

Title News

the official publication of the American Land Title Association

DO NOT NEGLECT
THE LAND TITLE INDUSTRY AND THE FUTURE



July, 1971



A Message from the Chairman, Abstracters and Title Insurance Agents Section

JULY, 1971

With land title business regaining momentum over the nation, ALTA members are welcoming the return of pressure from increased order volume.

Now that better times are at hand, long-range planning for the future is more important than ever. Accordingly, this issue of *Title News* has been developed to help Association members get such long-range thinking under way as the day-to-day demands of business continue to press.

On the following pages, five titlemen call on their knowledge and experience and present their thoughts on the future outlook for specified aspects of the land title industry. Each was asked to prepare an article projecting his views at least 10 years into the future. The result is a fascinating glimpse of what may well be ahead in title insurance coverage, abstracting, agency and branch operations, and business development. ALTA's appreciation is extended to the authors—Bob Dawson, George Garber, Tom McDonald, Don Nichols, and John Ely Weatherford—for their excellent work.

The articles in this issue re-emphasize why it's so necessary to continually keep an eye on the horizon, regardless of how well business may be going at the moment. With the pace of change that exists in our industry today, planning for the future has become an important part of the present.

Sincerely,

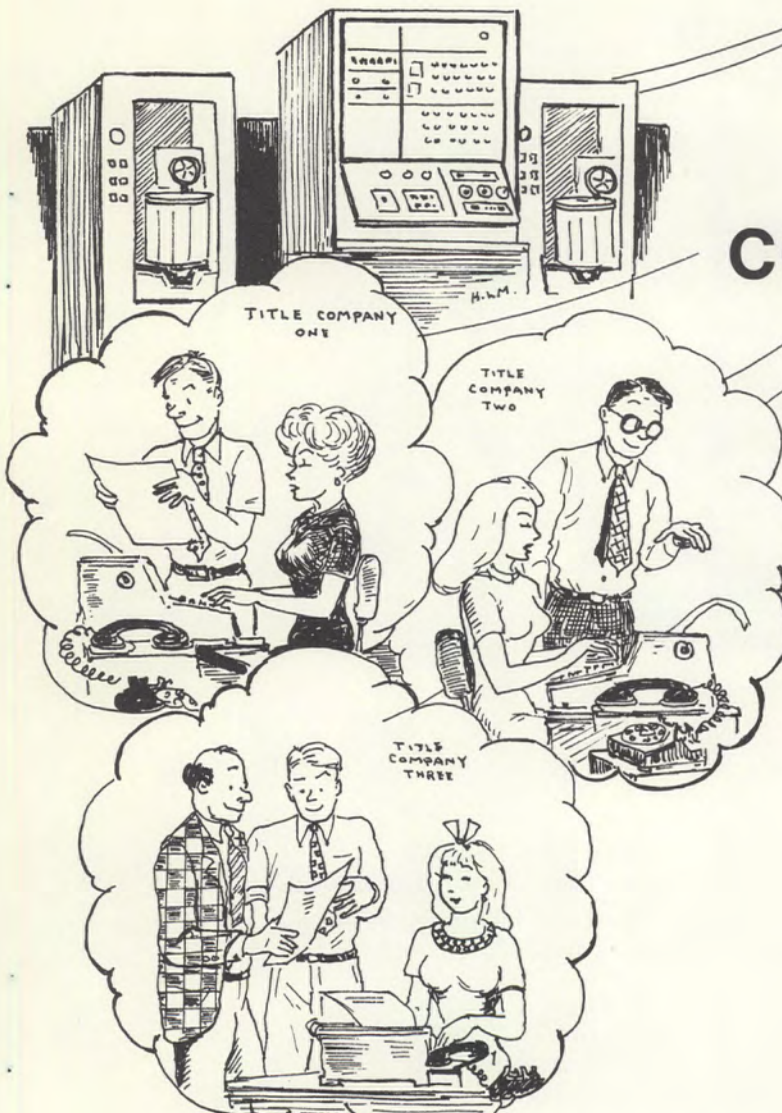
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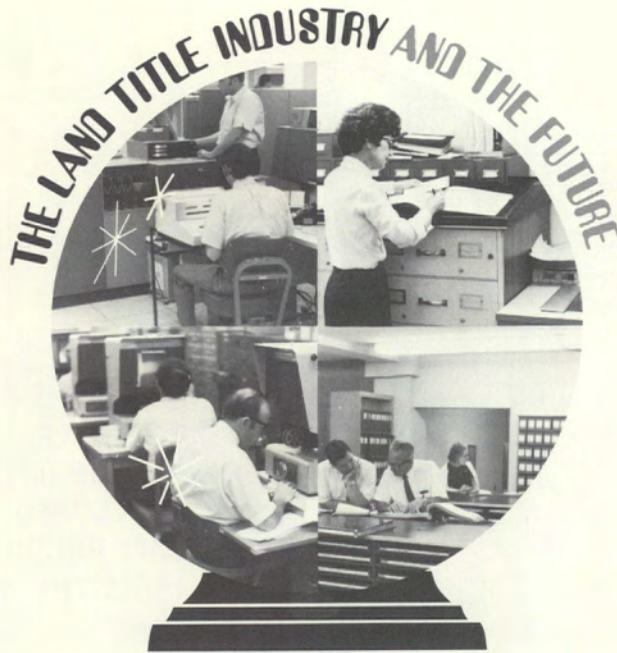
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HW Systems, Inc. is an independent computer system development company which specializes in providing management consulting and cost effective computer services to the land title industry.



