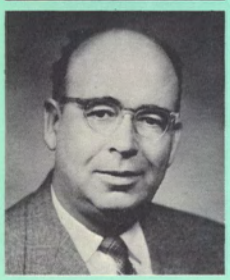
Title News

the official publication of the American Land Title Association

New ALTA President Tom Holstein (Right)

October, 1969



President's Message

OCTOBER, 1969

So, we start a new year with hope in our hearts and some nervous sweat on our collective brow. The hope comes from our strengths: Our member companies, affiliated State Associations, dedicated committee members and Washington staff. The sweat comes from the realization that we are going to have many thorny problems this year.

We should seek further liaison with many national groups in an attempt to solve mutual problems. We should prepare, and are preparing, for possible Congressional investigations. It is a particular sign of strength that we are doing research on our own industry. We will soon have data that will enable us to confront our adversaries and detractors with authority.

Most of us are not going to enjoy a level of business we would like. This is to be a year, or at least part of a year, of fewer orders and lower income. It is going to be the year of the tight rein and fewer of the frills in which we might like to indulge. I can see no way we can have much voice in the price of either construction materials or wages, nor do we have much clout as to the cost of mortgage money. As long as money for construction is not plentiful and cheap we shall continue to get fewer orders.

A tough year? Yes, but we have come through them before and we will come through this one. Sometimes the tough years are the most fruitful. You find out that in getting rid of some of the fat you also became leaner and tougher. Find out which of your customers are the loyal ones, which of your employees are most productive and which machines or systems are the ones on which to spend the money.

I suspect all of us will work a little harder. I am sure we will come through a bit bloody but unbowed.

Sincerely,

Thomas J. Holstein

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ON THE COVER: Thomas J. Holstein, right, president, LaCrosse (Wis.) County Title Company, was installed October 1 as the sixty-third president of ALTA during the Association's 1969 Annual Convention at Atlantic City. He is shown at work in his LaCrosse office with his son, Bill Holstein, who is vice president of LaCrosse County Title.

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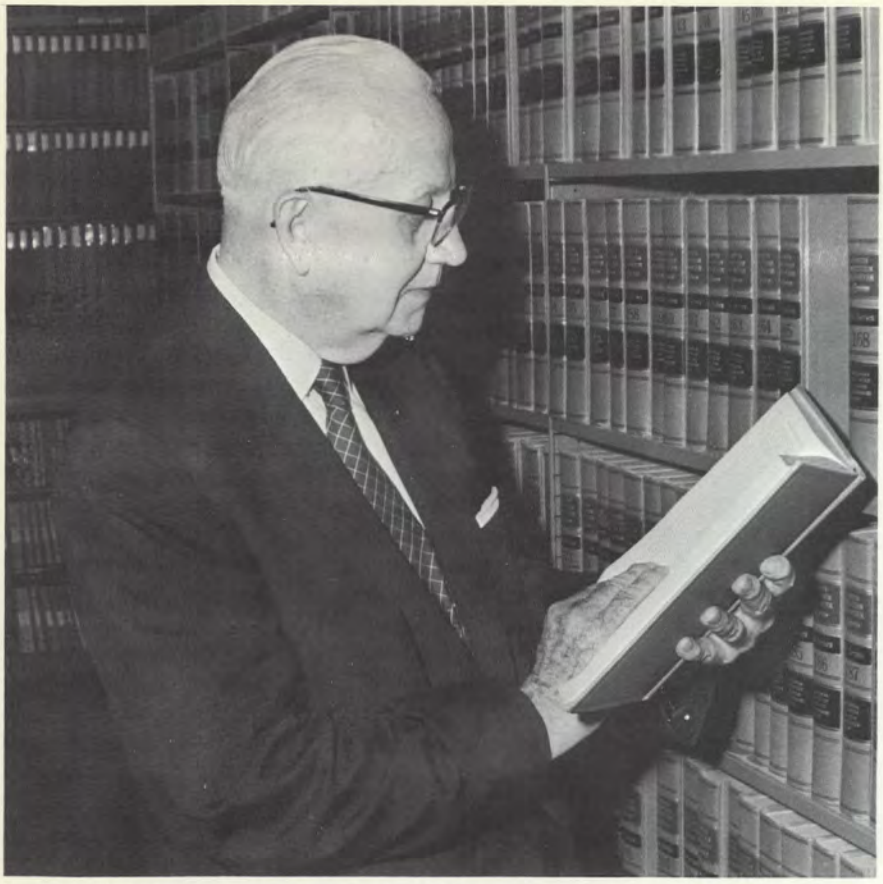
GARY L. GARRITY, Editor



Author Pinckney McElwee conducted research for this article in Washington, D. C., law libraries.

Land Title Interests and A Defect in State Law

Pinckney G. McElwee, J.D.
Attorney at Law
Washington, D.C.

The purpose of this article is to bring to the attention of the members of the American Land Title Association a defect in the laws of the several states in respect to the registration of title to interests in land and the statutes regarding innocent purchasers for value without notice, so that it may foster remedial legislation, if so desired.

Real estate is property in respect to which it should be the legislative policy of each of the states, to the extent possible, to eliminate title defects. As I see it, the national association of all of the title companies is the logical one to take the lead in fostering remedial legislation.

Statutes of limitation are statutes of repose and serve a most useful purpose to remedy title defects. The matter to which this article relates is that in most, if not all, of the states and the District of Columbia, when a possessor of land has had and held *adverse possession* for the period of time specified in local statute of limitation, the possessor becomes vested with full and complete title to the same extent as if he had a deed from the record owner. And there is no statute in any state which makes this new and unregistered title void as to subsequent bona fide purchasers for value without notice. (I am not here concerned with any Torrens systems.) One type of such a case is when a purchaser of land inadvertently (or deliberately) occupies more land than that included in his deed and erects a fence and occupies the excess in open and notorious adverse possession for the statutory period, thereby acquiring title to the excess by adverse possession. Another is that of the pure and unadulterated squatter. There are a variety of other types of cases.

Although the existence of the possibility of such title defects *resulting* from adverse possession is uniform, I shall take the law of one state, Virginia, as an example, as the basis of discussion, to show that the title, as shown by an examination of the county records will be in A, and no one may be in possession; yet, when a title company insures the title acquired by X from A, there will be a

complete failure of title because the real and actual title is in B by adverse possession with nothing of record to show it.

There is no requirement of Section 17-60 of the Code of Virginia (1950) which requires a recording of a perfected title by adverse possession. Such section relates to *"documents"* to be recorded and all *"writings"* relating to or affecting land.

In *Middleton vs. Johns* 45 Va. (4 Gratt) 129, David Scott took possession between 1805 and 1810 and held the land until 1837. The court held that title was in those claiming under Scott saying, "if it was necessary to sustain their title, the court would presume a grant."

In *Thomas vs. Jones* 69 Va. (28 Gratt) 383 the court said: "and the title of the defendant thereto, even though it may not have been originally good, has thus matured and *become perfect* by *adverse possession.*"

In *Creekmur vs. Creekmur* 75 Va. 430 the court said: "Statutes of limitation are statutes of repose, and they would be of little advantage if they protected those only who could otherwise show an indefeasible title; their operation and effect are to mature a wrong into right by cutting off the remedy, to shut out all inquiry into the merits of the case, *and to award the title to him who had the possession for the length of time prescribed by the statute.*"

In *Virginia M. R. Co. vs. Barbour* 97 Va. 118.33 SE 554 the court said: "The question in cases of adverse possession is not whether the claim asserted is good or bad, but whether there has been a hostile claim of title, and continuous possession under it for the statutory period. Neither is it necessary that such hostile claim should be under color of title; that is under a deed or other writing."

