

Title News

the official publication of the American Land Title Association



1969-70 Executive Committee

November, 1969



President's Message

NOVEMBER, 1969

Yes sir, it could well be a rough year!

As we all pause at the end of this one and gather our strength for the next, the Washington staff has come up with an excellent project that I heartily endorse and which will start this winter.

It is called "Operation Grassroots" and is designed to give the staff an indication of the needs of the abstractors and trends in their business. This will be accomplished by visits to individual abstractors' offices in various states. An accumulation of written reports of these visits will be a useful review of abstracting as it exists in much of the nation.

Planned structuring of the visits is as follows:

1. Presenting an outline of ALTA services and literature now available to abstractors.
2. Asking the abstractor for his opinion about areas where ALTA programs and services can be strengthened for his benefit.
3. Asking the abstractor for basic, non-confidential information on his business over the past five years. Questions are to cover percentage increase or decrease in gross income, expense, and profit; errors and omissions insurance; increases in service charges; business relationship with land title underwriters; employee benefits including workmen's compensation and ALTA Group Insurance; improvement in plant, equipment, and systems; and diversification of business activity.
4. Discussion that might suggest editorial ideas for *Title News* articles.

Since this operation is to start this winter and entails much travel by car, the staff is not going to be so stupid as to begin in Wisconsin, Minnesota, or North Dakota. No sir! They are going to start in some warm climate!

The Research Committee also is going to start on some statistics-gathering from the abstractors. We know no more about the abstracting end of the industry than the insurance end. The gathering of research material about title insurance companies is of paramount importance at this time for obvious reasons and the Committee is very busy with that project, but soon will start on the abstractors side of the ledger.

When they approach you, please give generously of your time and ideas in reply to them.

Sincerely,

Thomas J. Holstein

Title News

the official publication of the American Land Title Association

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LaCrosse County Title Company
LaCrosse, Wisconsin

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ON THE COVER: Members of the 1969-70 ALTA Executive Committee enjoy a relaxed moment after being installed in office October 1 during the 1969 Annual Convention at Atlantic City. From left are Tom Holstein, president of LaCrosse (Wis.) County Title Company, president; John Warren, vice president of Albright Title and Trust Company, Newkirk, Okla., chairman of the Abstracters and Title Insurance Agents Section; Al Long, president of Chicago Title and Trust Company, vice president; Jim Hickman, executive vice president of Transamerica Title Insurance Company, Midwest Division, Denver, chairman of the Title Insurance and Underwriters Section; Hale Warn, president of Title Insurance and Trust Company, Los Angeles, finance committee chairman; and Jim Schmidt, president of Commonwealth Land Title Insurance Company, Philadelphia, treasurer. Gordon Burlingame, chairman of the board of The Title Insurance Corporation of Pennsylvania, Bryn Mawr, Pa., immediate past president, was unable to be present for this picture.

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GARY L. GARRITY, Editor

The next six months are the crucial ones in the life of the Public Land Law Review Commission. Most of the Commission's initial, though tentative, decisions regarding recommendations for the nation's future public land policy must be made this year, for the final report to Congress and the President is due on June 30, 1970. Allowing for printing time, less than four months of "work time" for final decisions will be available to the review body in 1970.

Anticipating this decision-making year, the Commission staff scheduled its study contracts and in-house studies during the past three years so as to ensure the completion of most of our studies during 1969.

A review of the Commission's progress since it was created in 1964 will be helpful in understanding the development of this study program and the current status of the work.

The Act establishing the Public Land Law Review Commission became law September 19, 1964, directing the Commission to study all of the laws, regulations, policies, and practices pertaining to the retention, management, and disposition of the public lands. Under terms of the Act, the Commission must recommend disposal and retention policies that will enable the general public to realize the maximum benefit from its public lands, which comprise one-third of the nation. The reporting date was set for December 31, 1968, but this was changed by a 1967 act granting the Commission an extension of time and funds.

The Commission held its organizational meeting July 14, 1965, electing Representative Wayne N. Aspinall (D-Colo.) as chairman, H. Byron Mock of Salt Lake City, Utah as vice chairman, and the author as staff director.

The Commission charged the director with the responsibility of assembling a staff of technicians and formulating and pursuing a research program to the extent that might be necessary to provide it with all of the legal background and factual data required. Realizing that it would be virtually impossible to obtain services



A Time for Important Public Land Decisions

*Milton A. Pearl, Director
Public Land Law Review Commission*

of all of the various types of specialists that we might need and that it would be efficient not to build a large staff, we concentrated on obtaining the services of highly specialized attorneys and others such as foresters, mining engineers, economists, and wildlife and range specialists to serve on the staff—with the bulk of our research to be accomplished under contract with individuals, universities, and consulting firms.

At a meeting August 18, 1965, the Commission named 25 persons from the non-federal sector to its Advisory Council. At the same time, in response to an invitation from the chairman, the Secretaries of the Interior, Agriculture and Defense, the Attorney General, the administrator of General Services, the chairman of the Atomic Energy Commission, the chairman of the Federal Power Commission, and the administrator of the Housing and Home Finance Agency (now Department of Housing and Urban Development) designated liaison officers to work with the Commission and serve on the Advisory Council. More recently, the Secretary of Commerce has so designated a liaison officer. The chairman also invited the state governors to designate representatives to work with the Commission and all 50 of them responded favorably.

The first joint meeting of the Commission with its Advisory Council was held in Washington, D.C., with the governors' representatives in attendance in March, 1966. At that time, objectives to be pursued in Commission studies and specific areas to be studied in depth were discussed and the views of these advisors received.

After consultation with the members of the Commission, the Advisory Council, governors' representatives, and specialists, on June 1, 1966, we completed a program paper providing a blueprint for the objective, functions, and operations of the Public Land Law Review Commission. This program paper was transmitted to the chairman of the House Committee on Interior and Insular Affairs and published as a Committee print for the

information of the Committee members.¹

All people interested in the retention and management or disposition of the public lands were asked to submit their views, even though the groups to which they belonged were represented on the Advisory Council. In an effort to obtain the widest possible input and insights from those who had actual experience on the public lands and could not come to Washington, it was decided to go to them. On June 7, 1966, the first of a series of public meetings was held for the purpose of hearing views from anyone who cared to appear and present views on public land matters. This was the first of a series that took the Commission into 10 regions of the country: north into Alaska above the Arctic Circle, south to New Orleans, and on both the Atlantic and Pacific coasts. By the end of the final meeting in Washington, D.C., on January 11 and 12, 1968, testimony from more than 900 witnesses had been heard by the Commission.