What does the next decade hold for the land title industry?

After pondering this question, five experienced titlemen have put into writing their thoughts on the outlook for major aspects of land title evidencing and insuring. Their views are presented in the articles on the following pages.

These commentaries are commended to the attention of every land title professional. As Charles Franklin Kettering once put it, "We should all be concerned about the future because we will have to spend the rest of our lives there."

Title News

the official publication of the American Land Title Association

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GARY L. GARRITY, Editor, ELLEN KAMPINSKY, Assistant Editor

Change, Challenge, Opportunity

The records of business history in this country are filled with instances of business organizations failing or falling by the wayside because of not responding to the changing need of customers. This is especially true in product and service lines—related to such a volatile business as real estate. Thus, if title insurance as a successful business is to survive, we must meet the challenge of change.

If "past is prologue", then we can expect the needs and requirements of our customers to continue to change as they have in the past decade. The growth of affirmative title insurance coverage, the increasing number of condominium projects and insurance of condominium interests or estates, and the rapid expansion of zoning coverage are a few examples of what has happened to our industry as a result of changing needs of investors in real estate. The population explosion in urban communities has led to insurance of airspace.

Rights in and to airspace, and insurance thereof, are not new or unique to the cities of Chicago and New York, and will become more common with the growth of other metropolitan communities of our country. In, *The Law of Airspace*, by Robert Wright, there are set forth five methods of establishing airspace interests.

1. The lease
2. The grant of an aerial easement

3. Conveyance of the entire fee with reservation of an easement
4. Conveyance of the airspace in fee with an easement for supporting structure
5. Conveyance in fee of the airspace as well as the space and surface land required for supporting structures

Title insurance on the varying interests which might be so created will offer a challenge to the underwriting skills of our industry.

Such interests growing out of airspace, sale and leaseback, equity participation by lenders, and other ingenious approaches by land investors, all call for new and different

types of approaches by the title insurers, from the old method of a simple report on the title.

Moreover, the trends are now to provide assurance that the land can be used for the purpose for which it is being acquired. The increasing demand by title insurance users for affirmative coverage on zoning, insurance that there has been no violation of restrictions and that a violation will not work a forfeiture of title, and other areas of affirmative insurance, particularly as to off-record risks, points to the trend that the insured wants reassurance that the land can be used for a gas station, a shopping center, a manufacturing plant or whatever other use he has planned for the land.

Increasing pressure from property owners for the same kind of extended coverage offered to their lenders is becoming more common, and will require that extended coverage over and beyond the old standard forms limited basically to the record, will grow in demand, and must be offered to the owner.

The advent of new forms of consumer legislation has caused additional pressures, particularly by lenders, for extending the scope of our coverage. Truth-in-Lending Law, Uniform Consumer Credit Codes, and the Fair Credit Reporting Act have all had an impact on our business. As long as consumer protection

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Author Garber



Abstracters: Multiple Automation

*Don B. Nichols, Owner
Montgomery County
Abstract Company*

A reality now in many sections of the nation—representation of more than one underwriter by local abstracters and abstract companies—is almost a growing certainty in the years ahead. Whether such multiple agencies include two or more than two underwriters will depend on the number of underwriters active, or wanting to become active, in a particular area.

Exclusive (one underwriter representation) agency operation also offers benefits to agent and underwriter. On the other hand, abstracters long experienced in multiple agency operation feel that multiple representation has more to offer than exclusive. In any event, the increasing concentration of title insurance—and the spread of title insurance into areas not previously active—will require abstracters to consider carefully the multiple agency operation both from an economic and service standpoint. If the local abstracter or abstract company doesn't provide the needed outlet for underwriters desiring representation, the underwriters will, of necessity, turn to another service for representation.