In *Cochran vs. Hiden,* 130 Va. 123, 107 S.E. 708 the Court referred to the possession of Hiden under the 15-year statute of limitation and said: "He was the owner of the property *in fee,* under the *title* by *adverse possession.*"

In *Guaranty Title and Trust Corp. vs. U.S.* 264 U.S. 200, 68 L.Ed. 636 the U.S. Supreme Court, following the decisions of the Supreme Court of Appeals of Virginia said:

> "A Virginia statute provides that, 'No person shall make an entry on, or bring an action to recover, any land lying east of the Allegheny Mountains, but within fifteen years—next after the time at which the right to make such entry or bring such action shall have first accrued to himself or to some person through whom he claims—' Code 1919, 5805 (now Section 8-5, Code 1950). By adverse possession and lapse of time the owners right of entry or action is barred, and *title is acquired by the occupant: Cochran vs. Hiden* 130 Va. 123, 142; *Virginia Midland RR Co. vs. Barbour* 97 Va. 118, 123; *Creekmur vs. Creekmur* 75 Va. 430, 435, 439; *Thomas vs. Jones* 28 Gratt 383, 387; *Middleton vs. Johns* 4 Gratt 129. The dissiesor need not have a deed or other writing giving color of title or furnishing foundation for belief or claim of ownership or legal right to enter and take possession of land."

In *Countce vs. Yount-Lee* 87 F(2) 572 (Cert Den 302 U.S. 693) it was held that the possessor takes the place of the former owner and hold directly from the sovereignty of the soil. See also *Virginia, etc. vs. Charles* 254 F. 379, affirming 251 F 83.

In most states, purchasers of land are charged with notice, not only with the items which are duly re-

About the Author . . .

Pinckney G. McElwee was born in St. Louis, where he earned his L.L.B. and J.D. degrees at Washington University Law School. His early experience in professional practice included association with a firm in responsibilities that emphasized oil and gas land title aspects. Later, he was assigned major responsibility for the legal work of a large oil company in Texas and the Gulf Coast area—which again centered on land title activity. Subsequently, he formed a partnership with two other attorneys and handled land title cases for a number of well-known oil companies. In his legal career, he has examined titles to land for oil production in Arkansas, Illinois, Kansas, Oklahoma, New Mexico, and Texas—and has examined titles to non-oil land in Indiana, Kentucky, Iowa, Nebraska, and Arizona.

During World War II, he rose to the rank of colonel in the Army. He was in charge of military justice under General Eisenhower in the North African Theatre, and later served under General Patch as a member of a group that planned the invasion of southern France. On D-Day, he commanded a combat unit that landed near St. Tropez. After the Seventh Army became the Army of Occupation in Germay, he, as staff judge advocate, had charge of the investigation and trial of all war crimes in Germany, except those tried at Nuremburg. His military decorations include the Legion of Merit, Bronze Star with Bronze Arrowhead, and the Croix de Guerre with Star.

Following the war, he became associated with the general counsel of the Veterans Administration in work that included responsibility for legal aspects of the GI loan program. Shortly afterward, he became an associate general counsel for loan guaranty. In this VA assignment, he was charged with writing legal opinions on the guaranty and insurance of loans to veterans for the purchase of homes, farms, and businesses. This activity embraced the real estate laws of the various states, and broad areas of general substantive law as well.

Articles he has written on the U.S. Constitution have been published in the *Congressional Record* and in university law journals.

At present, he is engaged in the practice of law in Washington, D.C.

corded in the county records, but also with the rights of parties in possession.

Thus, if a person who is in possession holds an unrecorded deed from the record owner, the purchaser would be charged with knowledge of the deed to the same extent as if it were duly recorded or as if he had personal knowledge of its existence. In this respect, the Virginia Code of 1950, Section 55-96, regarding the rights of purchases for value without notice, differs from the law of most states. Said section provides: "Contracts, etc., void as to creditors and purchasers until recorded. Every such *contract in writing,* and every *deed* conveying such estate or term, and every *deed of gift,* or *deed of trust,* or *mortgage* conveying real estate or goods and chattels and every such bill of sale, or contract for the sale of goods and chattels, when the possession is allowed to remain with the grantor, shall be void as to all purchasers for valuable consideration without notice not parties thereto and lien creditors, until and except from the time it is duly admitted to record in the county or corporation wherein the property embraced in such contract, deed, or bill of sale may be, *but the mere possession of real estate shall not of itself be notice to purchasers thereof for value of any interest or estate therein to the person in possession;*—(further provisions not pertinent.) (Italics added.) Thus, by the underscored language the legislature of Virginia removes from the purchaser the responsibility of knowledge of the rights of parties in possession.

But, it will be observed that the legislature of Virginia in the provisions of Section 55-96, above, does not apply to more than "mere possession" (i.e., it does not apply to title by adverse possession) nor does it purport to make the rights, if any, of a possessor *void* as to anything other than *contracts in writing, deeds* or *mortgages;* and it does not affect title which has matured by 15 years of adverse possession whether the owner thereof be in or out of possession.

I have found no Virginia case in which a defense of innocent purchases for value without notice has been advanced against a title by adverse possession which has matured under the 15-year statute by possession and claim of ownership. But, such defense has been raised and passed upon by the appellate courts of other states.

In *McGregor vs. Thompson* 26 S.W. 649 the Court of Civil Appeals of Texas, speaking through the highly respected Judge F. A. Williams, said:

"It is doubtless the purpose and policy of such laws (recording acts) to furnish means of information to parties buying land, as to conditions of title, and to protect them against all claims of which notice should be found upon, but the existence of which is not discovered by the records. But, at the same time the law also permits title by adverse possession to exist, concurrently with the registration laws, and provides means by which notice of such title may be given. The declaration of the statute is, that he who has had the requisite possession 'shall be held to have full title precluding all claims.' Such being the case, can it be true that he must do what no other owner of land is required to do, and remain constantly in possession in order to maintain his right against the very title which his adverse possession has destroyed, in the hands of a purchaser from him through whose laches it has been lost? To so hold would be to deny to him 'the full title preceding all claims' which is given by the statute, for it would make his title dependent on his constant possession and upon the acts of third parties. It is true that the holder of an unrecorded deed may have full title, as perfect as that which results from adverse possession, and that such title may nevertheless be defeated by a sale from his vendor to an innocent purchaser; but the defect of his title results from the law

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Lawyers Title Attorney Comments

Marvin C. Bowling, Jr., associate counsel in the legal department of Lawyers Title Insurance Corporation, had these comments after reading the accompanying article by Pinckney G. McElwee:

"I agree that a purchaser relying upon record title could be the victim of adverse possession in favor of a third party even though no notice of such possession appeared of record. A statute which required record notice of adverse possession might serve a public purpose in such a situation.

"On the other hand, there are many instances in which adverse possession is relied on to clear up a hiatus in the chain of title or other type of defect and if such a statute were enacted, reliance could no longer be placed on such possession unless the statute could be complied with. Three situations involving reliance on adverse possession for this purpose are discussed in the book, *Adverse Possession,* by Charles C. Callahan (beginning on page 99).

"There are at least three states (Alabama, Georgia, and Michigan) which provide for the recording of affidavits of adverse possession by statute. However, while these affidavits may be recorded under statute, there is no condition to the effectiveness of title by adverse possession if such affidavits are not recorded. I believe any statute that might be adopted should provide that no title based on adverse possession shall be valid as against a bona fide purchaser for value or judgment creditor unless and until an affidavit of adverse possession is filed of record. It might then be provided that such affidavit of adverse possession should be made by a disinterested party, should show the facts and time of possession, and should be recorded in the name of the person against whom adverse possession is claimed as set forth in said affidavit."

Lester Mason, Public Relations Officer
Chicago Title and Trust Company

A Subsidiary for the Records

(Editor's note: Diversification of business is a topic of growing interest among title companies. The following article describes one area of diversification involving an ALTA member company. Additional articles of this type are envisioned for the future.)

* * *

"Storing records is our business," says Frank G. O'Connor of Record Center Corporation, a new business which he manages.

Record Center Corporation (RCC), a wholly-owned subsidiary of Chicago Title and Trust Company, is a commercial record center located 10 minutes west of the Chicago loop. It stores all kinds of business records in sprinklered, fireproof premises. The storage area is spic and span and looks like a well-run library—except most of the material consists of business records stored in special boxes, rather than books.

"We furnish the boxes at no charge to our clients because properly containerized material is easier to handle and fits the space efficiently," O'Connor explains.

"When a client wants a record, all he does is phone and ask for it," says O'Connor. "We check it out to him and deliver it, usually the same day it is requested. The convenience of quick retrieval is one of the things which appeals most to our clients."

