU CAN DO



By **WINTON M. BLOUNT**
President, Chamber of Commerce of the United States

As businessmen and community leaders, we have a particularly large stake in the coming elections and can play a critical role in their outcome.

Officials at all levels elected in November will, to a large degree, influence the solutions to many of the great problems confronting our communities, the nation and the world around us.

I'm sure you are aware of them: Inflation, soaring taxes, urban blight, racial tensions and riots, breakdown of law and order, poverty, hard-core unemployment, air and water pollution, strikes, and others.

Elected officials can also affect your business directly. In Washington, some 60 agencies have the power of decision over business activity. State and local officials can

decide how and where you may operate your business, as well as tax.

These realities make it most compelling that we in business exercise our citizenship responsibilities as effectively as we possibly can. In my view, none is more important than playing a truly decisive role in helping to elect the best qualified public officials.

The congressional elections have a special significance this year for two reasons.

One is that the powerful political machinery of the labor unions is aiming to regain losses of union friends in the House and Senate suffered two years ago. Union politicians hope to pick up 25 more friends in the House so that they will be able to push through much of the legislation they have been seeking for years. You know what

that would mean.

The other reason is that there is a very strong possibility that the next President of the United States may be picked by the new House of Representatives, with each state casting one vote. This will be necessary if none of the candidates for President wins a majority of the 538 Electoral College votes.

So it is doubly important whom we elect to Congress. And with more than 85 close districts that could go either way, there are many opportunities to swing the balance through effective political action.

What can you do?

As a business executive you have a dual responsibility to lead as well as become involved personally.

As an employer or manager, you can create an atmosphere of political awareness among your employees. Keep them informed, especially on the vital bread-and-butter issues, such as taxes and inflation. Let them know how these affect your business and their jobs, and how both can be endangered by political apathy or ignorance.

A discussion course, such as the National Chamber's Action Course in Practical Politics, can be a big help in both educating and motivating employees on political involvement. Millions have taken it.

You can encourage your associates to contribute their special skills in behalf of a political candidate of their choice, of whatever party.

Candidates can always use a speech writer, public relations man, artist, lawyer, accountant, public speaker, or what have you. Even a doorbell ringer.

It helps to have a civic or public affairs specialist on the manage-

ment staff who is thoroughly trained and sensitive to the political field. Besides stimulating and directing political involvement of employees, he can keep his finger on the political pulse and legislative developments as they might affect the company or your community.

As an executive, you possess skills in organization and administration that equip you to serve on one of your candidate's committees—perhaps for fund raising or other key activity where your talents can be put to good use.

If all this appears to be in the nature of a call to arms, it is just that. Remember, there are special interest groups, including labor unions, in the political arena, too. Democracy works best when *all* groups participate.

Remember also that better government will create a better business climate. The way to get better government is for more business and professional men and women to participate in the political process.

You are in a position to give leadership that could influence the results of the 1968 elections. You, your company, your chamber and your trade or professional association can do a great deal to shape the election outcome.

The secretary of Health, Education and Welfare, Wilbur J. Cohen, has said: "I have always felt that Congress, at a given moment, pretty accurately reflects the majority opinion. But I think what you need at the present time is a new majority opinion."

Your political participation will help develop a majority opinion that is good for the country.

DAY BY DAY PUBLIC RELATIONS FOR THE SMALL OFFICE



By

**Ernest G. Carlsen, President, Land Title Guaranty Company,
Sioux Falls, South Dakota**

Public Relations involves three areas. 1st, letting people know who you are. 2nd, letting people know what you do. 3rd, making people happy with your service. Public relations covers a broad field of endeavor. It may be high powered hucksters of Madison Avenue whose results you see on TV. It may be the proprietor of the country crossroads store who gives the farmer a sack of candy for the kids when he pays his grocery bill. I don't know much about the Madison Avenue variety, but common sense dictates what we must do in the community of 75,000 people where I live.

My experience over the past 27 years in the Title Industry covers the field—from working in the large metropolitan area of Seattle to working in a small town of 15,000 people. Although I started in the title business working for a title insurance company, my present business in Sioux Falls is composed of more abstracts than title insurance, unfortunately.

The best source of information for advertising is our own American Land Title Association. Our dues support this organization with their full time staffs of very competent people and it only makes good sense to use the facilities they

have. Just one example is, the prize winning film, "A PLACE IN THE SUN," which can be purchased by your state association for the small sum of \$125.00, for showing to realty groups, service clubs, over TV, etc. Promotional material of this type, when consistently and intelligently used, is extremely valuable, but this information alone is not sufficient to promote the full results desired.

Most of our public relations is personal public relations—in other words—personal contact with the customer. In a county such as the one where I live, there is probably a potential of some 100 principal customers who would be repeaters—in other words, people or institutions who are in a position to bring you business day after day. These are the people upon whom you should concentrate.