Automation

A few years ago, abstracters heard of the electronic title plant and many of us thought our days were numbered. A Beverly Hills-based concern warned us that its electronic system could cover the entire nation with 12 installations, and that eventually independent abstracters would vanish just as independent grocers have done. A similar electronic system also emerged, but apparently the \$250,000 original programming charge for a county with 84,000 population and 24 townships—added to a \$25,000 to \$50,000 license fee for 25 years—prevented widespread use, and similar problems applied to the other system. Electronic data processing has found application in many modest-size abstract companies, providing a very beneficial service in searches of names, taxes, judgments and liens and, to a degree, geographic searches of lot and block subdivided areas.

Modification, mass production, and updated programming should enable more independent abstracters to economically use some type of electronic data processing equipment in the next decade.

Record Storage

Microfilm which provides a security means of record storage and retrieval for large abstract companies must now be considered by the smaller and medium-size abstract companies and independent abstracters. The daily accumulation of data required to maintain a title plant makes storage of that data a serious space problem. Where reduced-size photostatic copies were previously stored indefinitely in file cabinets in abstract company offices, it is apparent the saturation point has been reached and the cost of constantly required larger quarters to accommodate such storage is impractical. Consideration must be given to the microfilming of stored data and file copies to reduce storage space and still keep the information available for use. A diazo copy of the film can be indefinitely stored in underground vaults with controlled temperature and humidity—and inexpensively for security.

Record Retrieval

Retrieval service for stored records by companies specializing in that field has been available for many years. Such a service has been utilized principally by large companies and may, of necessity, be the answer to even the smallest abstract company's storage space problems in the coming decade. Probably more centrally located outlets will be maintained by these retrieval companies to lessen the time required to get required stored data back to the abstracter.

County recorders use photographic processes for recording rather than the outdated typed page in a bound record. Whether the process is an electrostatic copier, a photostat, or a microfilm system is determined by the size of the county served and the storage space available. Looking to the future, many county recorders have replaced other recording proc-

esses with microfilm and use modern record retrieval systems in their own offices. In the decade ahead, sophisticated recording systems with accompanying retrieval systems will be more generally used.

Bar Relations and Competition

Relations between abstracters and attorneys will continue to be as varied as are the areas of the nation we serve. Local conditions govern the relationship and there is little control available to the abstracter to improve it. Where bar association members are in active competition for title business—and every indication is the attorneys who are competitors will increase in number—the relationship is and will be strained and, in many areas, one of antagonism rather than friendly competition. The abstracter must be careful not to furnish skeleton search information to local area bar members of an attorney title guarantee fund agency to use in bypassing the abstracter's own service as an agent for a commercial title insurance underwriter. More and more, the independent abstracter is finally to become aware of his being "used" by bar fund members.

Special Services

In many states, the request for an ownership-lien search in brief (and economical) form has, by action of state land title association members, been denied and such special service no longer furnished. Unfortunately, the loss experience in those states has brought the realization to the abstracter just how liable he is when such short searches are furnished by him. Some of the organizations who have insisted on these short form reports, at times even on special forms of their contrivance, have their own staff people who are able to and do get the necessary information from public records. In the decade ahead, monetary losses by abstracters who continue to provide ownership-lien searches at minimum cost will cause that particular special service to disappear.

License Laws

Reluctance to accept any additional governmental regulation has, and will in the decade ahead, prevent abstract members of state land title associations in states which do not now have an abstracter license law from giving favorable push to the presentation of legislation to license abstracters. This is unfortunate to the majority of ALTA members who maintain title plants and employ title people far surpassing the minimum requirements of license laws presently in effect.

Community Affairs Participation

Closely related to public information programs sponsored and presented by ALTA, abstracters and title companies will, in the decade ahead, more readily accept the responsibility to actively participate in local community affairs. This will include membership and active work in service clubs; fund raising projects for church, community, Red Cross, cancer, heart associations, etc.; acceptance of invitations to speak to groups about the land title business or provide a program presented by state or national title associations; and participation in related-field association activity.

Multi-County Operation

The economic advantages in the operation of an abstract plant covering more than one adjacent county, compared to separate county plants, has resulted in an increasing number of multi-county operations. At this time, in most instances, the coverage of more than one county from a single title plant is the result of expansion into adjoining areas by an abstracter already operating his home county plant.

In the decade ahead, the multi-county operation from a single central plant may well be the result of the sale for economic reasons by individual county abstracters of their plants to a single company which will maintain a unit title plant covering all of the counties in which that company operates. This need not be

an electronic data processing type operation but can be a utilization of photographic, telephonic, and wire processes with one office (or plant) location and one set of personnel. Retirement, illness, or death of an established one-county abstracter may result in his plant being sold to and absorbed into a multi-county plant to assure continued land title service in the area thus vacated.