Chicago Title and Trust Company formed RCC about two years ago as a diversification move, when it realized its extensive experience with its own off-premises record center provided the basis for a service which could be marketed to the public. The economies of storing records in a commercial record center, when compared with the high cost and inconvenience of operating a do-it-yourself record storage area in an office building, has attracted more than a hundred clients to RCC in its two years of operations. The customers range in size from the very small (less than 50 cubic feet of records) to the very large (over 8,000 cubic feet of records).

"Generally speaking," says O'Connor, "our customers are astounded at the convenience of the service when compared with the inconvenience and high cost of storing records on their own premises."

The firm provides its customers with a wide range of supporting services, including:

—Organizing, packing and indexing poorly organized material.

—Consulting on filing and record management systems.

—Retention schedules.

"In order to meet the full range of client needs, we find it necessary to offer a wide variety of peripheral

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Record Center Corporation usually can deliver a file on the same day it is requested by a client.

WHAT'S IT ALL ABOUT . . . ? ! !

(Editor's note: Richard A. Hogan and Thomas P. O'Connell, Pioneer National Title Insurance Company, Seattle, have brought smiles to many members of real estate boards and building groups with the following verbal satire on problems of communication. As is evidenced in the adaptation that follows, a well-presented light treatment is an excellent way to emphasize important points.)

* * *

HOGAN: It always seems so easy the night before to get up early the next morning. But it isn't. Particularly when this fact is coupled with realization that in the midst of life we are in Tumwater.

Tom and I have spoken at various meetings, which needed a last minute program, and our offerings have been received with varying degrees of apathy. This is the first time however, we have appeared so soon after breakfast but judging from our past experience we do not expect that this will cause any disruption of your normal digestive processes.

The title of our talk, "What's it All About Dicky" as it abortively appears on the program will cause some involuntary retching. The title was selected by Tom without my knowledge or consent and was so entitled largely because he is a member of the program committee. The title should be "What's it All About Tommy" or in the more manly fashion, "What Occurs to O'Connell," because we will be meandering around in Tom's field of communication. I am here primarily as Tom's bodyguard.

Tom came to Seattle from Los Angeles. Los Angeles is the only city in the world where you awaken in the morning to the sound of birds coughing. He is an expert in the field of communications, and, in addition, he holds an unlimited certificate which authorizes him to teach almost anything decent in community colleges. Therefore, our subject matter will be communication and, incidentally, education. In addition, Tom is a true executive as proclaimed by the motto on his desk which reads: "Nothing is impossible to the man who doesn't have to do it." He is one executive who doesn't have ulcers—but he's a carrier.

As a prelude, I will now call on Tom to explain in his pungent patois the post-prandial project we plan to perpetuate this a.m.

WHAT'S IT ALL ABOUT, TOM?

O'CONNELL: The ancient Greeks who were great on this after-meal bit had a method to combat digestive drowsiness. As was said by one famous old Greek philosopher, a guy named Anonymous, "To eat is human; to digest divine." They allowed nothing to interfere with this process. He is the same philosopher who said, "Destiny may shape your ends, but it is the intake of calories what shapes your middles."

Another ancient philosopher named Socrates cut quite a swath in Greek cultural circles with a system that came to be known as the Socratic method. It was a question and answer system which osmotically induced learning without interfering with essential digestive processes. What do you think of this method?

HOGAN: This method works like magic but you have to watch it. Recently in Greece another Socrates popped the question and in answering it a young widow made a Jackie Onassis out of herself.

O'CONNELL: Today, my colleague and I will use this method as we bandy around a few bits about communication and education. The title industry is greatly concerned with education. Hogan, while virtually untutored in these fields, may give us the lay viewpoint. What do you think of education?

HOGAN: A formal education never

hurt nobody. Especially if he is willing to learn a little something after he graduates. You should never let schooling interfere with your education. There is no substitute for experience. It enables you to recognize a mistake when you make it again.

O'CONNELL: Nowdays there is the big things about promoting sex education in the schools—would you favor us with your average-man thoughts on this?

HOGAN: It's a waste of the taxpayer's dough. It comes too late. There is always some dirty little kid in the neighborhood who slips you the lowdown on this stuff. Generally, he is the same little brute who informs you that there ain't no Santa Claus. Actually, it only takes about half an hour to learn all that anyone needs to know about the facts of life—unless he's studying to become a rapist.

If schools do offer such a course, it should be broadened to include such other elementary matters as tooth brushing, shampooing, deodorizing, beginning shaving. and effective shoe-lace tying.

O'CONNELL: Nevertheless, schools and education are important. A while back, my youngest daughter brought home a real lousy report card, and I upbraided her strongly, as "It's against company policy to have stupid children." She listened for a while, and said, "What do you suppose is wrong with me, Daddy—heredity or environment?" I took the fifth on this. But I signed her card with an "X", as I didn't want the teacher to think that anyone who got such poor grades had parents who could write. Nevertheless, I couldn't answer her question—perhaps you know the difference between heredity and environment.

HOGAN: You can spend a lot of time arguing the difference, but I don't think it requires much discussion. In my day, if a baby looked like his father, it was heredity; if he looked like a neighbor, it was environment. Also, it has been established that insanity is hereditary, parents get it from children.

You are all the time asking me personal questions—picking my brains. Don't I get a turn?

O'CONNELL: Yeah.

HOGAN: We are all the time hearing about communications . . . what does it mean?

O'CONNELL: Communications is a word that is bandied about almost too much. In some respects it is like the weather—everyone talks about it, but no one does much about it. I propose that we do both—talk about it—but not do much about it.

You don't have to be an expert to know about communications because we have all been a victim of it or have had some unsavory experiences in the field. Communications have become a major factor in every phase of our lives from cradle to medicare.

Even in the most basic form of communication—conversations between people—eyeball to eyeball stuff—communication is very difficult to achieve.

HOGAN: You don't say. Someday you must tell us why this is so.

O'CONNELL: Let me give you an example of poor communications: An excerpt in a report issued by a government bulletin summarizing the characteristics of poor populations. One characteristic is set forth as follows: "They follow a set of pursuits outside the occupational sphere which provides direct and immediate emotional or physical gratification and a quest for stimulating i n n e r experience, characteristically i n v o l v i n g strong drink."

HOGAN: That may be communicating but what does it mean?

O'CONNELL: It is trying to say that in their spare time they go in for sex, television and booze. There are thousands of means of communication: telephone, telegraph, radio, television, telewoman—but there is nothing to take the place of the human voice in close proximity to another's ear.

Barbers have a tremendous advantage in this regard. The meanest guy in the world is the guy who went into a barber shop and didn't tell his barber he was deaf. However, barbers are great in the art of communications, and appreciated as such by many patrons. One barber shop in our neighborhood increased its business considerably by putting a sign in the window which reads, "Six barbers—panel discussions."

HOGAN: I have heard that actions speak louder than words.

O'CONNELL: This is true. Almost everything we do is a form of communication. Recently we attended a convention in Hawaii. I met a friend at the bar. He had his wife with him. Later I asked him how come he brought his wife, as this was supposed to be a business and fun convention. "Well," he said, "its easier to take her than to kiss her goodbye."

Advertising is one of the major forms of communication. Business spends millions of dollars trying to think up new ways to get people to buy their products —soft sell, hard sell, premium and guaranteed satisfaction.

HOGAN: I saw a good ad in the paper. At our home we are troubled by termites, and I ran into one ad by an exterminator firm. This company guaranteed full satisfaction or double your bugs back.

However, I gather that the most important means of communication is still a personal thing—talking to someone about something.

O'CONNELL: That's right. Conversation—discussing m a t t e r s of common interest that basically have some human importance. We spend more time at this than in any other activity—one third of our activity is so spent. The purpose of most conversation, if I may coin a phrase, is to make friends or influence people—

either for its own sake to establish rapport; or to build a bridge of understanding between your mind and the mind of someone else for the specific purpose of imparting knowledge, selling an idea, or a product.

HOGAN: One of the essentials of good conversation is good listening. A good listener is not only popular everywhere, but after a while he learns something. It is also true that no man would listen to someone talk if he didn't think that it was his turn next.

O'CONNELL: If the conversation is one in which you are trying to influence people, selling an idea —the basic essential is to get all the facts. This will aid in understanding. Get your facts first and then you can distort them as much as you please.

HOGAN: I ran into this also.

A friend of mine came back from New Mexico. He said, "Boy are there a lot of Indians down there."

I said, "I know."