During the summer of 1966, we also embarked on the first parts of our research program, which resulted in the publication of two volumes that are fundamental to our work and to that of individuals and organizations concerned with the recommendations to be made by the Public Land Law Review Commission. These volumes are a *Digest of Public Land Laws*, prepared under contract for us by Shepard's Citations, Inc., and a *History of Public Land Law Development*, prepared by Professor Paul Wallace Gates of Cornell University with a chapter by Professor Robert W. Swenson of the University of Utah.²

At a meeting of the Advisory Council on November 10, 1966, we identified 25 subjects for intensive study and concerning which manuscripts would be prepared. This listing of 25 subjects had grown as we

had examined the scope of the work for which we were responsible. They were:³

- Digest of Public Land Laws
- History of Public Land Law Development
- Projections of the Consumption of Commodities Producing on the Public Lands of the United States, 1980-2000
- Revenue Sharing and Payments in Lieu of Taxes
- Withdrawals and Reservations of Public Domain Lands
- Outer Continental Shelf Lands of the United States
- Administrative Procedures and the Public Lands
- Fish and Wildlife Resources on the Public Lands
- Federal Land Laws and Policies in Alaska
- Development, Management, and Use of Water Resources on the Public Lands
- Federal Legislative Jurisdiction
- Land Grants to States
- Impact of Public Lands on Selected Regional Economies
- Federal Public Land Laws and Policies Relating to Intensive Agriculture
- Public Land Timber Policy
- Forage Resource of the Public Lands
- Noneconomic Impacts of Public Lands⁴
- Regional and Local Land Use Planning
- Trespass and Unauthorized Use of the Public Lands
- Nonfuel Minerals
- Energy Fuel Minerals
 - Federal Competitive and Non-competitive Oil and Gas Leasing Systems
 - Oil Shale on Public Lands
 - Coal resources on Public Lands
 - Geothermal Steam Resources of the Public Lands
- Outdoor Recreation Use of the

¹ Committee Print No. 21, 89th Congress, 2d Session, June 3, 1966.

² These publications are available from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402, at \$6.50 and \$8.25, respectively.

³ Design of specifics for some of these studies had already been undertaken and research work was being accomplished in connection with others.

⁴ More recently, having determined that noneconomic impacts are all identifiable in the broad scope of environmental and ecological factors, we have decided to consolidate the two subjects into one manuscript.

Public Lands
 Criteria to Judge Facts to Determine Maximum Benefit for the General Public
 Federal Public Land Laws and Policies Relating to Use and Occupancy
 User Fees and Charges for Public Lands and Resources
 Organization, Administration, and Budgetary Policy
 Appraisal Techniques and Procedures Utilized in Connection with Actions Related to Federal Public Lands
 Demand on Public Lands
 State Land Policies

After further review of our work, we found it necessary to add to the research program the following subjects concerning which we proposed to also prepare manuscripts or have

them prepared by contractors under our supervision:

Inventory Information on Public Lands
 Land Acquisitions and Exchanges
 Disposal Techniques and Procedures
 Environmental and Ecological Factors to be Considered in All Uses of the Public Lands
 Adjustment of Use Rights
 Federal Public Land Laws and Policies Relating to Multiple Use on Public Lands

Some of the subjects have been divided so that more than one contractor was or is involved. The legal and resource portions of both non-fuel minerals and intensive agriculture each were accomplished under two separate contracts; and our re-

view of the energy fuels study is separated into five segments: (1) resource portion, (2) legal study of coal, (3) legal study of oil and gas leasing, (4) legal study of oil shale, and (5) legal study of geothermal steam.

Based on our own evaluation of the scope and program and considering the fact that the work of the Commission had started approximately a year behind schedule, we recommended an amendment of the act creating the Commission in order to provide additional time and money.

On December 18, 1967, the Commission was granted an 18-month extension of its reporting date to June 30, 1970, and an increase from \$4 million to \$7.39 million appropriations was authorized to complete its full study program.

This was the first timetable and money estimate made by the Commission, the earlier schedules of time and money having been established before the Commission was created. The Congress having responded to the Commission request, we will submit our report by the date set by statute and within the limit of appropriations authorized to be made.

In the meantime, the research program had been proceeding and by fall of 1968 we received our first contractor manuscript. On November 8, 1968, the Commission, for the first time, met with its Advisory Council and governors' representatives to review specific subject matter covering reports. At that meeting, the Revenue Sharing and Payments in Lieu of Taxes and Withdrawals and Reservations subjects were discussed. The publication of the *History of Public Land Law Development*, referred to above, was announced at the same time.

Arrangements have been completed to have all manuscripts, whether prepared by staff or by a contractor, published and offered for sale by the Clearinghouse for Federal Scientific and Technical Information of the Department of Commerce. Pending publication, access to the manuscripts may be had either at the Com-

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Members, Public Land Law Review Commission

CHAIRMAN: Honorable Wayne N. Aspinall

APPOINTED BY THE PRESIDENT OF THE UNITED STATES:

Laurance S. Rockefeller, New York City, New York
 Philip Hoff, Burlington, Vermont
 H. Byron Mock, Salt Lake City, Utah (Vice Chairman)
 Robert Emmet Clark, Tucson, Arizona
 Dr. Maurice K. Goddard, Harrisburg, Pennsylvania
 Mrs. Nancy E. Smith, San Bernardino, California

APPOINTED BY THE PRESIDENT OF THE SENATE:

Henry M. Jackson, Senator from Washington
 Clinton P. Anderson, Senator from New Mexico
 Alan Bible, Senator from Nevada
 Gordon Allott, Senator from Colorado
 Len B. Jordan, Senator from Idaho
 Paul J. Fannin, Senator from Arizona

APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

Walter S. Baring, Representative from Nevada
 Roy A. Taylor, Representative from North Carolina
 Morris K. Udall, Representative from Arizona
 John P. Saylor, Representative from Pennsylvania
 Laurence J. Burton, Representative from Utah
 John Kyl, Representative from Iowa

DIRECTOR:

Milton A. Pearl

American Banker Article Details Land Title Industry Philosophy

(Editor's note: One of the nation's most prestigious financial trade publications recently carried an ALTA article that concisely states the land title industry operating philosophy. The article appeared in the September 29 edition of *American Banker* under the byline of William J. McAuliffe, Jr., ALTA executive vice president. It reads as follows.)

* * *

Since the first title insurance policy was issued in Philadelphia in 1876, it has been the nature of the land title industry to strongly emphasize the cure of title defects in its underwriting. The allocation of a substantial share of premium income to title investigation is, in the opinion of titlemen, largely responsible for the excellent security of titles and liquidity that are generally available to real estate investors and mortgage lenders. However, this peculiar method of operation also leads to one of the land industry's major problems—public misunderstanding.