In Summary

The outlook for abstracters 10 years into the future may find an increase in the number of multiple title insurance agencies; modified electronic automated equipment more economically available; greater utilization of microfilm underground storage for records; more use of record retrieval commercial company services; keener recognition of the competition between abstracters and bar fund members; realization of the liability in minimum cost special services and the eventual abolishment of some of them; no license law legislation sponsored by abstracters; increased participation in community affairs; and expansion of multi-county operations.

Pedowitz Elected

James M. Pedowitz, first vice president and chief counsel, The Title Guarantee Company, recently was elected 1971-72 president-elect of the Nassau County (N.Y.) Bar Association.

He also recently was elected chairman of the Real Property Section of the New York State Bar Association.

Walker Retires

Myron P. Walker, assistant title officer and assistant secretary, recently retired after 52 years service with West Jersey Title and Guaranty Company, Camden, N.J.

He joined the company in 1919, and advanced from a clerical position to senior title examiner before being named to the offices previously mentioned.



Agents: More Consumer Business

*Thomas S. McDonald
President
The Abstract Corporation*

In the next decade, the land title industry will become increasingly more oriented toward the consumer (general public), and his title needs. As the general public becomes more and more aware of the industry's service, it will become the number one customer of ours—instead of the lender, attorney, or real estate broker. The latter still will play an important part in our business, but to a lesser degree. There are a number of reasons why this will become a fact.

- First. The American public is becoming more and more knowledgeable in what it is buying.
- Second. The trend is continuing for our "one state" title company or "sectional" title company to become national in scope, with mergers and acquisitions on the upturn.
- Third. The public relations work from our national title companies and the public relations work of both the American Land Title Association and our various state title associations will begin to take hold.
- Fourth. The local title companies are doing a better job in their own communities. This trend toward having the general public request our services is just beginning in most parts of our country, but it will expand rapidly. The commercial banking industry has long oriented its services to the public, thus getting mortgage bankers to begin to think in these terms. Some commercial bankers are competing for FHA and VA mortgages, thus becoming a real competitor to the mortgage bankers, and with the already strong past play of catering to the needs of the public by the commercial bankers, the mortgage

bankers will have to follow suit.

Women will play a more important part in land title industry decision making, including formulation of ideas and running the business, in the next ten years. "Women's Lib" will find fertile ground in the land title world. Why would your author make this statement? Was it because his wife helped him with the article, because she is involved in "women's lib?" No! She is involved in swim meets, little league baseball and dance recitals. Then why?

- First. Women are becoming increasingly better educated.
- Second. Since our business has always employed large numbers of them, in lesser positions, it is a natural evolution to train your own members in order for them to advance. More and more title companies are spending large sums of money and energy in training programs.
- Third. As the general public becomes our number one customer, women will be in important places in our business to deal face to face with their sex. Many companies now are using women as closers. This was once a "man's field". The real estate industry has long recognized women as the best sellers of houses. The title industry now is learning that women make the best closers for transactions involving these houses. The next step is to have women as managers of branch offices that were set up primarily as closing offices; then they advance to office managers; then to state managers; and, finally, to presidents of national title insurance companies.

The part that the title insurance agent will play 10 years from now,

Continued on page 12



Branches: Expanded Facilities

*Robert C. Dawson
Executive Vice President
Lawyers Title Insurance
Corporation*

When one considers all the changes that occurred in the land title industry in the last 10 years, it is indeed challenging to contemplate the outlook for the industry during the next decade. Change is obvious; the rapidity of change is the challenge.

We are a growing nation. As the population increases, there are greater demands for housing, office buildings, plant facilities, shopping areas and highways. This means that real estate exchanges will take place with increasing frequency.

The land title industry has kept pace with the country's growth in the past. Now it must prepare to meet the challenges of future growth and expansion.

What does this mean for the branch operations of a title company?

At the end of 1960, Lawyers Title Insurance Corporation operated 49 branch and national division offices throughout the country. At the end of 1970 this number was 71, an increase of 45 per cent.

This expansion of facilities will continue into the next decade as the demand for land title services increases. Branch offices are established in locations with good business potential and where sizeable areas can be developed and supervised. Some of our branch operations were acquired by purchasing a local company and some were set up from scratch by our own personnel.

Strategically located branch offices place a company in a very advantageous position in handling national accounts. As more and more businesses become involved in real estate on a nationwide basis, the number and location of branch operations assume greater importance. Branch offices can coordinate and expedite multi-location transactions. Knowledge about local real estate activities, customs and procedures can be quickly relayed to the national customer.

A very important function of branch operations is to help and assist agents. Branch operations supplement agency operations.

During the same period when the number of Lawyers Title branch offices increased 45 per cent, the company's agency operations increased in number by 56 per cent. There is a reason for this. We feel that relationships with our agents should be kept as close as possible. This means personal contact along with administrative assistance, agency employee development, and coordinated business promotion activities.