He said, "They all walk in single file."

I said, "They do?"

He said, "The one I saw was."

O'CONNELL: I think this is an over hasty generalization.

I think we tend to assume that just because we have a voice we can automatically communicate. This is no more true than because you own a piano you can automatically play it. There are techniques in conversational communication just as there are in playing the piano.

HOGAN: That's right. In the first place, the message has to be understood. There is a story that illustrates this. An artist was commissioned to paint a picture of the wife of the family, and this wife was a real friendly, involved type.

She got all gussied up and she coyly asked the painter, "I'll bet you'd like to paint me in the nude."

"Yes," he said, "I would, but I'll have to leave my socks on, otherwise I'll have no place to hold my brushes."

O'CONNELL: Another of the major problems is how do you get through to people who don't want to communicate. Some people just don't want to be friendly, or are indifferent.

HOGAN: It happened to me. I got on the plane, I sat next to this guy, I said, "Good morning, my name is Hogan." He said, "Well, mine isn't." This stopped further communication between us until when I tripped him later when he got up to go to the men's room.

O'CONNELL: There are times when nobody wants to communicate. A neighbor called me the other night at 3 a.m., and complained, "Your dog is barking so loudly I can't sleep." The neighbor hung up before I could protest. So I called him up at 3 a.m. the next morning and reported, "I don't have a dog."

Would you say that prayer is a form of communication?

HOGAN: I certainly would, although it is generally indulged in only when you are in deep trouble, like when you are in a foxhole.

O'CONNELL: Sometimes not even prayer is a help.

There is the story of the town reprobate who was on his deathbed, and a priest came in to administer the last rites. "Andrew, I want you to renounce the devil," the priest said. "I'm sorry, but I can't do it," the rounder replied. "At this point, I'm in no position to offend anyone."

HOGAN: In this connection there is a very sad story about Pat who was dying. He said to his wife, "Come to my bedside, I want to get something off my conscience. I have to admit that two months ago, down in New Orleans, I had an affair with a strange girl and bought her a diamond ring. And in San Francisco, I went places with another girl and bought her a pearl necklace. I just want to get it off my conscience." His wife said, "That's all right, Pat—I knew it all the time—that's why I poisoned you."

O'CONNELL: In order to be a good conversationalist, it is necessary to be a good listener. A good listener listens with three ears—to what they are saying—to what they are not saying—and most important—to what they would like to say but need your help in saying.

Like the political prisoner in Cuba who was about to be executed. He was blindfolded. The captain of the execution squad asked him if he wanted a cigarette. "No thank you," said the prisoner. "I'm trying to quit."

HOGAN: He didn't get the message. I have a pretty good example of this, too.

The story of the explorer who walked into the bar in a remote jungle, and was startled to see a customer in full uniform—yet he was only six inches tall. The bartender finally broke the silence. He said, "Evidently you haven't met the major."

The explorer admitted this, so the bartender picked the little man from the stool, put him on the bar and said, "Speak up, major; tell the Yank about the time you called the witch doctor a fake."

O'CONNELL: One of the arts of listening is knowing when to be silent. Another is when to ask leading questions that draw the speaker out. By questions you lead your listener to talk while you remain silent. Your silence and your manner indicate a sympathetic interest in the other person's ideas, which he will undoubtedly appreciate. You will learn more by listening than by talking. As Robert Benchley once said, "Drawing on my fine command of language, I said nothing."

HOGAN: I have heard that silence is the wisdom of fools. However, I have also heard that if rightly timed it is the expression of wise men who have not the weakness of but the virtue of silence. Cool-

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The History Of A Title

(Editor's note: This article recently appeared in *The Guarantor,* magazine of Chicago Title and Trust Company, as published in the form of *CROCKER'S The History of a Title,* printed for Howard Greene by the Genessee Printing Company, 1927, and is reprinted with permission. As *The Guarantor* points out, "Seldom would all these things happen to a home owner, but all of these things do happen—even today.")

* * *

Of the locality of the parcel of real estate, the history of the title of which it is proposed to relate, it may be sufficient to say that it lies in Boston, within the limits of the territory ravaged by the great fire of November 9th and 10th, 1872. In 1860 this parcel of land was in the undisturbed possession of Mr. William Ingalls, who referred his title to it to the will of his father, Mr. Thomas Ingalls, who died in 1830. Mr. Ingalls, the elder, had been a very wealthy citizen of Boston; and when he made his will, a few years before his death, he owned this one parcel of real estate, worth about $50,000, and possessed, in addition, personal property to the amount of between $200,000 and $300,000. By his will he specifically devised this parcel of land to his wife, for life, and upon her death to his only child, the William Ingalls before mentioned, in fee, to whom, after directing his executor to pay to two nephews, William and Arthur Jones, the sum of $25,000 each, he gave also the large residue of his property. After the date of his will, however, Mr. Thomas Ingalls engaged in some unfortunate speculations, and upon the settlement of his estate the personal property proved to be barely sufficient for the payment of his debts, and the nephews got no portion of their legacies. The real estate, however, afforded to the widow a comfortable income, which enabled her during her life to support herself in a respectable manner. Upon her death, in 1845, the son entered into possession of the estate, which had gradually increased in value; and he had been enjoying for 15 years a handsome income derived therefrom, when he was one day surprised to hear that the two cousins, whom his father had benevolently remembered in his will, had advanced a claim that this real estate should be sold by his father's executor, and the proceeds applied to the payment of their legacies. This claim, now first made 30 years after the death of his father, was of course a great surprise to Mr. Ingalls. He had entertained the popular idea that 20 years' possession effectually cut off all claims. Here, however, were parties, after 30 years' undisputed possession by his mother and himself, setting up in 1860 a claim arising out of the will of his father, that will having been proved in 1830. Nor had Mr. Ingalls ever dreamed that the legacies given to his cousins could in any way have precedence over the specific devise of the parcel of real estate to himself. It was, as a matter of common sense, so clear that his father had intended by his will, first to provide for his wife and son, and then to make a generous gift out of the residue of his estate to his nephews, that during the 30 years that had elapsed since his death, it had never occurred to any one to suggest any other disposal of the property than that which had been actually made. Upon consulting with counsel, however, Mr. Ingalls learned that, although the time within which most actions might be brought was limited to a specified number of years, there was no such limitation affecting the bringing of an action to recover a legacy. See Mass. Gen. St., c97, Sec. 22; *Kent vs. Dunham,* 106 Mass., 586, 591; *Brooks vs. Lynde,* 7 Allen, 64,66. He also learned that as his father's will gave him, after his mother's death, the same estate that he would have taken by inheritance had there been no will, the law looked upon the devise to him as void, and deemed him to have taken the estate by descent. What he had supposed to be a specific devise of the estate to him was then a void devise, or no devise at all; and his parcel of real estate, being in the eye of the law simply a part of an undevised residue, was of course liable to be sold for the payment of the legacies contained in his father's will. It was assets which the executor was bound to apply to that purpose. This exact point had been determined in the then recent case of *Ellis vs. Page,* 7 Cush., 161; and Mr. Ingalls was finally compelled to see the estate, the undisputed possession of which he had enjoyed for so many years, sold at auction by the executor of his father's will for $135,000, not quite enough to pay the legacies to his cousins, which legacies, with interest from the expiration of one year after the testator's death amounted at the time of the sale in 1862 to $143,000. The Messrs. Jones themselves purchased the estate at the sale, deeming the purchase a good investment of the amount of their legacies, and Mr. Ingalls instituted a system of stricter economy in

his domestic expenses, and pondered much on the uncertainty of the law and the mutability of human affairs.

By one of those curious coincidences which so often occur, Messrs. William and Arthur Jones had scarcely begun to enjoy the increased supply of pocket money afforded them by the rents of their newly-acquired property, when they each received one morning a summons to appear before the Justices of the Superior Court, "to answer unto John Rogers in a writ of entry," the premises described in the writ being their newly-acquired estate.