Do you make it a point to visit with a new real estate broker when he opens an office? He is usually a former salesman just getting started in a somewhat foreign field and will likely welcome some assistance. Let him know you are in business and can help when he needs ownership data, tax information, etc. In many instances, he may not realize the wealth of information you have assembled in your title plant, because, when he was just selling property, his broker likely made the contacts with the title company. Do the same with a new law office or loan brokerage firm. These things can mean a lot to the people who are just getting started in business for themselves, so you can't afford to ignore them just because their volume is small when they are just starting.

Are your employees trained to

always be polite and courteous to the customers? You say yes, but think back now—are they? If not, they most certainly should receive some basic training along those lines. We have a savings and loan association in our area that prides itself on the friendliness of the personnel. This works wonders with the public and you only need look at their financial statement to see how successful the technique is. When you call them on the phone there is always a friendly "hello" by a girl with a "smile in her voice." When you go into the building, an attractive friendly girl at the reception desk is there to help you with your needs. First impressions are the most lasting with all of us, consequently, I cannot over-emphasize the importance of having an intelligent, attractive girl as your "counter girl". The initial customer contact is with her, and the manner in which she receives a customer can be all important. Consider your own feeling when you are courteously and intelligently received upon entering the business establishment of another. Would you go back to a service station if the attendant failed to clean your windshield or check your oil? The same thing holds true in our business—it is the little extras that your customers appreciate.

Are we missing business by not letting the public know the importance of our industry? Let's blow our own horns a little. Let's get the message across that titles should be searched every time a transfer is made or a loan is placed on property and that the title should either be examined and insured or at the very least examined. If you aren't doing this, both you and your com-

petitor are losing potential business as well as not performing the duty of letting people know their titles should be searched. You are permitting people, in their lack of knowledge of our business, to expose themselves to needless risk of great financial loss by either purchasing property or lending money on property without a search of the title. I have a title in my office now, that another attorney and I have been trying to figure out how to clear without a lot of expensive litigation, simply because the real estate broker had failed to have title searches made each time the property was sold on contract for deed. The property is not valuable enough to warrant spending a lot of money to clear the title, but it is a man's home and he would like to sell it. This could have all been prevented by the broker, who, incidentally, is no longer in business. I had heard him make the statement that he never had a title examined or searched if he could help it because he was always worried that the title company would dig something up that would stop the sale. Whether we like it or not, we must admit that to a certain degree, we owe a responsibility to those real estate brokers and other individuals whom we serve to acquaint them with the importance of having titles adequately searched. I cannot overemphasize the necessity of being persuasive in this matter. In performing a public service, you are at the same time realizing the full monetary potential from your services.

Be enthusiastic in your work and in your contact with the public and you will inspire people around you to be enthusiastic. People in your

office who act bored, indifferent, or unconcerned to the problems of your customers will simply drive your customers to your competitor. To take an indifferent attitude is the same as saying "I'm NOT interested in making any effort to win your good will or friendship". If you have any employees who are indifferent to the best interests of your customers or to your business, you are better off to replace them or move them to a non-sensitive position where they have no direct contact with your customers. You, individually, may be adept in public relations, but the end result of any effective public relations program depends upon your entire staff.

If public relations involves creating a favorable impression, and it does, let's take a look at our office housekeeping.

Is your office cluttered with old abstracts, title policies, maps, last week's Wall Street Journal, and assorted odds and ends, or, is everything in reasonable good order? Is your place of business clean, well lighted, well painted and cheerful or are you doing business out of a "loft"? When you're having the "evening out", do you choose a restaurant that has a reputation for clean, efficient service, whose dining rooms and kitchen are immaculate, or do you pick the "greasy spoon" down the street? Our efforts at good housekeeping play an important part in a stranger's overall impression of our company. Neatness is a good will ambassador, a compelling influence for confidence and trust.

Certainly, one of the most significant trends during the past two decades has been the reluctance of

the public to accept things as they were in the "good old days". So if you are still doing things the way your pappy and grandpappy did, it is time for a change in your thinking. Are you purchasing modern office equipment such as cameras for your takeoff, electric typewriters, modern systems of posting, etc.? If your answer is no, you had better "get on the ball", because your competitor down the street or some outsider has been improving his public relations by installing the latest methods and best equipment available.

It is my sincere belief that if you are going to live and do business in a community, you are obligated to be a citizen of that community. By this, I mean you should participate in the affairs of your community. Basically, you can break down participation in community affairs into three categories.

1. At least one service club is a must for a business man, and I mean service club—not just a luncheon club that meets every Wednesday noon.

2. Community projects such as the fund drives for your local Community Chest, Chamber of Commerce, etc.

3. The trade organizations related most directly to your business are really the most important. I'm a member and a regular attendant at local meetings of the Sioux Falls Realty Board and the local and state Bar Associations.