In most cases, the supervision of agents is handled by one of our branch offices. Imagine supervising over 400 agents from the home office! Branch office supervision results in more personal contact and closer working relationships. The sales staff can assist the agent in the development of business. Legal departments can answer underwriting questions. Seminars and educational programs can be conducted for agency employees.

Often when new agencies are established, the supervising branch office trains personnel and sets up procedures. In some areas where a number of agents are located, departments are set up in the branch for the sole purpose of agency supervision.

Perhaps it is in the area of business development that branch operations most frequently supplement agency operations. Branch offices of a national underwriter are in a favorable position when it comes to referring business. They are in constant contact with customers requiring nationwide title service. Referrals often result in business for the agent that it might not have received otherwise.

Another trend in branch operations is the establishment of sub-offices, or service offices, in suburban areas of large cities. These offices offer convenience to the customer and bring the operating level closer to him in a kind of decentralization.

In addition to the expanded facilities I foresee for the next decade, there will be increased emphasis on branch office personnel. Not only will there be more, but they will be better trained and will be given more opportunities for personal development. The land title employee of the

future must be imaginative and innovative, adaptable to change and competent.

As the land title industry becomes more marketing and sales oriented, there will be a need for persons with these skills. As more sophisticated office and plant equipment are utilized, the greater will be the need for technicians and specialists. There will be higher levels of professionalism among the employees.

A challenge to the industry will be the recruitment and training of young people. No equipment, regardless of how sophisticated, will ever replace talented and dedicated workers. A concentrated effort to attract such people into the title business is necessary.

Of great impact on branch operations during the next 10 years is the computer. Computerized title plants are here now and more will come into existence. This means that customers will be served quicker and with greater accuracy. With a computerized title plant there will be no plowing through indices by hand. The machine's filing system with checks and balances built in will give much more accurate data.

Computerized title plants are necessary in order to keep pace with the country's growth. We must be prepared to service the needs of our customers as real estate transactions increase. The computerized title plants will result in more economical and efficient operations.

I foresee title plants centralized into area or regional computer centers. These computer centers will be available to small operations which could not afford their own. To realize economies of operation there will be more sharing of title plants by competitors.

The use of computers will not be confined only to title plant operations. The computer will aid in the overall operations of a company. More timely management reports will be available. More statistical information will result. In fact, the potential of the computer in the land title industry is practically unlimited.

Another area that will concern branch operations in the future is consumerism. This growing force and the increased governmental interests in the land title industry mean that our offices will be spending more time and effort informing government and the public about our business. The home-buying public must better understand the services available from our industry. Government leaders must be told about the true nature of our business.

Branch operations will increase their community involvement and fulfill their responsibilities with programs of education and information. Telling the land title story in local communities will result in a better understanding of our business on a national basis.

The outlook for branch operations during the next 10 years is indeed challenging. Our industry has met challenges in the past and will continue to do so in the future. We are always looking for improved methods, new areas of operations, different equipment—anything that will contribute to better service and more protection for the real estate purchaser.

During the next decade there will be increased emphasis on expanding facilities, providing improved services, developing personnel, utilizing the computer, and informing the public about our business. It will be an exciting 10 years!

Chicago Title Shifts Illinois Title Division

The Chicago Title and Trust Company Illinois Title Division began operating as a part of Chicago Title Insurance Company on July 1, 1971.

The combined staffs, facilities and agency networks of the Illinois Title Division of Chicago Title and Trust and of Chicago Title Insurance Company create a single title insurance entity of more than 2,300 employees working in 73 offices throughout the United States, and a nationwide net-

work of more than 800 agents, plus thousands of approved attorneys.

These nationwide facilities of a single title insurance company will assist Illinois customers on their real estate transactions in Illinois and throughout the country. All organizational units, officers and staff members of present Illinois Title Division will retain their present functions, responsibilities and reporting relationships.

After July 1, Chicago Title Insurance Company policies and other forms are being issued, instead of those of Chicago Title and Trust Company, for title insurance and related services.

The operations of Chicago Title and Trust Company's Trust Division, which include escrow trusts, closing services and land trusts, continue under their present structure.

Rosenberg Joins Harrisburg Firm

Moses K. Rosenberg and Edward W. Rothman, formerly practicing law as Rosenberg & Rothman, on May 1 became associated with the Harrisburg (Pa.) law firm of McNees, Wallace & Nurick.

Rosenberg is executive vice president of the Pennsylvania Land Title Association and general manager of the Pennsylvania Title Association Rating Bureau.

Lawyers Title Extends Operations

Lawyers Title Insurance Corporation recently qualified to do business in Minnesota, and has appointed Midwest Title Guarantee Company, St. Paul, its first agent in the state.