The Messrs. Jones were at first rather startled by this unexpected proceeding; but as they had, when they received their deed from Mr. Ingall's executor, taken the precaution to have the title to their estate examined by a conveyancer, who had reported that he had carried his examination as far back as the beginning of the century, and had found the title perfectly clear and correct, they took courage, and waited for further developments. It was not long, however, before the facts upon which the writ of entry had been founded were made known. It appeared that for some time prior to 1750 the estate had belonged to one John Buttolph, who died in that year, leaving a will in which he devised the estate "to my brother Thomas, and if he shall die without issue, then I give the same to my brother William." Thomas Buttolph had held the estate until 1775, when he died leaving an only daughter, Mary, at that time the wife of Timothy Rogers. Mrs. Rogers held the estate until 1790, when she died, leaving two sons and a daughter. This estate she devised to her daughter, who subsequently, in 1800, conveyed it to Mr. Thomas Ingalls, before mentioned. Peter Rogers, the oldest son of Mrs. Rogers, was a non-compos, but lived until the year 1854, when he died at the age of 75. He lett no children, having never been married. John Rogers, the demandant in the writ of entry, was the eldest son of John Rogers, the second son of Mrs. Mary Rogers, and the basis of the title set up by him was substantially as follows: He claimed that under the decision in *Hayward vs. Howe,* 12 Gray, 49, the will of John Buttolph had given to Thomas Buttolph an estate tail, the law construing the intention of the testator to have been that the estate should belong to Thomas Buttolph and to his issue as long as such issue should exist, but that upon the failure of such issue, whenever such failure might occur, whether at the death of Thomas or at any subsequent time, the estate should go to William Buttolph. It had been decided in *Corbin vs. Healy,* 20 Pick., 514, 516, that an estate tail does not descent in Massachusetts, like other real estate, to all the children of the deceased owner, in equal shares, but according to the old English rule, exclusively to the oldest son, if any, and to the daughters only in default of any son; and it had been further decided in *Hall vs. Priest,* 6 Gray, 18, 24, that an estate tail cannot be devised or in any way affected by the will of a tenant in tail. Mr. John Rogers claimed then that the estate tail given by the will of John Buttolph to Thomas Buttolph had descended at the death of Thomas to his only child, Mary Rogers; that at her death, instead of passing, as had been supposed at the time, by virtue of her will, to her daughter, that will had been wholly without effect upon the estate, which had, in fact, descended to her oldest son, Peter Rogers. Peter Rogers had indeed been disseized in 1800, if not before, by the acts of his sister in taking possession of and conveying away the estate; but as he was a non-compos during the whole of his long life, the statute of limitations did not begin to run against him, and his heir in tail, namely, John Rogers, the oldest son of his then deceased brother John, was allowed by Mass. Gen. Stat. c. 154, Sec. 5, 10 years after his uncle Peter's death, within which to bring his action. As these 10 years did not expire until 1864, this action, brought in 1863, was seasonably commenced; and it was prosecuted with success, judgment in his favor having been recovered by John Rogers in 1865.

The case of *Rogers vs. Jones* was naturally a subject of remark among the legal profession; and it happened to occur to one of the younger members of that profession that it would be well to improve some of his idle moments by studying up the facts of this case in the Suffolk Registries of Deeds and of Probate. Curiosity prompted this gentleman to extend the investigation beyond the facts directly involved in the case, and to trace the title of Mr. John Buttolph back to an earlier date. He found that Mr. Buttolph had purchased the estate in 1730 of one Hosea Johnson, to whom it had been conveyed in 1710 by Benjamin Parsons. The deed from Parsons to Johnson, however, conveyed the land to Johnson simply, without any mention of his "heirs"; and the young lawyer having recently read the case of *Buffum vs. Hutchinson,* 1 Allen, 58, perceived that Johnson took under this deed only a life estate in the granted premises, and that at his death the premises reverted to Parsons or his heirs. The young lawyer, being of an enterprising spirit, thought it would be well to follow out the investigation suggested by his discovery. He found to his surprise, that Hosea Johnson did not die until 1786, the estate having, in fact, been purchased by him for a residence when he was 21 years of age, and about to be married. He had lived upon it for 20 years, but had then moved his residence to another part of the city, and sold the estate, as we have seen, to Mr. Buttolph. When Mr. Johnson died, in 1786, at the age of 97, it chanced that the sole party entitled to the reversion, as heir of Benjamin Parsons, was a young woman, his granddaughter, aged 18, and just married. This young lady and her husband lived, as sometimes happens, to celebrate their diamond wedding, in 1861, but died during that year. As she had been under the legal disability of coverture from the time when her right of entry upon the estate, as heir of Benjamin Parsons, first accrued, at the termination of Johnson's life estate, the provisions of the statute of limitations, before cited, gave her heirs 10 years after her death within which to bring their

action. These heirs proved to be three or four people of small means residing in remote parts of the United States. What arrangements the young lawyer made with these parties and also with a Mr. John Smith, a speculating moneyed man of Boston, who was supposed to have furnished certain necessary funds, he was wise enough to keep carefully to himself. Suffice it to say, that in 1869 an action was brought by the heirs of Benjamin Parsons to recover from Rogers the land which he had just recovered from Willam and Arthur Jones. In this action the plaintiffs were successful, and they had no sooner been put in formal possession of the estate than they conveyed it, now worth a couple of hundred thousand dollars, to the aforesaid John Smith, who was popularly supposed to have obtained in this case, as he usually did in all financial operations in which he was concerned, the lion's share of the plunder. The Parsons heirs, probably realized very little from the result of the suit; but the young lawyer obtained sufficient to establish him as a brilliant speculator in suburban lands, second mortgages, and patent rights. Mr. Smith had been but a short time in possession of his new estate when the great fire of November, 1872, swept over it. He was, however, a most energetic citizen, and the ruins were not cold before he was at work rebuilding. He bought an adjoining lot in order to increase the size of his estate, the whole of which was soon covered by an elegant block, conspicuous on the front of which may now be seen his initials, "J.S.", cut in the stone.

While the estate which had once belonged to Mr. William Ingalls was passing from one person to another in the bewildering manner we have endeavored to describe, Mr. Ingalls had himself, for a time, looked on in amazement. It finally occurred to him, however, that he would go to the root of this matter of title. He employed a skillful conveyancer to trace the title back, if possible, to the Book of Possessions. The result of this investigation was that it appeared that the parcel which he had himself owned, together with the additional

Continued on page 15

Nebraska Title Association Plans Another Abstract and Title School

Plans are under way for another annual Nebraska Land Title Association Abstract and Title School in the spring of 1970. NLTA has sponsored the school since 1966, when state legislation was passed requiring the licensing of abstracters.

The 1969 school was held in May at the Nebraska Center for Continuing Education at the University of Nebraska in Lincoln. An attendance of 30 was reported, and nine persons took the examination to become registered abstracters—which was conducted by the Nebraska Abstracters Board of Examiners the day after the school was held.

Program topics for the 1969 school were discussed by: W. R. Hecht, attorney, "Abstracts as Title Evidence"; Herman Ginsburg, attorney, "Conveyancing"; Walter G. Huber, attorney and abstracter, Blair, "District and Probate Courts"; William W. Barney, attorney, Barney Abstract and Title Company, Lincoln, "Abstract Certificates and Legal Forms"; Ray Frohn, abstracter, Ray Frohn Company, Lincoln, "Legal Descriptions and Land Measurements"; Richard Johnson, abstracter, Ray Frohn Company "Abstract Processing and Public Relations"; Charles Willis, attorney and national service officer, Chicago Title Insurance Company, Kansas City, Mo., "Fundamentals and Processing Title Insurance"; and, Donald M. Bell, abstracter, Thomas Walling Co., Plattsmouth, and 1968-69 NLTA president, "Resumé of Title Standards Committee".

Shown during a pause at the 1969 Nebraska Land Title Association Abstract and Title School are these lecturers, who are, from left: Richard Johnson, abstracter, Ray Frohn Company, Lincoln, Neb.; Charles Willis, attorney and national service officer, Chicago Title Insurance Company, Kansas City, Mo.; Donald Bell, abstracter, Thomas Walling Co., Plattsmouth, Neb., and 1968-69 NLTA president; and Ray Frohn, abstracter, Ray Frohn Company, Lincoln, Neb.

names in the news

DICKARD

OVERTON

Paul F. Dickard, Jr., has been named manager of Texas operations for Transamerica Title Insurance Company. He recently received the "Titleman of the Year" award of the Texas Land Title Association.

The appointment of **John R. Overton** as county manager for Transamerica Title's San Bernardino County (Calif.) operations also has been announced. Transamerica Title recently expanded operations into the county with a new title plant.