It is evident that our motives for involvement in these various activities differ. In some activities we are motivated by the unselfish desire to serve our community and our fellow man. In another activity, we may rightly be motivated by a

selfish desire to help promote our business area in general and our own business in particular.

You have to decide for yourself how much time you can afford to devote to the unselfish organizations and still have enough time and energy left to take care of those more important selfish interests of staying competitive. Just where does public spirit end and self interest begin? This is an individual matter, which each of us must answer to the satisfaction of our own conscience.

So far, I have discussed only the positive approach to public relations. There is also another side to it, which, for lack of a better name, I'm going to call the negative side—really, a side which is more difficult.

Sometimes an effort is made by certain groups—charitable and otherwise, to separate us from our hard earned money in the guise of promoting so called public relations for our firms. This is a problem most of us face almost weekly. I live in a town large enough to have about every charity drive imaginable, yet small enough for me to know most of the men who have been drafted into working on these drives. The handling of these situations calls not only for tact in sometimes saying no, but in addition it behooves us to have a carefully worked out program for dealing with the countless demands on our resources in the name of charity. It appears to me that the proper breakdown for contributions should be something like this:

- A. The legitimate charities such as Community Chest or United Fund, Shrine Circus and that type of worthwhile charity, and

- B. The handout—and there are

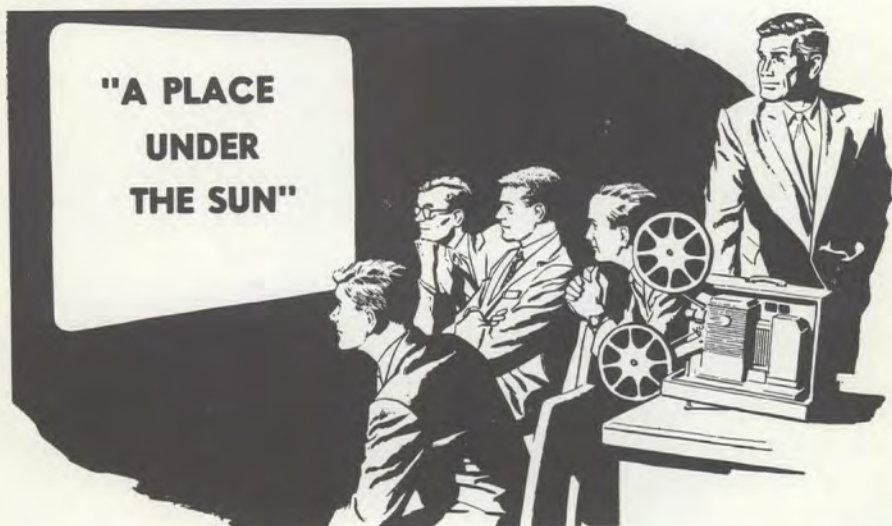
plenty of these. I have a policy of never buying tickets from a telephone pitchman or woman who is soliciting funds for some organization. In most cases, these people are professional promoters who take from 50% to 90% of the money donated for "expenses" and promotional fees. I no longer advertise in periodicals published in the name of some fund raising group merely to raise funds. Many times these are sponsored by a printer who gets most of the money instead of the charity it was designed to benefit.

I believe you should establish a definite budget policy within your company of how much you can afford to spend on promotion in any given year. Decide how much of that budget should go to worthwhile charities and how much should go for reasonable business promotion.

You are then armed with an answer to your business associates, who are working on these charitable and so called charitable drives.

If you will excuse the personal reference, let me be the first to

admit that I have made many mistakes in public relations. However, there are some things I have done which I believe were well worthwhile. Twice in twelve years I have relocated my office. This was done in each instance to provide better facilities and location in order to better serve my customers. The results of most public relations programs are rather nebulous and hard to pin down, however, another program I instituted was to conduct real estate classes prior to each real estate examination for anyone who wanted to attend. I also have given talks, two or three times a year, to the real estate class for adults at a local business college. We have a very difficult and comprehensive real estate examination in South Dakota, and the people who are going to take the examination appreciate all the help they can get. I also give talks at the local high school and different colleges on real estate when called upon to do so. These programs have, and others also, paid off for me in dollars and cents. Perhaps they will for you.



EASTLAND ELECTED

Texas' "Sparkling City by the Sea," Corpus Christi, hosted the 58th Annual Convention Of The Texas Land Title Association on April 25, 26, and 27. The convention was held at the Robert Driscoll Hotel.

TLTA's most honored guest, ALTA President Alvin R. Robin, was given the red carpet treatment as he descended from the airplane at the Corpus Christi airport. He was also given the choice speaker's spot, that at the All-Convention Luncheon. Nearly 300 convention attendants attentively listened and learned from Mr. Robin.