Richard Vogel is president of Midwest Title, and Stephen R. King and John F. Walsh are vice presidents.

Lawyers Title now operates in 47 states, plus the District of Columbia, Canada, Puerto Rico, and the U.S. Virgin Islands.



Getting The Order

*John Ely Weatherford
Senior Vice President
American Title Insurance
Company*

In the center of a vast, eerie, totally darkened chamber, there sits in anxious watchfulness the figure of a man, straining every nerve in tense concentration upon a spherical object on the black-draped table before him. An atmosphere of hushed expectancy pervades the room as our hero asks the fateful question:

"What will the title insurance business be like 10 years from now?"

The man, a personification of every title man who ever tortured himself with that same question, remains transfixed in the oppressive blackness and silence as the crystal ball ever so slowly assumes a faint—then stronger—glow of illumination. Time moves at a snail's pace while the mist clears within the crystal ball and the first faint outlines of a figure can be discerned. The light grows more radiant. The figure, sharper now, is that of your author who utters these fateful words:

"He who ignores the lesson of history is doomed to repeat it."

So, in order to project our analysis 10 years into the future, let's see what the experience of recent years has taught us:

There has been a bloodless revolution in this country and in the world, and the real estate profession has not been immune from its reverberations. The post-war influx of investment capital from eastern financial centers contributed immensely to the growth and popularity of title insurance, particularly the mortgage policy.

Government interest in and manipulation of home building and real estate as a key to the stability of the country's entire economic posture, developed into a major national policy of the past several administrations. The "tight money" situation of 1966; the "crunch" of 1968; and the uneasiness, confusion, declining housing starts, increased costs and sluggish real estate sales which characterized 1970 are evidence of this intervention. Combine that with a fluctuating stock market—weak and listless last year, vigorous in 1971—and planning his day-to-day operation be-

comes a nightmare for the title officer.

Further evidence of the federal government's influence on our business and the impact of the consumerism phenomenon is the truth-in-lending act, the fair credit reporting act, operation breakthrough, and the complexities of Sections 235 and 236 of the Housing Act to say nothing of the normal activities of FNMA, FHA, VA, the Farmer's Home Administration, the Corps of Army Engineers, the Department of Justice, and the two new children of government, Ginnie Mae and the Federal Home Loan Mortgage Corporation.

New words and concepts were thrust into the title man's lexicon during the past decade—wrap-around mortgages, condominiums, equity participation, real estate investment trusts, Regulation Z—all of them signalling a different way of conducting the title business.

Other contributors to this series of articles will discuss these sophisticated techniques in detail. They are mentioned here merely to set the stage for a prognosis of anticipated trends in business development by the year 1981 which, incidentally, is in uncomfortable proximity to Orwell's "1984."

Not long ago, almost 100 per cent of the orders placed with a title company originated within 75 miles of the site of the home or branch office. All that is changed. A giant New York corporation has a wholly-owned west coast subsidiary—a real estate investment corporation which is involved in joint ventures with builders in New Jersey, Maryland, Alabama and Georgia. Now an executive in California makes the decision with regard to which title company shall insure the titles to homes being built in those four areas.

A large bank in one of the southern states has created a real estate investment trust which makes loans in half a dozen states. The man to see if you want that title business is sitting at a vice president's desk in the bank.

One of America's biggest home builders is active in Maryland, Virginia, Texas and Ohio. One title

company will provide the service and protection in all those operations and the title company will be selected at the home office of the builder.

An eastern lender sells 20,000 acres (only a small part of its holdings) in a western community. Who insures the title? The company whose officers have cultivated the general counsel of the lender removed 2,500 miles from the scene of the action.

The title to a shopping center in your city will be insured by the title company whose representative has earned the confidence of the land developer, the mortgage lender and the principal tenants, all of whom are probably located thousands of miles from your office.

As conglomerates acquire new companies; as corporations put into effect plans of diversification; as mergers, "arrangements", and outright purchases concentrate authority in fewer and fewer hands, the power of the local operator to direct title business diminishes even more.

This is not to say that personal, individual attention to every customer who walks in your door isn't still the most effective form of salesmanship. More orders are placed with a title company because of an efficient clerk, a pleasant voice, a helpful title officer, than all the pressure, advertising and high level sales techniques can develop—but it *is* a changing scene.

Before we don the oracle's cap and predict the trends in business development for the next 10 years, we should glance at our statistics to determine the sources of our present business. It all depends on where you are. The nature of the title business is almost unrecognizable as we go from county to county and state to state.

In Illinois, for example, the greatest percentage of title reports are ordered by savings and loan associations with real estate brokers a respectable second and lawyers way, way back at the post.

In New York, on the other hand, almost 100 per cent of the title business originates in the office of some law firm.