Typically, the problem of being misunderstood begins when a politician or journalist "discovers" the low loss ratios that title companies strive to maintain as a measure of success in their work to maintain title security. Strong charges in news media often follow, with casualty-insurance-oriented allegations that title insurance is a "low-risk" business characterized

by overcharges for its premiums. Then it becomes the task of land title industry members to patiently attempt education of their accusers in the vast differences between land title insurance and auto and casualty insurance. Thus far, such educational efforts have been somewhat successful. These efforts have been made because of concern that public misunderstanding might some day lead to unwise regulation—and lower quality title services to real estate investors and lenders.

The significance of land title work can be seen in the growing insistence of real estate investors and lenders in prompt assurance of a good and marketable title and on financial protection against loss from unforeseen title defects. Title companies respond to this need with the capability to quickly and efficiently search many separately-located public records for title defects that could cause financial loss, and with the subsequent issue of title insurance to safeguard against loss from title defects even a thorough search cannot reveal.

Two types of title insurance exist: owner's and lender's coverage. Owner's insurance will pay claims against a title as insured and pay for defense of the title—in an amount up to the full value of the policy, which usually is equal to the purchase price of the real estate. Lender's insurance of-

fers similar coverage equal to the amount of the mortgage. If owner's insurance is obtained at the same time lender's insurance is purchased, the additional cost normally is small. Title insurance is available for a single premium with never a renewal, and the coverage continues as long as the purchaser or his heirs remain in ownership. This one-time premium is modest in comparison with the total of charges generally regarded as real estate closing costs.

It has been said that public misunderstanding might be less if title insurance were not known as insurance at all—but rather as a service with a warranty. Such a delineation would not be contrary to the origins of the land title industry, which began as an adjunct to banking or mortgage service—with emphasis on title investigation rather than title underwriting. Others have pointed out that a title company would no more insure a title known to be seriously defective than a fire loss underwriter would insure a burning building.

As has been suggested earlier, much of the difficulty in understanding the land title industry seems to stem from confusion of its operating philosophy with the risk assumption principles of auto and casualty insurance. When the amount of time and money spent in land title search and investigation

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Morton McDonald, Chairman
ALTA Group Insurance Trust

ALTA Group Insurance Grows

A wider selection of life and medical benefits and financial savings to participants have been announced by the ALTA Group Insurance Trust as it moves into its twelfth year of operation.

Since its inception in 1958, the insurance program has paid out more than half a million dollars in claims to ALTA member companies and their employees.

These important developments were reported by the program's trustees at a recent meeting in Washington, D.C.:

—Beginning in January, 1970, a

higher optional schedule of life insurance; amounts of individual coverage will span between \$4,000 and \$40,000. The upper limit nearly doubles the top amount of insurance previously available under the program. Premiums remain at the same low group rate.

—Beginning in January, 1970, a new option for employer selection in medical coverage that is designed to better keep pace with escalating costs of health care. The option includes an increased amount of coverage for hospital room and board to \$45 a day, plus \$900 for other

expenses under the basic plan, even before major medical coverage is utilized. The importance of the plan's increased health insurance coverage is illustrated by figures that show hospital costs up 122 per cent, and medical costs in general up 45 per cent, in the past 10 years. Since its introduction in April, 1968, the program's medical plan has attracted growing interest among title companies.

—An announcement by the program's life underwriter, John Hancock Mutual Life Insurance Company,

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Trustees of the American Land Title Association Group Insurance Trust review activities of a busy year. They are, from left, Robert M. Beardsley, Douglas County Title Company, Roseburg, Ore.; William

J. McAuliffe, Jr., ALTA executive vice president; Morton McDonald (chairman), The Abstract Corporation, De Land, Fla.; and Richard E. Fox, Chicago Title Insurance Company.

association corner

state



Attendance Record Set in Minnesota

Attendance at Minnesota Land Title Association's 1969 Annual Convention in Duluth August 21-23 was the largest in MLTA history according to A. L. Winczewski, association secretary.

Speakers featured on the convention program were Tom Holstein, then ALTA vice president and current ALTA president; John Connelly, Title Insurance Company of Minnesota; Robert Babich, Northeastern Minnesota Development Association; and Carlton Crosley, Midwest Land

Title Group Insurance Trust. Gerald Gordon, president, North Dakota Land Title Association, was among the distinguished guests.

Officers for 1969-70 elected at the convention are K. B. Skurdal, Anoka Abstract & Title Guarantee Co., Inc., president; P. R. Welshons, Dakota County Abstract Co., vice president; Winczewski, Winona County Abstract Company, Inc., re-elected secretary-

treasurer; and J. F. Machacek, Title Insurance Company of Minnesota, elected to a three-year term on the board of directors.

Nevada Association Meets with Realtors

The Nevada Land Title Association held its 1969 Annual Convention in conjunction with the Annual Convention of the Nevada Association of Realtors in Reno September 12-14. Titlemen were among the featured program participants.

Gordon M. Burlingame, The Title Insurance Corporation of Pennsylvania, and 1968-69 ALTA president, and Don E. Dixon, Lincoln, Neb., chairman of the National Association of Real Estate Boards Washington committee, addressed a morning general session. Robert Kratovil, vice president, Chicago Title and Trust Company, spoke at a luncheon, discussing recent decisions affecting real

Estes to Helm of Wyoming Association

Vern Estes, Big Horn Land Title Co., Basin, Wyo., has been elected president of the Wyoming Land Title Association, according to Frances Rossman, Weston County Abstract

& Title Co., Newcastle, Wyo., who was elected vice president.

Kenneth A. Araas, Wyoming Land Title Company, Green River, Wyo., was elected secretary-treasurer.



Scenes from the Minnesota Land Title Association 1969 Annual Convention find Tom Holstein, then ALTA vice president and current ALTA president, going over his speech at left. A distinguished group of MLTA officers is at center. They are, from left, N. E. Marstad, past

president; J. F. Machacek, director; K. B. Skurdal, president; F. L. Dahlgren, director; E. R. Dreas, director; P. R. Welshons, vice president; and A. L. Winczewski, secretary-treasurer. At right, newly elected MLTA president Skurdal, left, receives the "Cutter" memorial gavel and congratulations from outgoing president Marstad.

estate. Roy Drachman of Tucson, a NAREB vice president, was a round table discussion speaker.

Robert C. Bowers, secretary-treasurer of the Nevada Association of Realtors, moderated a panel discus-

sion of truth in lending regulation. The panel was made up of four Reno title professionals: Harry Paulsen, Nevada Title Guaranty Company; George Vicarai, Title Insurance and Trust Company; Alan Brunet, First

Commercial Title, Inc.; and Sebie Consolino, Transamerica Title Insurance Co.