Highlighting the TLTA convention was the naming of Bill Bartram, Vice President of Stewart Title Guaranty Company, Houston, as Titleman of the Year. Among the activities earning Bill the honor were his contributions as a member of the committee which assisted the directors of title insurance in formulating the new Texas Title Insurance Act, his work on the microfilm bill, and his contributions at the Rate Hearing.

Al Robin was presented a key to the City of Corpus Christi and was made an honorary citizen by a Corpus Buccaneer and Eli Lipner, Dignitaries Chairman from Corpus Christi.



Seated at the head table at the Friday afternoon luncheon are Alvin R. Robin, Harold Eastland, TLTA's new President from Louisiana, and Bill Bartram, the new President of Title Underwriters of Texas.

In addition, Bill has repeatedly served the Texas Land Title Association as Director, now for the fourth year. He also served as President of the Title Underwriters of Texas, Inc. in 1965-66.

Business and education were not neglected at the convention. Topics discussed included the Texas Marital Property Act; Errors and Omissions Insurance; Money; Joint Title Plant Take-Offs; and the new 1967 Title Insurance Act. The President's Report and all committee reports were given. TLTA members were also introduced to Mr. Joel Houston, the new Director of Title Insurance for the State of Texas, from Austin.

Just as business and education filled the days, fun and frolic filled the evenings. A Poolside Cocktail Party was held on Thursday evening; a Seafood Buffet on Padre



N TEXAS



Luncheon are, L. to R: Al Robin; Mrs. and Mr. [unclear]; and Mrs. and Mr. Paul F. Dickard, Jr., [unclear], Fort Worth.

Island was held Friday evening; and the Award's Banquet and Ball was held Saturday evening.

New officers and directors were elected at the convention. They are Harold Eastland, Hillsboro, President; E. G. Feuille, El Paso, Vice President; B. B. Schraub, Seguin, Secretary-Treasurer; J. W. Bartram, Houston, Director; Alex H. Half, San Antonio, Director; and John A. Coselli, Houston, Director. J. W. McAninch of Dallas is serving as the Immediate Past President.

The success of the 58th Annual Convention of the Texas Land Title Association was due to the careful and extensive planning of many people. Mr. Jack McAninch of Dallas, TLTA 1967-68 President, and Mrs. Peggy Stephenson of Corpus Christi, General Convention Chairman, are deserving of special appreciation and mention.



Al Robin was the luncheon speaker on Friday afternoon.



President Jack McAninch (seated) introduced to the convention delegates Mr. Joel Houston, the new Director of Title Insurance for the State of Texas.

Smiling convention dignitaries from Left to Right: J. W. "Jack" McAninch, Dallas, TLTA President (Past President as of July 1, 1968); Kenneth J. Schunn, Austin, TLTA Executive Secretary; Alvin R. Robin, Tampa, Florida, ALTA President.



UNEMPLOYMENT COMPENSATION AND THE FAMILY CORPORATION

By Thomas F. McCartney
The Teton County Abstract Company
Choteau, Montana

The family type Corporation has many advantages but it also has one specific disadvantage which I would like to reveal to the members of the Association. I believe most title plants in Montana are incorporated and most of those that are incorporated are family corporations or at least have less than 10 stockholders.

Although the corporation pays unemployment taxes year after year on the salaries paid to the officers of the corporation, the officers are considered to be "self employed" because they have control of their employment and are therefore not eligible to receive unemployment benefits.

We are in our ninth year of owning and operating our Title Plant and have found periods when there just isn't much work. After several of these periods had come and gone we decided to test the unemployment compensation Commission. Last Winter and Spring we were not busy so I layed off the Secretary-Treasurer,

who just happens to be my wife, and she applied for unemployment compensation. Although she didn't work for several months she never received any compensation from the unemployment compensation commission.

We appealed under Section 87-106 (c) (2) (b) which is substantially as follows:

"Notwithstanding any other provisions of this act, no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (B) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;"

The hearing was held on May 18, 1967, which was taped. Subsequently we received Appeal Tribunal Decision No. 7525 dated July 5, 1967 wherein the following findings of fact were substantially as follows:

The claimant and her husband purchased the Teton Abstract Company, Choteau, Montana, on August 1, 1959, and have since operated the business as a family venture. She owns stock and serves as secretary-treasurer, her husband owns the majority of the stock and serves as president, and one share of stock is in the name of one of their children. She does not have an abstracter's license, but has been working with her husband and one of their sons, who is undergoing a training period as a general office worker. She has been receiving a monthly salary. When the volume of business decreased to the extent her husband and son could do the work on February 24, 1967, the claimant elected to remain at home to devote her time to work as a housewife, which she had done prior to 1960. At the time of the hearing, her son had obtained employment in Missoula, Montana, and she planned to return to work on May 22, 1967.