Sixty-five per cent of the title business in Washington, D.C., comes from real estate brokers, while lending institutions account for about 25 per cent. But, in adjoining Maryland and Virginia, the lawyer is the key to the transaction and it is through service to members of the bar that title companies develop business in those states.

Title companies in St. Louis deal to a great extent with real estate brokers, while in Arizona the land developer is the most influential factor.

Other communities vary just as drastically in originating title insurance business. Superimposed on all of this is the influence of the large lender who operates on a national basis.

Now, what can we foresee in title insurance development for the next ten years? Here are our predictions:

1. There will occur in the United States during the next 10 years an unprecedented acceleration of building, refinancing and sale of homes and other structures, thus generating a tremendous potential market for title insurance.

2. Life for the harrassed title man will be no less demanding. On the contrary, the increasing sophistication of real estate transactions will continue—presenting a challenge to the title man to mold his coverage in a manner to satisfy the customer and, at the same time, not expose his company to undue risk.

3. The challenge to the business development department of every title company will be to locate and persuade the one key person in each prospect's organization who is in a position to make a decision with respect to title insurance. This is not easy now and will be increasingly difficult in the years to come. Consider a large oil company, for example. Will the business be developed by concentrating on the local attorney? Or is that decision to be made in one of several regional offices? Or possibly the head of the real estate or legal department in the home office will be the target. It will

vary from company to company. In this regard it is easy to get fooled. The presidents and board chairmen of important corporations sit on the board of directors of a certain title company. They give assurance that this company has the support and business of their organizations but, in practice, it is some second vice president in the mortgage loan department or possibly some typist who prefers the convenience of a particular title company's policy form who swings the business to someone else.

4. There will be continuing demands for a "piece of the action", with every large customer seeking a special rate or concession of some kind. Title companies will find that, in the long run, kickbacks, joint promotion schemes, compensating bank balances, and all the other devices to minimize a title company's already dwindling margin of profit, are short cuts to ultimate failure. Look for more and tougher statutory regulations in this regard.

5. Although local business will still be determined by long-standing custom, we predict that the real estate broker in every community, because of his persistence, his skill and his close association with the parties involved, will become an even more important factor in the title insurance business. Cultivate his friendship, *NOW!*

6. Advertising, promotion, public relations and scientific salesmanship will be employed in the title industry to a greater extent than ever before, but ours will still be an intensely personal business, and a great number of orders will be controlled by that employee who wins the hearts and minds of the direct customer.

7. Things will happen on a grander scale. Whole cities will be built by a single land developer and we will be dealing in billions where we used to think in terms of millions. As a result, the reinsurance departments of title companies will grow in importance. Sources of reinsurance outside the title insurance industry will have to be developed.

8. In order to keep abreast of this

surge in business, aggravated by a shortage of qualified personnel, more and more use will be made of automated equipment of all kinds. The day of the "push button title" may be close at hand.

9. Finally, we predict that the ultimate prize will go to that title company which combines service, integrity and financial responsibility with an enlightened program of salesmanship and good public relations.

The scene shifts. Once again we observe in wonderment as the unearthly iridescence surrounding your author gradually begins to fade. But we can still hear his voice predicting strong markets and a ferment of activity for the next 10 years.

"But of course," we hear him say, "all of this depends on a great many things: the end of the Vietnam war, general market conditions, a leveling off of social unrest, the re-channeling of government funds into the task of rebuilding America. . . ."

The last thing we hear him say is, "IF"

CHANGE—continued from page 4

maintains its popular support, new legislation is to be expected and the direction that the new legislation takes may well affect our industry and its services to the public.

The growth in production and use of mobile homes has led in some cases to insurance of mobile home ownership, an area most certainly skirting the fringe of insurance of personal property interests, and with respect to some forms of personal property, where the records are available, and the title insurance codes so permit, there may be a need for, or a demand for insurance.

Title insurance is not a casualty type of insurance, nor does it seem necessary that we become such. Nevertheless, we as title insurers are becoming more than the two words indicate; we are becoming more in the nature of investors in land, not so much in the technical sense (as the word investor implies), but more

on the risk side of the scale. When new and innovative ideas involving real property transactions are presented to us, we are frequently consulted as to their practicability as far as title insurance is concerned. We then have an opportunity to tailor and apply these ideas to meet the needs of our customers and apply sound underwriting practices to accomplish the objectives.

It must be recognized that the overwhelming number of real estate transactions involve the simple home purchase, with a mortgage for financing. The normal home buyer will continue to be content with his title policy (which he fails to understand) until he runs into trouble. Then, if he has what he conceives to be a valid claim of loss, he may be faced with an explanation that his claim falls within the exclusion of the policy. Recently, court decisions have been rendered which have made us rather uncomfortable about reliance on such exclusions, particularly where one case held in favor of the insured because certain standard exceptions and exclusions were not grouped with other exceptions and exclusions added to the policy. Thus, the ever-changing attitudes of the courts are making for change, whether we like it or not.