* * *

TREADWAY

Security Title Insurance Company has appointed **Lee W. Treadway** manager of its Los Angeles County branch office. His headquarters will be in Security Title's new four-story building in the San Fernando Valley when the structure is completed next year.

* * *

Thomas A. Hackett, president of Commonwealth Title Company of Georgia, has announced the opening of a branch office in Macon, Ga. The Georgia concern, with main office in Atlanta, is an agent in that state for Commonwealth Land Title Insurance Company.

* * *

Dutel Title Agency, Inc., agent for Chicago Title Insurance Company in New Orleans and south Louisiana, has announced the appointment of **Pierre D. Olivier, Jr.,** as vice president and title officer.

* * *

Harold F. Bayles has been elected an assistant vice president of New Jersey Realty Title Inusrance Company and has been named manager of the concern's Freehold (N.J.) office.

Three California Companies Combine

Three Southern California title companies have announced their consolidation under the name of California Land Title Company, which operates as a wholly-owned subsidiary of a recently formed holding company called California-World Financial Corporation.

The three companies include California Land Title Company and World Title Company, both of Los Angeles, and American Land Title Company, Santa Ana. A pooling of interests of the three concerns includes combination of Los Angeles and Orange County facilities.

The stock exchange ratio was not disclosed.

Harold A. Lenicheck, chairman of the board for the Title Guaranty Company of Wisconsin Division of Chicago Title Insurance Company, retired August 31 after 30 years of service with that concern. After purchase of the firm by Chicago Title and Trust Company in 1960, he was named president of the Milwaukee-based subsidiary in 1961, and was promoted to chairman of the board January 1, 1969. In his retirement, he will continue to hold the position of chairman of the board.

Joint Abstract Plant Planned in Florida

Ground was broken in Ft. Lauderdale, Fla., in September for a joint abstract plant which its owners believe will be the largest facility of its kind.

Equal interests in the plant are owned by Lauderdale Abstract & Title Company and Peninsular Abstract Company. The facility is being constructed to allow more efficient production of abstracts in line with the growing volume of Broward County (Fla.) real estate transactions—and is expected to approach a volume of 3,000 abstracts per month by the mid-1970's, according to Allan K. Ricketts, newly elected executive vice president and general manager for Lauderdale Abstract & Title.

Both companies will continue to serve their respective customers with the new plant company, according to Frank DeNiro, senior vice president and general manager for Peninsular Abstract. Having the assets of the two companies responsible for the new plant function will make the resulting product more attractive to customers, he said.

Ricketts said both companies are combining their present plant records in developing the new facility, which is scheduled to be occupied next year.

Lincoln-Chicago Title Exchange Effective

Lincoln National Corporation has announced that the holders of more than 80 per cent of the outstanding common shares of Chicago Title and Trust Company have accepted the exchange offer made by prospectus dated August 20, 1969, that all conditions to the effectiveness of the exchange offer have been satisfied or waived and that the exchange offer has been declared effective September 12, 1969.

Under the terms of the exchange offer, Lincoln National Corporation will issue one share of its $3 cumulative convertible preferred stock, Series A (no-par value) for each common share of Chicago Title and Trust Company.

The Series A preferred stock of Lincoln National Corporation has been authorized for listing on the New York and Midwest Stock Exchanges and was admitted to trading on both exchanges September 15, 1969.

The board of directors of Lincoln National Corporation has declared a quarterly dividend of 75 cents per share on the Series A preferred stock payable December 5, 1969 to stock of record at the close of business on November 15, 1969.

Lincoln National Corporation has announced that, even though the exchange offer has been declared effective, it will continue to accept all common shares of Chicago Title and Trust Company as to which an acceptance of the exchange offer has been properly made on or before October 31, 1969.

SUBSIDIARY—continued from page 5

services," comments O'Connor. "Most clients don't need the full range of services, so we provide only what the client requires—in effect, furnishing a customized service, tailored to his specific needs. That way, we can keep the cost down to an absolute minimum."

Besides the main storage area, a client room is made available to RCC customers when they need a convenient office area to check their records or make them available for inspection by a member of a public regulatory agency, such as an insurance examiner. In such instances the records can be brought to the client room for an audit. After the review is completed, they are returned to the storage area by RCC personnel.

Record Center Corporation offers Chicago-based companies and institutions an excellent combination of low-cost, convenient professional record storage services and other significant cost-saving opportunities. RCC supplies the staff, the system, and the supervision, and the client also is provided with storage equipment, such as boxes, shelving, lighting fixtures, files, guides and accessories.

Through efficient use of space, RCC can frequently save more than half the client's current space cost of storing records in his own office. And, because of the way a record center operates, the records probably are safer from fire, loss, misfiling, or unauthorized disclosure of information at RCC than they are on the client's own premises. If record accumulation is a problem, Record Center Corporation is designed to solve it.

WHAT'S IT—continued from page 8

idge said, "If you don't say anything, you won't be called on to repeat it."

O'CONNELL: James Russell Lowell said, "Blessed are they who have nothing to say and can be persuaded to say it."

HOGAN: Oscar Wilde said, "He knew the precise psychological moment when to say nothing."

O'CONNELL: I don't and you don't but my watch does, and this is it.

STATE LAW—continued from page 4

which visits the consequence upon him for his failure to do what it permits and requires him to do. There is no such exaction made of one who holds a title which cannot be registered."

In *East Texas Land Co., vs. Shelby* 41 S.W. 542 the court said the law has not required any landowner to do any of these things as a means of giving notice of his title to others.

In *Bryan vs. Ross* 214 S.W. 524 the court said, "The defense of innocent purchaser of the legal paper title is not available against the owner of title by limitation."

In *Bowles vs. Bryan* 247 S.W. 279 the Supreme Court of Texas held that an innocent purchaser is not entitled to protection against a title acquired by limitation, referring to the opinion by Judge Williams, then of the Galveston Court of Civil Appeals, in the case of *MacGregor vs. Thompson* 7 Tex Civ App 32, 26 S.W. 649,

"and his opinion is so convincing in its reasoning that we have copy from it as follows:

> 'In *Marshburn vs. Stewart* 295 S.W. 672, 688, it was said, "It is the law of this state that one cannot be an innocent purchaser against a title acquired by limitation." '"

See also *Kinney vs. Johnson* 135 S.W.(2) 773.

In *Ridgeway vs. Holliday* 59 Mo. 444, 454 the Supreme Court of Missouri said: "But it is contended by the defendant that he is a *purchaser for value* from Voteau who appeared from the record to be the owner, and was in possession, *without any notice of the prior adverse possession which passed title to Ridgeway*, or of any claim on his part to the premises; and that as against him, the defendant Ridgeway, cannot assert his title; that to permit him to do so would be giving to an adverse possession greater force and efficacy than is given to an unrecorded conveyance. These objections, it must be admitted, are very forcible. The registry act, however, cannot, in the nature of things, apply to a transfer of the legal title by adverse possession, and such title does not stand on the footing of one acquired and held by an unrecorded deed, and of such title, the purchaser may not expect to find any evidence in the records."

In *Scholl vs Williams* 35 Pa. 191, 204 the Supreme Court of Pennsylvania said: "Titles matured under the statute of limitations are not within the recording acts. However expedient it might be to require some public record of such titles to be kept, and however inconvenient it may be to purchasers to ascertain what titles of that sort are outstanding, *still we have not as yet any legislation on the subject*, and it is not competent for judicial decision to force upon them the consequences drawn from the recording acts. Those acts relate exclusively to written titles. Possessory titles have always been favorites of Pennsylvania legislation, and it would ill become the judiciary to clog them with conditions and disabilities, which the law making power has not prescribed, nor even suggested."

In *Folsom vs. Simshauser* 130 Ill. 649, 22 N.E. 835, the Supreme Court of Illinois held that after title by adverse possession had ripened the former owner cannot by taking possession and conveying to an *innocent purchaser for value* pass to the purchaser a good title.

In *Fairley vs. Howell* 159 Miss. 668, 131 So. 109 and *Lowi vs. David* 134 Miss. 296, 98 So. 284 it was held that *an innocent purchaser for value* without notice was not protected against a title by adverse possession.