On February 29, 1967, to May 18, 1967, the date of the hearing, her efforts to obtain employment consisted of one application at the Teton County Courthouse where she had no prospects of obtaining employment. She testified that if she had been able to obtain other employment she would have terminated it to return to work for their company when business increased.

Although our side of the story was on the tape none of the following facts were in the findings:

That our Title Company was the only one in the County. That my wife had never been trained as a secretary or stenographer

but had only worked in the abstract office. We pointed out the fact that the population of our town was only about 2,000 and that people in a town of this size know each others business whether they want to or not. That we were in constant touch with the Law Offices, Real Estate and Insurance Agencies, although not qualified for this kind of a job, might have been available if there was an opening.

REASON FOR DECISION: "The Montana Unemployment Compensation Law, in part, provides that in order to be eligible to receive benefits, a claimant must be totally unemployed, available for work, and seeking work.

This claimant is a self-employed individual who is capable of controlling the periods when she will work and when she will be unemployed. In this instance she and her husband, the major stockholders of the business, allowed their son to continue working, rather than the claimant. During the period she did not work she made but one application for work, which does not fulfill the requirement of an independent search for work. In view of the evidence, it is concluded that the claimant has not been totally unemployed, available for work without restrictions on her employability, and seeking work."

DECISION: "The deputy's determination is modified in regard to the period of ineligibility, and as so modified is sustained. The claimant is ineligible to receive benefits beginning on February 26, 1967, and thereafter, until such time as she meets all of the eligibility requirements of the law."

At present the maximum wages that is liable for the unemployment tax is the first \$3,000 of all employees wages, including the officers of a corporation. There is a movement on to raise this maximum to coincide with the F.I.C.A. taxes which at present is \$7,800. Can you stand this much of an increase?

The Real Estate Brokers had the law amended to exclude them from

paying any of the unemployment taxes because it was ruled as long as they were licensed, they were employed whether or not they ever sold any property.

I would be in favor of amending the law to exempt the officers of family corporations based on the fact that we are considered to be self employed and evidently unable to ever draw unemployment compensation.

Abstract & Title Associates

OTTO ZERWICK

ROBERT C. CARLSON



Title Plant Installations
Efficiency Studies
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ACCELERATION

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In re Estate of Ransom, 89 N.J. Super. 224, 214 A.2 521, brings together for adjudication the problem of acceleration as affected by

the "fertile octogenarian" rule and the rule against perpetuities. We believe that this is the only reported case in New Jersey where medical testimony was admitted, not for the purpose of determining the effect of surgery upon the child bearing capability of a woman, nor for the purpose of a general medical opinion as to the effect of age upon such capability, but admitted to show the findings of a doctor after his examination, made with the express purpose of determining such capability. The Court discusses the doctor's findings in detail and his resultant conclusion. This approach is consonant with reality and a departure from the dicta by the Court in *Adams v. Ross*, 30 N.J.L. 505: "In the administration of the law of real estate, I prefer to stand super antiquas vias, stare decisis to maintain the great rules' of property, to adopt no new dogma, however convenient it may seem to be." Professor Lynch may now add a paragraph to his article, "Perpetuities: New Hampshire Defertilizes the Octogenarian" and include this New Jersey decision in his acclaim.

Having disposed of this basic problem, the solution to the question of acceleration and perpetuities followed in simple order.

ABOUT THE AUTHOR

Maurice A. Silver, Title Consultant, New Jersey Realty Title Insurance Company, was graduated from the University of Virginia Law School in 1921, but was admitted to the bar of Virginia in 1920, a year before he was graduated. He was later admitted to the New Jersey bar in 1924. Mr. Silver was a member of the editorial staff of the *Virginia Law Review*.

He became associated with Fidelity Union Trust Company, Title Department, in 1923 and continued with the organization, which finally became New Jersey Realty Title Insurance Company, until his retirement in 1963. At that time he was senior Title Officer of the company and was asked to remain in the capacity of Title Consultant notwithstanding his retirement.

He has assisted in the editing of an early publication of New Jersey Realty Title Insurance Company's "Title News" and later its "Title Comments."

Mr. Silver is a member of the Real Property, Probate and Trust Law Section of the New Jersey Bar Association and has served as its Chairman.

Our subject is acceleration, and for a definition we turn to the academicians, Simes and Smith and their work "The Law of Future Estates." "In the law of property, acceleration refers to the hastening of the owner of the future interest toward a status of present possession or enjoyment by the failure of the preceding estate. The preceding estate has not terminated as might be expected by the death of the life tenant or the happening of the event on which it was limited." (sec. 791.)