Emerson Wilson, Nevada Title Guaranty Company, Reno, and 1968-69 NLTA president, moderated another all-Reno panel of title professionals, who discussed title insurance. Panelists were Bob Hall, Title Insurance and Trust Company; Tommy Thomas, Nevada Title Guaranty Company; Richard Stark, Lawyers Title Insurance Corporation; and Pat Cimijotti, First Commercial Title, Inc.

A third all-Reno panel of title professionals discussed escrows. Moderator was Joe Allison of Lawyers Title Insurance Corporation, and panelists were Brunet; Dale Rohl and Ron Bridge of Title Insurance and Trust Company; and Rachel Osborne of Transamerica Title Insurance Co.

Lt. Gov. Ed Fike of Nevada also was a featured speaker at the convention.

NLTA officers for 1969-70 who were elected at the meeting include C. H. Bouchard, Lawyers Title of Las Vegas, Inc., president; Allison, first vice president; Robert S. DeLangie, First Title Insurance Company, Las Vegas, second vice president; and Hall, secretary-treasurer.



Memorable moments from the 1969 Awards Dinner of the District of Columbia & Metropolitan Area Land Title Association are captured in the accompanying photographs. Michael Roll, left, mayor of District Heights, Md., and brother of the late Anthony W. Roll, who spent many years with Lawyers Title Insurance Corporation before his death last year, presents the first annual Anthony W. Roll Award to Walfred V. Maki of Lawyers Title, right. Ralph Smith, of Commonwealth Land Title Company, chairman of the D. C. Association Awards Committee, is at center. Also pictured is Hubert A. Mitchell of Columbia Real Estate Title Insurance Company, second from left, who is congratulated by William J. McAuliffe, Jr., ALTA executive vice president, following his installation as 1969-70 D. C. Association president. Other D. C. Association officers installed at the affair are, from left, Bernard E. Roache of Lawyers Title, treasurer; Frank W. Marsalek, Shenandoah Land Title Corporation, secretary; and Smith, who is now vice president.

D.C. Group Elects Mitchell President

Hubert A. Mitchell of Columbia Real Estate Title Insurance Company was installed as 1969-70 president of the District of Columbia & Metropolitan Area Land Title Association during its first annual Awards Dinner September 20.

(One of President Mitchell's first official acts was to foster a proposal to change the Association name from D.C. Land Title Association to the above listed designation. Members subsequently approved the change, designed to expand the Association's scope to the surrounding metropolitan area.)

Other officers installed are Ralph C. Smith of Commonwealth Land Title Company, vice president; Frank W. Marsalek of Shenandoah Land

Title Corporation, secretary; and Bernard E. Roache of Lawyers Title Insurance Corporation, treasurer.

A highlight of the affair was presentation of the first annual Anthony M. Roll Award, named in honor of a distinguished titleman who died last year after many years of service with Lawyers Title. The 1969 award went to Walfred V. Maki of Lawyers Title, and was presented by Michael Roll, mayor of District Heights, Md., and brother of the late Anthony Roll.

In announcing the award recipient, Smith, chairman of the D.C. Association's Awards Committee, cited Maki's contributions as "co-author of the District of Columbia Condominium Statute; who brilliantly resolved the obstacles in pending legislation to eliminate racial restrictions in the District of Columbia; who regularly works out practical underwriting solutions to problems threatening completion of real estate transactions; and who walks and works in the footsteps of Anthony Roll."

Gordon M. Burlingame, chairman of the board of The Title Insurance Corporation of Pennsylvania, Bryn Mawr, Pa., and 1968-69 ALTA president, and William J. McAuliffe, Jr., ALTA executive vice president, were among the guests. Burlingame out-

lined the challenges of the 1970's for the land title industry in a speech, and McAuliffe officiated at the installation of officers ceremony.

Gillund Receives ND Abstracter Award

The Annual Meeting of the North Dakota Title Association was held September 12-13 at the Plainsman Hotel, Williston, N.D., preceded by an Abstracter's School, September 11. Approximately 150 abstracters, representing 50 companies, and other

personnel of title companies were in attendance.

Speakers on the program included:

Leo J. Sticka, president, North Dakota Register of Deeds Association; John W. Warren, chairman, Abstracters & Title Insurance Agents Section, ALTA; the honorable Eugene J. Burdick, member of the Judicial Council which helped formulate the Uniform Commercial Code nationally; and, Willard Webster, president of a statewide firm specializing in civil engineering and land surveys.

Roy Gillund, president, Barnes Valley Abstract Co., was presented

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Pictures from the North Dakota Land Title Association Annual Meeting include a view of Roy Gillund, left, Barnes County Abstract Company, who is congratulated by Ervin Engebrecht of Wells County Abstract Company and Mrs. Dorothy Martin on his receipt of the Association Abstracter of the Year Award. In the other photograph, from left, are Gerald Gordon (NDLTA president) of LaMoure County

Abstract Company, and Mrs. Gordon; C. J. McConville, executive vice president, Title Insurance Company of Minnesota; John W. Warren (chairman, ALTA Abstracters and Title Insurance Agents Section), vice president, Albright Title and Trust Company, Newkirk, Okla.; Carl F. Elliott (NDLTA secretary), president, Security Abstract Company, and Mrs. Elliott; and A. D. MacMaster (convention chairman), Williams County Abstract Company, and Mrs. MacMaster.

names
 names in the news
 names



SNYDER



KNOUSE



FOSNOCHT



TESTA

Leroy G. Snyder has been named to the newly created position of executive vice president at Berks Title Insurance Company, Reading, Pa. He formerly was vice president and manager of the company's national department.

Other promotions at Berks include **Morris E. Knouse**, to vice president and title officer and manager of the national department; **Eugene R. Fosnocht**, to vice president and title officer; **Thomas A. Testa**, to assistant vice president of operations; **C. Wayne Keech**, to assistant title officer at the company's Lancaster, Pa., office; **Richard E. Yerger**, to assistant title officer at the Wilmington, Del., branch; **Richard R. Kerber**, to assistant title officer at the Reading headquarters

office; and **James A. Ohlinger**, to assistant secretary and treasurer.

* * *



CAVE

Pioneer National Title Insurance Company has announced that **Joe Bob Cave** has joined its Southwest Agency staff in Dallas, Tex.

* * *



GAFFNEY

Security Title Insurance Company, Los Angeles, has named **John W. Gaffney** an assistant vice president. He is corporate director of government agency sales.