In *Roysdon vs. Terry* 4 Tenn. App. 638 it was held that after adverse possession had ripened into title, the original owner cannot, by taking possession and conveying the land, or by conveying while the claimant is not in actual possession, to a bona fide purchaser, convey to the latter any title which could be enforced against or affect the title acquired by adverse possession. It was further held that the provision (Shan. Code Sect. 3749-3752) that deeds shall be notice to all the world in order of noting for registration does not give to a bona fide purchaser without notice any priority of title over one who has acquired title by adverse possession prior to the enactment of Chapter 38 Acts of 1895 requiring registration of assurances of title. It refers only to priority among parties claiming under written instruments."

In *Mugaas vs. Smith* 33 Wash. (2) 429, 206 P (2) 332, it was held that neither the recording statute nor the statute to protect innocent purchasers of real estate protect the purchaser of real property against one holding title to property by adverse possession.

In *Arkansas Fuel Co. vs. Weber* 149 S. (2) 101, writ Ref. 151 S. (2) 493, 244 La. 205 (judgment of the court correct), the court stated:

> "Proceeding to what we regard as the more serious defense asserted by the Hunter defendants, that is, the plea of ten years acquisition by prescription, we note, first, that such a plea is appropriate and has been considered by our jurisprudence to detract from the principle of *McDuffie vs. Walker*. In other words, the right of a purchaser to rely on the public records is qualified by the right of an adverse claimant to assert ownership acquired by prescription" (see *Bernstine vs. Leeper* 118 La. 1098, 43 S. 889).

In South Carolina there is a long line of decisions going back to the earliest days of its statehood holding that adverse possession for 20 years gives rise to a presumption of a grant; and the title based upon such adverse possession and presumption is a legal title. In *Kirton vs. Howard* 137 S.C. 11, 134 S.E. 859 (following *Sweatman vs. Edmunds* 28 S.C. 58, 5 S.E. 165) it was held that a defense of innocent purchaser was a purely equitable defense which could not be interposed against a legal title.

I have found no decision of an appellate court in any state holding that the defense of innocent purchaser is available against title by adverse possession.

I suggest that a study be made of the law of each of the 50 states, and the District of Columbia, with a view to fostering legislation in each jurisdiction to correct these deficiencies of the records. A simple means of correction would be an amendment to the statute which makes deeds and

Transamerica Title Acquires Fidelity Title

Transamerica Title Insurance Company has announced the acquisition of Fidelity Title Company of Placer County, Calif.

Fidelity was a privately-owned company with offices in Roseville, Tahoe City, and Auburn. The acquisition takes Transamerica Title California market coverage all the way to the Nevada border.

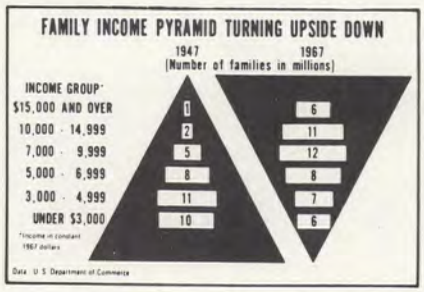
Transamerica Title recently entered Nevada with its first office in Reno.

other instruments in writing *void* as to a subsequent purchaser for value without notice, also void in respect to title by adverse possession as to such purchasers unless there is already recorded, or after the title by adverse possession matures there is recorded, in the deed records an affidavit or other instrument giving evidence of the existence of the possessory title or claim. It is within the power of the possessor to do this; but, there is no practical way that a bona fide purchaser can protect himself beyond an examination of the county records and an examination of the possession, if any, of the land itself. And, if the possessor has died or gone out of possession, there is no protection available to the purchaser.

HISTORY—continued from page 11

parcel bought and added to it by Smith, had in 1643 or 1644, when the Book of Possessions was compiled, constituted one parcel, which was then the "possession" of one "Madid Engle," who subsequently, in 1660, under the name of "Mauditt Engles," conveyed it to John Vergoose, on the express condition that no building should ever be erected on a certain portion of the rear of the premises conveyed. Now it had so happened that this portion of these premises had never been built upon before the great fire, but Mr. Smith's new buildings had covered the whole of the forbidden ground. It was evident, then, that the condition had been broken; that the breach had occurred so recently that the right to enforce a forfeiture was not barred by the statute; and could not be deemed to have been waived by any neglect or delay; and that consequently, under the decision in *Grey vs. Blanchard*, 8 Pick., 284, a forfeiture of the estate for breach of this condition could now be enforced if the true parties entitled by descent and residuary devises under the original "Engle" or "Engles" could only be found. It occurred to Mr. Ingalls, however, that this name, "Engles", bore a certain similarity in sound to his own; and as he had heard that during the early years after the settlement of this country, great changes in the spelling of names had been brought about, he instituted an inquiry into his own genealogy, the result of which was, in brief, that he found he could prove himself to be the identical person entitled, as heir of Madid Engle, to enforce, for breach of the condition in the old deed of 1660, the forfeiture of the estate now in the possession of John Smith. When Mr. Smith heard of these facts, he felt that a retributive Nemesis was pursuing him. He lost the usual pluck and bull-dog determination with which he had been accustomed to fight at the law all claims against him, whether just or unjust. He consulted the spirits; and they rapped out the answer that he must make the best settlement he could with Mr. Ingalls, or he would infallibly lose all his fine estate—not only that part which Mr. Ingalls had originally held, and which he had obtained for almost nothing from the heirs of Benjamin Parsons—but also the adjoining parcel, for which he had paid its full value, together with the elegant building which he had erected at a cost exceeding the whole value of the land. Mr. Smith believed in the spirits; they had made a lucky guess once in answering an inquiry from him; he was getting old; he had worked like a steam engine during a long and busy life, but now his health and his digestion were giving out; and when the news of Mr. Ingalls' claim reached his ears, he became, in a word, demoralized. He instructed his lawyer to make the best settlement of the matter that he could, and a settlement was soon effected by which the whole of Mr. Smith's parcel

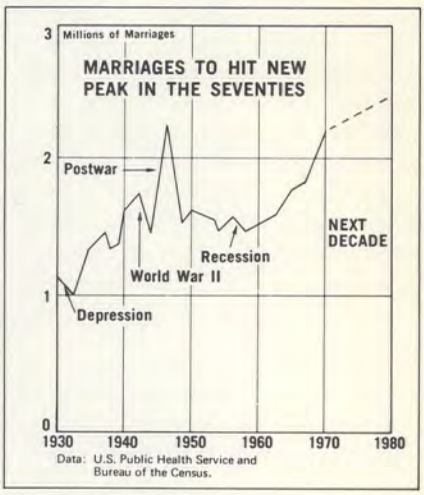
It's your ECONOMY



By **Carl H. Madden,** Chief Economist
Chamber of Commerce
of the United States

ASCENDING THE INCOME SCALE— Climbing the income ladder is an economic goal for most Americans. Twenty years ago the largest number of families were on the first two rungs (under $5,000 a year). Today the largest concentration is on the fourth and fifth rungs ($7,000-$14,999). The proportions at the lowest rungs have fallen and those at the top of the ladder have risen. Of the many factors responsible, the most important are high-level employment and an increase in the proportion of working wives. If present trends continue, the traditional income "pryamid" could be turned upside down.

It's your ECONOMY



By **Carl H. Madden,** Chief Economist
Chamber of Commerce
of the United States

MARRIAGE BOOM SPURS BUSINESS— After slumping from an all-time peak of 2.3 million in 1946, U.S. marriages have been rising since 1958. They are expected to set a new high over the next decade, when the post World War II bumper crop of babies will reach marriageable age. This year there will be about 2.1 million marriages. A rise in marriages stimulates the economy—immediately by boosting demand for apartments and household furnishings; later by increasing demand for medical services as children are born, and for single family housing and other "big ticket" consumer durables, such as autos.

of land in the burnt district was conveyed to Mr. Ingalls, who gave back to Mr. Smith a mortgage for the whole amount which the latter had expended in the erection of his building; together with what he had paid for the parcel added by him to the original lot. Mr. Smith, not liking to have anything to remind him of his one unfortunate speculation, soon sold and assigned this mortgage to the Massachusetts Hospital Life Insurance Company; and as the well known counsel of that institution has now examined and passed the title, we may presume that there are in it no more flaws remaining to be discovered.