The preceding estate may fail or terminate not only by the happening of the event contemplated by the testator or trustor, but in the eyes of the law failed at the very threshold of creation, or come to an untimely end by the act or design of the beneficiary. In the former category is the estate that is suppressed by the delicate hand of the law where the beneficiary is a subscribing witness to the will. The estate is still-born. Jarman on Wills (5th Ed.) J. 369 illustrates this result from another age. "Thus, it is laid down in Perkins, that if a man seized of land devisable in fee, devised it to a monk for life, remainder to a stranger in fee, and the devisor dies, the monk being alive, in this case the remainder shall take effect presently." In the latter category is the refusal to accept the gift or a later surrender by the beneficiary by an irrevocable act. In either category the future estate, if not contingent, is accelerated "toward the status of present possession or enjoyment." *Beideman v. Sparks*, 61 N.J.E. 226, 47 A. 811.

We are usually concerned with the attempt to destroy the preceding estate by the voluntary act of the beneficiary, usually a life estate. Putting aside for the moment whether the termination of that estate has been legally effectuated, the consideration for the attorney must be the intention of the testator or trustor, whether the remainder, for example, is hinged to the termination of the preceding estate as such, or at a specific period measured in terms of time, such as the actual date of the death of the life tenant; whether the attempted acceleration will do violence to the dispositive intent of the testator or trustor, and thus deprive other beneficiaries of their interest; whether the remaindermen cannot be determined until the happening of a given event and the acceleration will not hasten that moment, for example, the time when a class is definitely fixed.

The uncomplicated situation is found in the case where the testator devised property to a trustee to pay income to A for life and at her death to pay over the balance of the residue to named remaindermen. A executed a release to the trustees and the remaindermen sought payment. Under these facts the trustee in *Anthony v. Camden Safe Deposit and Trust Company*, 106 N.J.E. 41, 149 A. 822, requested the Court's aid. Although the will refers to the death of the particular tenant, "it is the established rule of construction of testamentary provisions of that nature," said the Court, "that a testator will be presumed to have intended to give the property in remainder from and after the termination of the preceding es-

tate in absence of some controlling equity or an express or clearly implied provision in the will to the contrary; and accordingly the provisions for distribution at the death of the life tenant, standing alone, will be understood to relate to the termination of the precedent estate and accelerate distribution to remaindermen whose estate in remainder are vested." See also *Walter v. Thielke*, 127 N.J.E. 402, 13 A.2 649.

If to the facts above related we add a clause which provides that if any of the remaindermen die leaving children are to receive the share of the remainderman so dying, two preliminary conclusions are reached. First—death, without further designation of time, refers to death during the life of the life tenant; second—the remaindermen take a vested remainder subject to being divested upon death during that period, leaving children. In *Schmieder v. Meyer*, 97 N.J.E. 335, 127 A. 162, to accelerate distribution the life tenant assigned her estate to the remaindermen. The Court held that the period of distribution had not arrived. The acceleration did not take place because under the circumstances the merger of the lesser into the greater estate did not occur. The life estate was not extinguished and the measuring period was left intact. See also *Godfrey v. Roberts*, 65 N.J.E. 323, 55 A. 353.

Given the above facts, had the life tenant renounced or surrendered the life estate, an acceleration would have been accomplished. It would have destroyed the preceding estate which alone delayed the present enjoyment of the vested remainder. Such was the holding in *Fisch v. Fisch*, 105

N.J.E. 746, 155 A. 146. The basis on which the vested remainder could have been defeated had been removed.

When the remainder is to a class, which must remain open until a stated period, acceleration may not be used to close the class before the designated time. *Lawrence v. Westfield Trust Company*, 1 N.J.Super. 423, 61 A.2 899; *The Trenton Banking Co. v. Hawley*, 7 N.J.Super 301, 70 A.2 896. In the latter case the remaindermen were designated "to her children and to the issue then surviving of any deceased child or children of my said adopted daughter." A release of the life estate was executed in an attempt to accelerate the period of distribution. The Court questioned the effectiveness of the release because it was tied in with a condition, but held, without further weighing the effect of the qualified release, that the class was not closed. The rule must yield, said Judge Jayne, "Where the members of the class of the primary remaindermen are not then definitely ascertainable, and where consequently the class is then open, and where the shares of members of the class presently apparent are subject to possible diminution by the admission of additional primary remaindermen." See also *In re Smith*, 94 N.J.E. 1, 118 A. 271.

Paraphrasing the language of Vice Chancellor Leaming in the *Anthony v. Camden Safe Deposit & Trust Company*, supra, the courts stress "in the absence of some controlling equity or an intention of the testator, clearly expressed or implied" in determining the effectiveness of the attempted

acceleration. In *Ajax Electrothermic Corp. v. First National Bank of Princeton*, 7 N.J. 82, 80 A.² 559, after providing life estates for his wife and for his sister after the death of his wife, the testator provided that the remainder shall be used for the benefit of the officers and employees of the Ajax Electrothermic Corp. to be distributed by the board of directors. The widow died and the sister released her life interest. Distribution, however, was not allowed for the reason that "[t]o accelerate and terminate the trust in the circumstances here presented would work a fraud on the will, thereby enriching the present officials and employees of Ajax to the detriment of its officials and employees at the time of the death of Edith Northrup," [sister].