* * *

A. Edmund Peterson has been elected senior vice president and sec-



PETERSON



TURNER



RUCK



CARROLL



RODERICH



SCHERER

retary and **John P. Turner** general counsel of Chicago Title and Trust Company, parent concern of Chicago Title Insurance Company. **Turner** continues as vice president and general counsel of Chicago Title Insurance Company.

The company also announced the following personnel changes:

Frank J. Ruck, named a vice president; **William J. Carroll**, named treasurer; **Hans H. Roderich**, appointed comptroller; **Robert B. Scherer**, to accounting officer and manager of specialized accounting administration; **John D. Ludwick**, who was appointed assistant personnel officer and continues as manager of the employment and placement department; and appointment of **Edward A. Fruth** as benefits officer and **Norma J. Walker** as assistant training officer.

* * *



SCHMIDT



BALLANTINE



KUNKLE

James G. Schmidt, **Thomas A. Ballantine**, and **John H. Kunkle, Jr.**, have been elected to the boards of directors of Provident National Bank and Provident National Corporation. **Schmidt** is president of Commonwealth Land Title Insurance Company. **Kunkle** is a Commonwealth vice president and president of Union Title Guaranty Company, Pittsburgh, a Commonwealth subsidiary. **Ballantine** is chairman of Louisville Title Insurance Company, also a subsidiary of Commonwealth.

* * *

William R. Gerstnecker has been elected to the board of directors of Commonwealth Land Title Insurance Company, Philadelphia. He is vice chairman of Provident National Bank and Provident National Corporation,



GERSTNECKER

which recently acquired the capital stock of Commonwealth Land Title.

* * *



RICKETTS

Allan K. Ricketts has been named executive vice president of Lauderdale Abstract and Title Co., Fort Lauderdale, Fla.

* * *



SELTZER

Arthur J. Seltzer has been elected president of Metropolitan Title Guarantee Company, New York, N.Y. **Byron L. Davis**, formerly president of the company, is now chairman of the board.

* * *

Chester C. McCullough has been named secretary of Chicago Title Insurance Company, and will continue his duties as senior vice president.

Robert T. Haines and **Jack L. Tickner** have been elected vice presidents and associate general counsels. Other promotions recently announced



McCULLOUGH



HAINES



TICKNER



TOMBLIN



ROEPER



KLODNICKI

by the company include **Frederick L. Tomblin**, to vice president and manager of the Colorado title office; **David P. Roeper**, to assistant vice president and manager of national sales coordination; and **Walter J. Klodnicki**, former manager of the Colorado title office, who returns to Chicago to assume responsibilities for a service function being organized by the company.

Title Guarantee Opens Larger Office

The Title Guarantee Company has opened new and enlarged quarters at 400 West Main Street, Riverhead, N.Y.—a community in which the company has operated since 1925.

Larry Wachter, vice president, is branch manager of the office, having held that position since 1965.

Part I: ALTA Judiciary Committee Report

(Editor's note: Members of the ALTA Judiciary Committee have submitted over 400 cases to Chairman John S. Osborn, Jr., executive vice president and general counsel, Louisville Title Insurance Company, for consideration in the preparation of the annual Judiciary Committee Report. Chairman Osborn reports that 142 cases have been chosen from this number for the report—which begins in this edition of *Title News* and which will be continued in future issues.)

* * *

ABSTRACTS OF TITLE

Brick v. Okloosa Title and Abstract Co., Inc., 404 F. 2d 889 (Fla., 1968)

This is an appeal from the judgment of the District Court dismissing count two of appellant's amended complaint because the substance of the complaint gave rise to liability in contract rather than tort and, further, dismissing the complaint upon the grounds of prescription.

It is well settled under Florida law that an action against an abstractor to recover damages for negligence in making or certifying an abstract of title does not sound in tort but must be founded on contract. *Sickler v. Indian River Abstract & Guaranty Co.*, 142 Fla. 528, 195 So. 195 (1940).

The judgment of the District Court is affirmed.

Slate v. Boone County Abstract Co., 432 S. W. 2d 305 (Mo., 1968)

Plaintiff land buyers sue defendant abstractor for negligence failure to include a utility easement in the ab-

stract. Defendant moved to dismiss because its contract was with sellers and there was no privity of contract with buyers. The trial court sustained this motion.

Held: Reversed and remanded. Plaintiffs are third party beneficiaries of the contract between defendant abstractor and the sellers and may bring this suit.

Per the court: "However, this case, *Zweigardt v. Birdseye*, 57 Mo. App. 462, conflicts with the views expressed herein and should no longer be followed in cases where the abstractor knows that the abstract is to be used in a proposed sale to advise the buyer."

ADOPTION

Schaefer v. Merchants National Bank of Cedar Rapids, 160 N W 2d 318 (Iowa, 1968)

Person claiming share of principal of trust brought action for declaratory judgment to construe will and inter vivos trust. The Linn District Court found in favor of plaintiff, and adopted adult child of beneficiary of trust appealed. The Supreme Court held that adopted adult child of beneficiary of trust was not entitled to distribution of principal of trust under provision in codicil leaving beneficiary's trust share to his "direct heirs".

Decker v. Elliott, 425 S W 2d 880 (Texas, 1968)

Ida Decker devised life estate to her daughter with remainder at daughter's death "if she has any children, then said estate shall go and belong to her child or children," but

if she died without children, the remainder should go to heirs of body of testatrix. Daughter had no children born to her but adopted a child after the death of the testatrix. Heirs at law of testatrix sued purchaser from adopted child, and recovered title. Court holds statute does not make adopted children either "issue," "heirs of the body," or natural "children" of the adoptive parents, and unless will of such third party shows clearly adopted children are intended to take, they will not.

BANKRUPTCY

In Re Braund, 289 F. Supp. 604 (Cal., 1968)

The court held that U.S. tax liens, arising from taxes which became due more than three years prior to date of bankruptcy, did not extend or attach to any property acquired or earned by bankrupt subsequent to his discharge in bankruptcy.

City of Amarillo v. Eakens, 399 F. 2d 541 (Texas, 1968)

Where, during proceeding for reorganization of a corporation under Chapter X of the Bankruptcy Act, reorganization trustees filed objections to tax claims submitted by local taxing authorities and not previously contested, bankruptcy court had jurisdiction in the matter and possessed power to make redetermination of tax claims.

In Re Air and Space Manufacturing, Inc., 394 F. 2d 900 (Ind., 1968)

Where petition was filed for reorganization of debtor under Chapter X of the Bankruptcy Act, and thereafter trustee filed a petition concluding that it would be in the best interest of all persons to liquidate real and personal property of debtor, and much of machinery of debtor was precision equipment stored in unheated building, and such storage involved considerable expense, and prompt sale thereof would avoid further deterioration of machinery, district court had power to order a sale in Chapter X proceeding.