In conclusion, we may say that Mr. William Ingalls, after having been for some 10 years a reviler of the law, especially of that portion of it which relates to the title of real estate, is now inclined to look more complacently upon it, being again in undisturbed and undisputed possession of his old estate, now worth much more than before, and in the receipt therefrom of an ample income which will enable him to pass the remainder of his days in comfort, if not in luxury. But, though Mr. Ingalls is content with the final result of the history of his title, those lawyers who are known as "conveyancers" are by no means happy when they contemplate that history, for it has tended to impress upon them how full of pitfalls is the ground upon which they are accustomed to tread, and how extensive is the knowledge and how great the care required of all who travel over it; and they now look more disgusted than ever when, as so often happens, they are requested to "just step over" to the Registry and "look down" a title; and are informed that the title is a very simple one, and will only take a few minutes; and that "So-and-so, a very careful man", did it in less than half an hour last year, and found it all right, and that *his* charge was five dollars.

meeting timetable

October 9-10-11, 1969
Nebraska Title Association
Lincoln, Nebraska

October 16-17, 1969
Dixie Land Title Association
Calloway Gardens
Pine Mountain, Georgia

October 23-24, 1969
Carolinas Land Title Association
Whispering Pines Motor Lodge
Southern Pines, North Carolina

October 26-27-28, 1969
Indiana Land Title Association
Stouffer's Inn
Indianapolis, Indiana

October 30, November 1, 1969
Florida Land Title Association
Causeway Inn Resort
Tampa, Florida

October 31-November 1, 1969
Land Title Association of Arizona
Francisco Grande Hotel
Casa Grande, Arizona

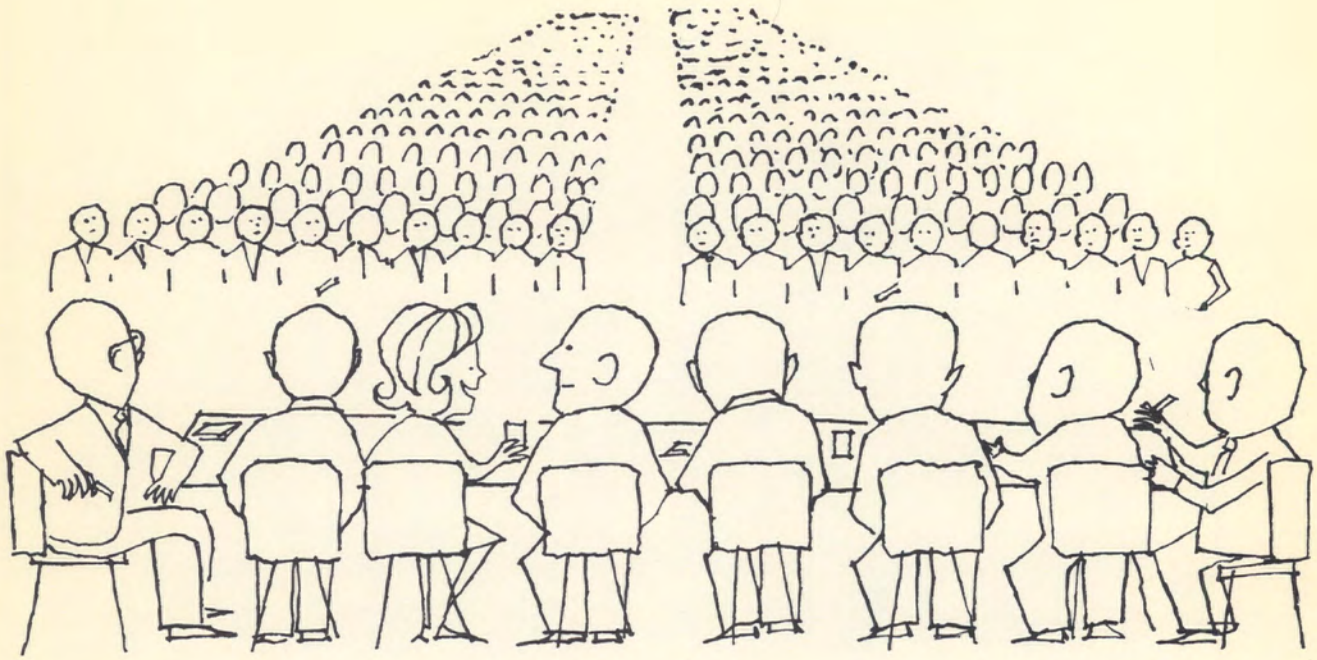
October 30-November 1, 1969
Wisconsin Land Title Association
Holiday Inn
Eau Claire, Wisconsin

December 3, 1969
Louisiana Land Title Association
Royal Orleans Hotel
New Orleans, Louisiana

1970

April 1-2-3, 1970
MID-WINTER CONFERENCE
American Land Title Association
The Roosevelt Hotel
New Orleans, Louisiana

October 14-15-16-17, 1970
ANNUAL CONVENTION
American Land Title Association
Waldorf-Astoria Hotel
New York, New York



"How long can we go on seeing each other like this?"

How long can ALTA members go on seeing each other at the Annual Convention? Indefinitely, we hope.

As you've probably heard, this year's gathering at Haddon Hall in Atlantic City, September 28 to October 1, was a smashing success. The state associations were well represented, and most came away with a finer understanding of the position, problems and goals of the title insurance industry.

We want to express our personal appreciation to all those who participated in this beneficial get-together. And we hope we can go on seeing each other like this . . . indefinitely!

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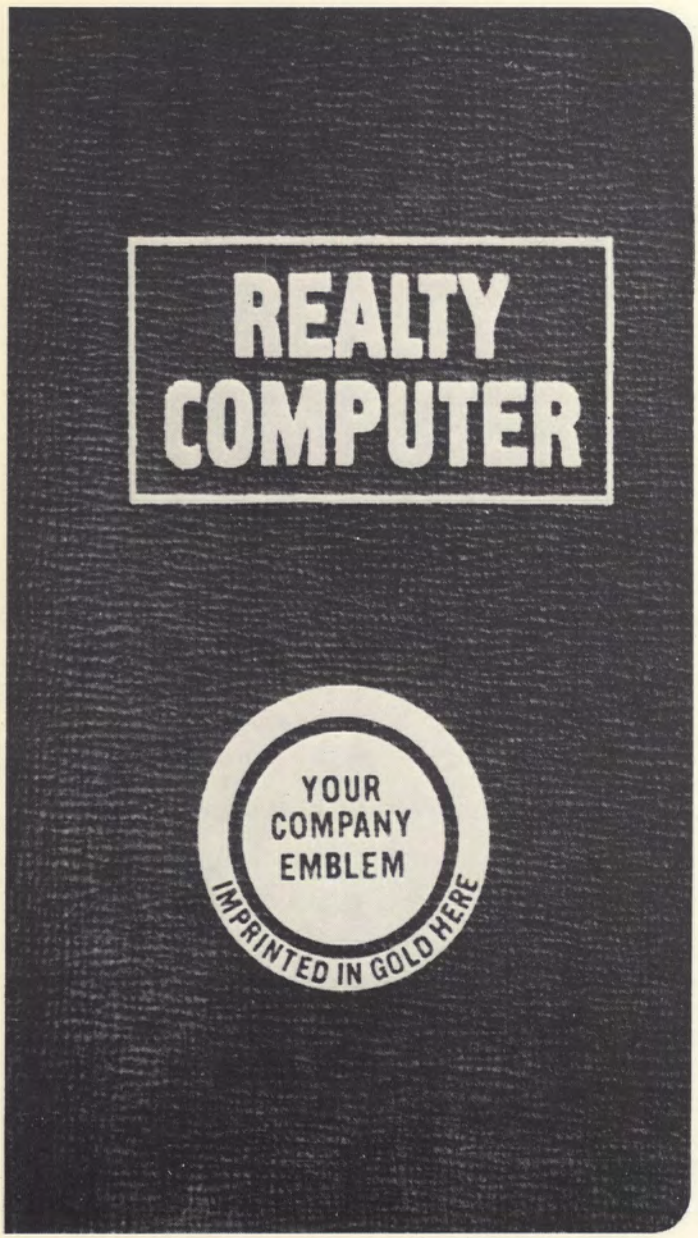

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