This case entered into a second phase after Ajax sold its assets to another corporation, Board of Directors of Ajax Electrothermic Corporation v. The First National Bank of Princeton, 33 N.J. 456, 165 A.² 513. With this change acceleration and distribution were again pressed upon the Court, seeking a modification of its prior judgment. The Attorney General, representing charities, opposed the plan for acceleration, but the Court found the change in the factual situation created a new legal situation which made acceleration in order and that it "would not frustrate the testator's intent."

The draftsman's attempt at acceleration may be defeated if he fails to heed the clear intimations in the Schmieder case and The Trenton Banking Co. case. The pitfall may be avoided if the two Bennett cases are re-read. Bennett

v. Fidelity Union Trust Co. 122 N.J.E. 455, 194 A. 449; 123 N.J.E. 198, 196 A. 375. In an attempt to accelerate the period of enjoyment the widow "renounces and releases" her life estates in three trusts and agreed that upon request of the trustees "she will make, execute and deliver proper instruments to effectuate such renunciation and release;" other provisions were made part of the undertaking by the life tenant, with the reservation that the agreement is to be void if "the court shall decline to accelerate and terminate all of said trusts." After reviewing some of the adjudications in this State and analyzing the release and the stated intent of the life tenant, the Court found that the release was not absolute, but conditional upon the happening of a certain event, which had not happened. In the language of the Court: "the agreement . . . does not constitute nor effectuate an unconditional termination of the widow's life estates. . . ."

In the second Bennett case the parties were back with a new instrument executed by the widow whereby she released and discharged the trustee as to all her right, title and interest in the trust estate. Again the Court reviewed the authorities, and finally concluded that the widow's estate was terminated by her release and surrender, and that acceleration became effective. See *Simpkins v. Simpkins*, 131 N.J.E. 227, 24 A.² 821; *Young v. Eagon*, 131 N.J.E. 574, 26 A.² 180. It may be noted that a separate agreement with the widow to pay her an annuity for life, did not apparently militate against the absolute result of the release.

NAMES IN THE NEWS



BLITHE

Joseph O. Blithe has been elected Vice President and Assistant Title Officer in charge of the Woodbury office and Gloucester County operations for the West Jersey Title and Guaranty Company. Mr. Blithe will replace **Mr. Alvin C. Lewis**, Vice President and Title Officer who tendered his resignation effective August 15, 1968.

* * *



EVERTON

Glenn I. Everton, a veteran of more than 46 years in the title industry in Portland, Oregon, retired in July at the age of 65. Mr. Everton served as Assistant Secretary of Pacific Title Insurance Company for many years. When Transamerica acquired Pacific Title he was appointed as Manager of the Hawthorne Branch office of Transamerica.

* * *

Saul Fromkes, President of the City Title Insurance Company,

New York City, recently received an Honorary Degree of Doctor of Laws from St. John's University during their 98th Commencement Exercises held in June. Mr. Fromkes was a member of the first graduating class of the University's School of Law in 1928.

* * *

Argonaut Title Company of Jackson, California, recently became affiliated with the First American Title Insurance and Trust Company, Santa Ana, through an underwriting agreement. The company is headed by **Mr. John C. Surryhne**, Secretary and Manager. **Irv Kibodeaux** is Chief Title Officer.

* * *



COGSWELL

Stephen L. Cogswell has been named San Francisco and Peninsula Counties Area Manager for Transamerica Title Insurance Company. Mr. Cogswell had been Vice President and San Francisco County Manager for the Oakland based firm since 1965. **Richard P. Pauletich** will succeed Cogswell as San Francisco County Manager and Vice President. **Richard D. Mueller** will con-



PAULETICH



WIRT

tinue as Manager of San Mateo County and **William A. Gilliland** will remain Manager of Santa Clara County. **William J. Wirt**, Vice President and Sacramento County Manager for Transamerica has been named Area Manager for Sacramento, Yolo and Fresno Counties. **A. W. Potts** will continue as Yolo County Manager under Wirt's direction. **Jack R. Powers**, Senior Vice President and Region-



POWERS



EASTMAN

al Manager for the San Joaquin Valley Branch of Transamerica has been named Regional Manager for Southern California. **George K. Eastman**, Vice President and Alameda County Manager for Transamerica since 1967 has been named Area Manager for the East Bay Counties of Alameda and Contra Costa.