In Re Dania Corporation, 400 F. 2d 833 (Fla., 1968)

After petition for reorganization under Chapter X of the Bankruptcy

Act had been approved, district court may exercise its discretion in ordering sale of all or a portion of assets of debtor and there is no requirement that plan for reorganization must be submitted, nor that sale be in aid of reorganization, or that it await liquidation in straight bankruptcy.

Hayes v. Schaefer, Trustee in Bankruptcy, 399 F. 2d 300 (Ky., 1968)

Husband and wife were tenants by the entireties of a Kentucky farm. The wife became bankrupt and eight months thereafter the husband died. The trustee in bankruptcy sold the farm and the bankrupt claimed that one-half of the proceeds should be paid to her; that she acquired title to her husband's interest by his death which was more than six months after the bankruptcy.

Held: The death of one tenant by the entireties does not increase the interest of the other since from the time the tenancy was created both tenants were seized of the whole; the surviving tenant by the entireties does not inherit from the co-tenant, but rather the surviving spouse takes by virtue of the deed.

In Re Moore, 288 Fed. Supp. 887 (Cal., 1968)

Bankrupt owned certain real property which had been determined to be exempt as a homestead. Proceedings were pending in state court to foreclose a lien on the property. The referee enjoined the lien foreclosure action.

Held: The referee had no jurisdiction to restrain a lien foreclosure in state court as to exempt property. The fact that no objection had been made to the referee's action makes no difference since jurisdiction cannot be conferred by consent. The opinion indicates that the rule would probably be different if the trustee had custody or possession of the property.

BOUNDARIES

Kay Corporation v. Anderson, 72 Wash. 2d 869, 436 P. 2d 459 (1968)

Action to determine boundary line of lot by owner holding title by virtue of instrument defining the boundaries

as originally given by common grantor, and against successor in interest of the original grantee, to whom boundary line was orally and visually pointed out and established as well as agreed to by seller and buyer at the time of the first sale.

Held: A visual line which was located on ground and accepted by a grantor and grantee as the boundary line of property grantee was purchasing was controlling and binding upon successors in interest of original grantee although it was at variance with the deed executed by the common grantor; this was not an action to reform a deed.

Supreme Builders, Inc. v. Radmiles, 250 Md. 446, 243 Atl. 2d 500 (1968)

Plaintiffs in an ejectment suit had maintained the same yard with the same boundaries, marked by bushes, continuously since 1933.

Various surveyors who testified for both parties were in disagreement. Plaintiff, wife, stated that they did not "claim any more than 150 feet of property" and that she did not "want any more than what . . . (she) bought and paid for."

Defendant insists that because of that statement, the intention to hold adversely is rebutted. Not so, says the Court of Appeals quoting earlier decisions: "It has been said often in earlier cases that where a land owner extends his fence, through inadvertence, ignorance or mistake, as to the location of the true boundary line, so as to embrace the land of a neighbor, but with no intention of claiming the area thus enclosed, adverse possession cannot be established because the holding of the extended area is neither adverse nor hostile to the true owner. See, for example, *Davis v. Furlow's Lessee*, 27 Md. 536. The modern trend and the better rule is that where the visible boundaries have existed for the period set forth in the Statute of Limitations, title will vest in the adverse possessor where there is evidence of unequivocal acts of ownership. In this view it is immaterial that the holder supposed the visible boundary to be correct or, in other words, the fact that the possession was due to inadvertence, ignor-

ance or mistake is entirely immaterial."

BUILDING AND USE RESTRICTIONS

Shepherd v. State, 427 S. W. 2d 382 (Mo., 1966)

Grantor plaintiffs reserved "the right of direct access for ordinary farm or residential purposes . . . to and from such thruway" in a deed to defendant highway commission. Plaintiffs brought suit for declaratory judgment claiming that the quoted clause permitted any residential purpose, including apartment buildings, duplexes, multi-family residences and single family residences.

Held: For plaintiffs. The restriction in the conveyance here is to be strictly construed and will not be extended by implication to include anything not clearly expressed in it and, if there is substantial doubt of its meaning, such doubt should be resolved in favor of free use of the property.

With no Missouri case exactly in point, court followed the majority rule that the phrase "residential purposes" includes the use of land for apartment buildings, duplexes, multi-family and single family residences.

Stockdale v. Lester, 158 N W 2d 20 (Iowa 1968)

The recorded plat of Orchard Hill Addition provides that all lots in the plat "shall be known, described and used solely as residential class lots" and that no lots should be re-subdivided to make any lot smaller than 70 feet x 120 feet. The proprietor of a proposed addition adjacent purchased a lot in Orchard Hill Addition 80 feet x 120 feet and proposed to use 50 feet in width of this lot as a public street to provide access to the proposed addition.

Held: While restrictive covenants on the free use of property are strictly construed against the party seeking to enforce them, this rule applies only where the wording of the restrictions is ambiguous. "Lot" and "street" are two separate and distinct terms with separate and distinct meanings, and use of the lot as a street violated the restriction

that it was to be used solely as a residential class lot. Further, the use of the 50-foot strip for a street resulted in the remaining 30 feet becoming a separate lot in violation of the covenant against re-subdividing hereinbefore shown.

Case of first impression in Iowa.

In Lawrence v. Harding, 225 Ga. 148, 166 S. E. 2d 336 (1969)

The court was confronted with the question whether a mobile home on a building lot constitutes a violation of restrictive covenants. It was alleged that it violated the restriction prohibiting metal or brick siding on any building. The court held that the word "building" has no universal, inflexible meaning, but that a mobile home should be regarded as a building within the terms of the covenant since the evidence showed that it was completely enclosed, had a porch attached, had concrete underpinnings, a metal roof, and was served by sewerage, gas, water, and electricity. It was contended that if the subdivider had wished to keep mobile homes out of the subdivision, it would have been a simple matter to place an express prohibition in the restrictive covenants, but the court said the covenants were sufficient as drawn.

Eisenstadt v. Barron, 252 Md. 358, 250 Atl. 2d 85 (1969)

Property in subdivision conveyed subject to restriction that the lots shown on the plat shall be used for residential purposes only and no structure shall be erected thereon except a single dwelling. Held that use of property within the subdivision, as a means of road or waterline access to an apartment house or houses on land adjoining the subdivision was not a use permitted under the restrictions.

Grubel v. MacLaughlin, 286 F. Supp. 24 (Virgin Islands, 1968)

In this case the restrictive covenants required the use of the property for residential purposes only while the zoning regulations made residential use unlawful and required use as a neighborhood shopping center.

Held: The restrictive covenant has been extinguished by the zoning regulations. The court quoting with approval Section 568 of the Restatement of the Law of Property.

Commonwealth, Provident Exchange

Provident National Corporation has declared its exchange offer with shareholders of Commonwealth Land Title Insurance Company effective September 15, 1969. More than 80 per cent of Commonwealth shareholders accepted the holding company's offer of August 14, 1969.

Provident will exchange one share of \$1.80 cumulative convertible preferred stock for each Commonwealth share of common stock.

Commonwealth joins Provident National Bank as a wholly-owned subsidiary of the Provident National Corporation which began operations August 14, 1969.

TIME FOR DECISIONS—Continued from page 4

mission office, selected National Archives Regional Records Centers throughout the country, and at the Conservation Library, housed in the Denver Public Library.

As the discussions with the Advisory Council and governors' representatives was completed, the Commission took that subject up for the purpose of adopting tentative positions. Basing its discussions and conclusions on the testimony received from the public, the recommendations that have come in from all over the country, the views of the Advisory Council and governors' representatives, and the products of the research performed or supervised by the staff, we submit that the Commission has a solid foundation on which to base its ultimate recommendations.

In order to meet the reporting deadline, the Commission and the Advisory Council, with the governors' representatives in attendance, have been meeting at least once a month. The Commission has also held additional meetings of its own in pursuit of tentative positions referred to previously.

The concept of the Public Land Law Review Commission was and is

that there is a need for one group at one time to look at all facets of public land policy. This concept has in no way been diluted by having a research program divided into 33 subjects identified for study. This was merely a matter of convenience.

The interrelationship of these subjects means, however, that the Commission cannot agree on any final general recommendations or on any specific subject until all subjects have been considered.

At a meeting of the Advisory Council, with the governors' representatives in attendance, in the early part of October, 1969, the Commission completed discussion of all of the commodities and the subjects related to the basic framework of public land administration. During the remainder of this calendar year, the Commission will continue its deliberations on those subjects and begin pointing towards firming up its recommendations.

In January and February, the last two meetings of the Advisory Council with the governors' representatives will be held for the purpose of discussing a variety of miscellaneous subjects that bear on or influence public land policy. Then the Commission will arrive at the "countdown stage" as it starts to complete its final recommendations and report. We believe that the conduct of the program has been such that we have also laid a foundation for acceptance by the American people of the Commission's recommendations.

It has been our policy from the outset to bring the advisors into every facet of our work. We have relied on them and they have responded. With every shade of opinion represented, from groups interested in the retention and management or disposition of the public lands, we have had the benefit of thought-provoking suggestions. At the same time, discussions in the Advisory Council, with governors' representatives participating, has provided a forum in which it has been possible to determine that in many areas competing users are more in agreement than disagreement.

The policy considerations being

reviewed cover the broad spectrum of public land use and administration. We have been presenting the Commission with basic questions. Nothing is taken for granted and no assumptions are made.

While the ultimate objective of the Commission is to make recommendations keyed to the policy that the public lands shall be retained and managed or disposed of all in a manner to provide the maximum benefit for the general public, this final point is being reached step by step as each subject considers lands valuable for different purposes. In each instance, we raise the same question, i.e., should lands chiefly valuable for agriculture be transferred out of federal ownership? Should lands chiefly valuable for grazing be transferred out of federal ownership? Should lands chiefly valuable for different types of mineral production be transferred out of federal ownership? And so on.

The Commission is also concerned with the procedures or methods by which management and disposition activities are conducted. Here again, we started with the basic, e.g., is there a need for greater public participation in rulemaking procedures of public land agencies? Other questions regarding administrative procedures relate to such things as whether administering agencies should be required to prepare substantive regulations instead of exercising responsibilities, as some do now, primarily on a case-by-case adjudication basis, with a corollary to that as to whether Congress should expressly provide for judicial review of public land adjudications.

In getting into the detail of the various subjects, we have been bringing to the attention of the Commission various facets of land management and disposition that have been or could, in the future, be clouds on title. Many of these will be translated into policy considerations for specific examination in the decision-making process. For example, should the United States, when it disposes of public land, retain easements for access to public values on other public

lands, and, if so, in which instances?

For a long time, lending institutions have been troubled by title reports that disclose that the United States has retained a mineral interest—or even worse—a fraction of the mineral interest—in a piece of property that was settled upon or sold many years earlier. At the present time, the United States has some mineral interest in approximately 60 million acres of land, the surface of which is presumably being used for some definite purpose. Usually, this reservation is not known or remembered until the surface owner desires to obtain a loan.

The Public Land Law Review Commission must consider, on the one hand, what to do with the mineral reservations the United States now has, while on the other, whether the government should, in future dispositions of land, reserve unto itself all or part of the mineral estate.

In our review of appraisal techniques and procedures, we are developing background information on how to place a dollar value on a reserved mineral interest when the mineral values are unknown. This study also will focus on evaluation of other types of interests that are acquired or disposed of by the government.

Our report will develop background information to consider the extent to which a uniform appraisal policy exists within the federal government; whether each department should accomplish its own appraisals; and what organization will best meet program needs and assure the public of equitable treatment.

Another matter that is of particular interest to members of the American Land Title Association is our study that we have labeled "use and occupancy". Included within this subject are such questions as what type of occupancies should be permitted on public lands and the conditions under which they should be allowed. Should public land be made available only in conformity with local zoning? Under what conditions should rights-of-way for various purposes be given?

Of very great interest is the ques-

tion of whether, and if so, to what extent, public lands should be made available for the expansion of existing communities or for the development of totally new cities and towns? Many people have looked to the public lands to help relieve the population pressures that have been burdening our urban areas and will multiply in the years ahead. And, any new development which would proceed under private ownership will, sooner or later, result in title searches and insurance.

The foregoing sample of the type of policy considerations under review by the Commission serves to demonstrate the scope of our work. With approximately six months to go, the Commission is determined to examine all of these matters so that a comprehensive report can and will be completed within the time limited. This truly is time for public land decisions.

AMERICAN BANKER—Continued from page 5

is not acknowledged as necessary to security, it is relatively easy for an uninformed person to assume that most land titles are simple and uncomplicated, and that title companies are not taking on their "fair share" of risk. The challenging task of the land title industry is to increase the public knowledge and realization that eliminating, rather than assuming, risk is what brings greater security of titles.