FISCHER

On August 1, 1968, **Coverly Fischer** retired as Vice President of Chicago Title Insurance Company after 34 years of service with the Company and its predecessor, Home Title Guaranty Company of New York. Mr. Fischer will remain as Chairman of the Board of Directors of the Home Title Division of Chicago Title Insurance Company. Some fifty business associates and friends honored Mr. Fischer on July 23 by attending a retirement reception and dinner, which was held for him at the St. Regis Hotel in New York and was hosted by Alvah Rogers, Jr., Vice President and Chief Executive Officer of the Home Title Division. Mr. Fischer has been extremely active in outside business activities and served as President of the New York State Land Title Association in 1952, Chairman of the Atlantic Coast Regional Conferences of the American Land Title Association in 1963 and 1964, and was President of the New York Board of Title Underwriters in 1964.

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SLEIGHT

Mr. Richard G. Sleight has been promoted to Sacramento Division Manager, and **Mr. Warren A. Kennedy** has been promoted to Fresno Division Manager for Title Insurance and Trust Company, Los Angeles. Mr.



KENNEDY

Sleight fills the vacancy created by the promotion of **Hal Labrie** to Senior Vice President, Operations, and is transferred from Sacramento to the Los Angeles home office. Mr. Kennedy had been serving as manager of Northern Nevada Title Operations since June, 1966.

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MANUELE

Mr. **Robert L. Manuele** has been appointed San Francisco Division Counsel for Title Insurance and Trust Company. Prior to his new assignment, Mr. Manuele served the title firm as Fresno Division Counsel.

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JONES

Mrs. **Carol Jones** was recently appointed Executive Secretary for the Oklahoma Land Title Association. Among other responsibilities, Mrs. Jones will publish the OLTA's "Title Gram."

* * *

Gordon L. Sickler has been promoted to Vice President and Man-

ager of First American Title Company of Central California, Bakersfield. Mr. Sickler had been serving as District Sales Manager until his promotion.

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SNYDER

Mr. **Joseph J. Snyder** retired from the staff of Chicago Title and Trust Company on July 31, completing a business career of 41 years with the company and its subsidiaries. Mr. Snyder headed the company's Administrative Division since 1949 and was elected Senior Vice President in 1962.

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COURTNEY

Mr. **C. Edwin Courtney**, Chairman of the Advisory Board of the Washington Title Division of Pioneer National Title Insurance Company, Seattle, retired as Chairman on August 1, 1968. Mr. Courtney joined the Washington Title Insurance Company in 1922 as a tax searcher, was elected Vice President in 1946, elected President in 1957, and was elevated to Chairman of the Board in 1962. When the company name was changed to Pioneer National, he remained as Chairman of the Advisory Board.



MEETING TIMETABLE



1968

September 12-13-14, 1968

New Mexico Land Title Association
Holiday Inn, Gallup

September 12-13-14, 1968

North Dakota Title Association
Holiday Inn, Bismarck

September 13-14, 1968

Kansas Land Title Association
Salina Hilton Inn, Salina

September 13-14-15, 1968

Missouri Land Title Association
Colony Motor Hotel
Clayton, Missouri

September 29-30-October 1-2, 1968

ANNUAL CONVENTION
American Land Title Association
Hilton-Portland Hotel
Portland, Oregon

October 2, 1968

Oregon Land Title Association
Hilton-Portland Hotel
Portland, Oregon

October 24-25, 1968

Dixie Land Title Association
Parliament House
Birmingham, Alabama

October 24-25-26, 1968

Ohio Title Association
Commodore Perry Hotel, Toledo

October 24-25-26, 1968

Florida Land Title Association
Hollywood

October 24-25-26, 1968

Wisconsin Title Association
Pfister Hotel, Milwaukee

October 24-25-26, 1968

Nebraska Land Title Association
Holiday Inn of Kearney
Kearney, Nebraska

October 27-28-29, 1968

Indiana Land Title Association
Stouffers Inn, Indianapolis

November 1-2, 1968

Arizona Land Title Association
Valley Ho Hotel, Scottsdale

December 4, 1968

Louisiana Land Title Association
New Orleans

1969

March 5-6-7, 1969

MID-WINTER CONFERENCE
American Land Title Association
The Drake Hotel
Chicago, Illinois

April 24-25-26, 1969

Texas Land Title Association
Fort Worth, Texas

April 25-26, 1969

Oklahoma Land Title Association

May 25-26-27, 1969

Pennsylvania Land Title Association
Fred Waring's Shawnee Inn,
Stroudsburg

June 18-19-20-21, 1969

Oregon Land Title Association
Gearhart Motor Inn
Gearhart, Oregon

June 26-27, 1969

New Jersey Land Title Insurance Association
Seaview Country Club, Absecon

September 28-29-30, October 1, 1969

ANNUAL CONVENTION
American Land Title Association
Chalfonte-Haddon Hall Hotel
Atlantic City, New Jersey

October 30-31, November 1, 1969

Wisconsin Title Association
Holiday Inn, Eau Claire

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