Titlemen adhere to their high standard of risk elimination in the belief that real estate investors and lenders strongly prefer security of titles to the higher incidence of loss payments that title insurance on casualty insurance principles would bring. A home buyer wants the peaceful enjoyment of the home he has chosen—not a troublesome financial settlement coupled with the possible loss of his dwelling. Other investors, and mortgage lenders as well, want the security a good and marketable title can bring to a real estate transaction. The low losses of the land title industry demonstrate that operation based on risk elimination principles is the best way to achieve maximum land title security.

If title companies operated on the

risk assumption principles of casualty underwriters, a larger volume of loss payment obligations would lessen the degree of title security now on hand. Chances are excellent that the accompanying rise in loss ratios would force an increase in charges for title company services and premiums. Leaders in the land title industry believe that conditions surrounding such higher

Bill Clark Joins SD Abstract Board

Bill Clark, owner of Clark Title Co., Aberdeen, S.D., has been appointed to a five-year term on the South Dakota Board of Abstract Examiners by Governor Frank Farrar, according to Harold H. Schuler, Pierre, S.D., secretary of the South Dakota Land Title Association.

Clark is a former president of the South Dakota Association.

Marvin Gabel, Sioux Falls, S.D., and Craig Brown, Canton, S.D., attorney, are the other members of the board. Both are in the abstract business.

loss ratios would prove highly unacceptable to the public. In the opinion of these titlemen, the public interest is best served when title companies concentrate their resources on doing everything possible to furnish the investor or lender with what he pays for—a secure investment in real estate.

ALTA GROUP—Continued from page 6

that the total life insurance premium will be reduced approximately 10 per cent in 1970. This saving is to be passed along to those enrolled in the program, and to future participants.

—A decision by the program's trustees to declare a 10 per cent dividend on premiums paid for life insurance by participants as of April 30, 1969.

—The nomination by the trustees of Robert M. Beardsley of Douglas County Title Company, Roseburg, Ore., as a fourth trustee of the program was approved by the ALTA Board of Governors at a meeting during the 1969 Annual Convention.

Other trustees are myself, Morton McDonald (chairman) of The Abstract Corporation, De Land, Fla.; Richard E. Fox of Chicago Title Insurance Company; and William J. McAuliffe, Jr., ALTA executive vice president.

A publication containing latest information on the coverages of the program is scheduled for mailing in December. Those interested in enrolling in the program should write ALTA Group Insurance Trust, 1725 Eye Street, N.W., Washington, D.C. 20006.

ABSTRACTER AWARD—Continued from page 9

the NDLTA Abstracter of the Year Award. This award is presented annually to a member of the association who has contributed to the well being and growth of the association.

NDTA officers re-elected for 1969-70 are Gerald Gordon, LaMoure County Abstract Co., president; Mrs. Irene Fraser, Cass County Abstract Co., vice president; and, Carl Elliott, Security Abstract Co., secretary-treasurer.

M. Edwin Prud'homme & Associates

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meeting timetable



1970

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

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

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

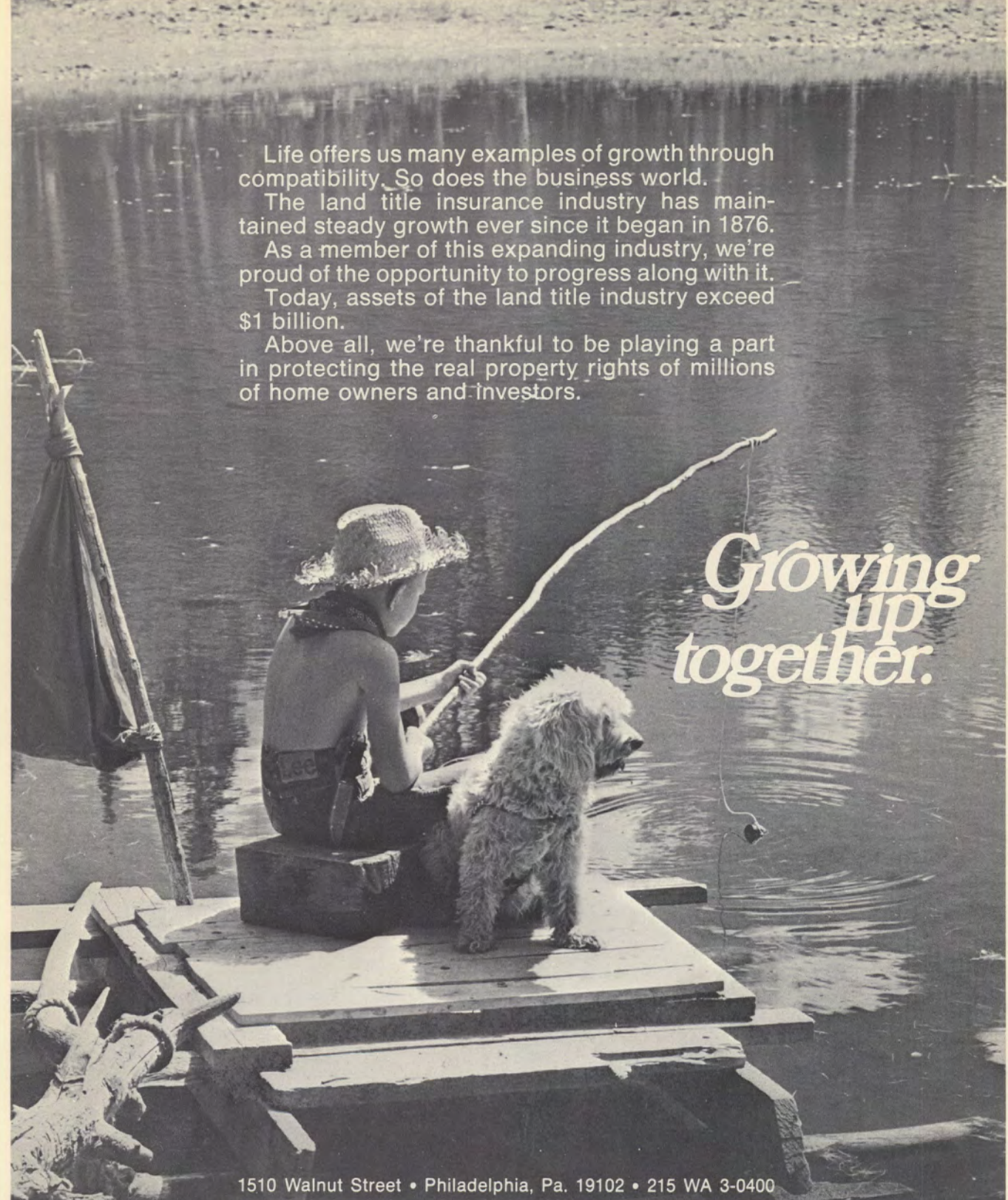
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