There is no question that change in the forms of title insurance coverage to meet the needs of our customers is in the offing. And the challenge of flexibility to meet those needs is a real one. However, the opportunity presented to the land title industry is one that cannot be denied, and we must make the most of it in the years ahead.

AGENTS—continued from page 7

in the scheme of things, is one that could be answered with some degree of credibility in many different ways. This writer sees the future of the agent as follows:

There will be fewer of us—
but we will have larger companies and make a higher profit.

The trend will continue for title insurance underwriters to buy out agencies as a way of expanding and as a method of staying in an area. Fewer new agencies will be formed, as capital requirements will increase and experienced personnel will be harder to find. Local title companies will expand their facilities and their services, but will not go into new territories, except within the county in which they are now doing business. The agency that will be around to start the "80's" will be the one that starts a first class training program in its organization, as well trained personnel will be our most valuable asset. This same agency, with its good training program, will have to have these skilled employees "in tune with the times" as far as public relations is concerned. Remember, the PUBLIC will be our big customer. The local company will have to have a top drawer operation from its building and equipment to the newest employees on its staff.

This author looks forward to the challenges of the "70's" and beyond in our industry: when my personnel will be better trained, have a quicker smile, work only four days a week, make more money, and have the president of the title insurance company that I represent, a product of "women's lib."

Q. R. Davis Elected WLTA President

Q. Robert Davis, vice president and Washington Division counsel, Pioneer National Title Insurance Company, has been elected 1971-72 president of Washington Land Title Association at its recent convention in Gleneden, Ore.

Also elected were Benjamin C. McDonald, vice president, Trans-america Title Insurance Company, vice president; and Richard A. Hogan, associate counsel, PNTI, re-elected secretary-treasurer.

Commonwealth Promotional Campaign Wins Praise



James G. Schmidt

In an effective advertising and promotion campaign, Commonwealth Land Title Insurance Company, Philadelphia, has shown that you can win friends and influence people in favor of your services without directly selling them.

"This spring," reported James G. Schmidt, Commonwealth chairman of the board, "we conducted a 30-day good will campaign for the people in a position to recommend title insurance—Philadelphia area real estate brokers."

In the campaign, Schmidt said, Commonwealth sought to stimulate real estate sales on behalf of brokers at a time of year when sales normally show a seasonal rise. Theme of the campaign was, "Now's the time to make your move". Copy, prepared by the Philadelphia office of Albert Frank-Guenther Law, agency for Commonwealth, urged the prospective home buyer to consult his professional real estate broker.

An unusual aspect of the campaign was the selection of transit advertising as one of the media. Car cards in buses, subways and elevated trains carried the message, "Now's the time to make your move! Ask your real estate broker why. Commonwealth Land Title Insurance Company". Artwork showed "the old woman who lived in a shoe" wistfully dreaming of a new home.

The same theme and treatment were carried over into community newspapers in Philadelphia and its surrounding areas in eastern Pennsylvania and southern New Jersey.

As a direct mail supplement, the company sent reprints of the newspaper ad and a miniature three-color version of the transit cards to 1,500 real estate brokers in the area, along with a copy of a Commonwealth-produced booklet entitled, *How To Sell Your Home Professionally*. Real estate brokers were invited to request any of these materials in quantity from Commonwealth for their own promotional use.

Real estate broker response was quick and enthusiastic. More than 140 brokers requested the follow-up materials. Within 10 days after the start of the campaign, Commonwealth had distributed 5,500 reprints of the newspaper advertisement and 23,500 booklets.

Even more significant was broker attitude at the conclusion of the campaign. An independent survey of

brokers, conducted by an outside agency, found that 77 per cent of Philadelphia-area real estate brokers were aware of the advertising campaign. What's more, nine out of 10 brokers could correctly identify Commonwealth as the sponsor. This is especially significant since they had to fill in a blank and were given no names to choose from.

Moreover, 88 per cent of all real estate brokers felt the campaign was especially worthwhile. Said one: "An excellent idea; very much needed." Another considered it "great free advertising for Realtors."

Another real estate broker was more explicit. "With the increasing number of direct sales being made by property owners, any promotion or publicity to improve the real estate broker's image by a responsible source has to be beneficial to the Realtor if it only results in a few additional listings a year."

From Commonwealth's point of view, the campaign's effectiveness can be summed up in the comments of one suburban Philadelphia real estate broker who said:

"We in the real estate profession owe a debt of gratitude to Commonwealth Land Title. Although I am not a regular customer of theirs, I have decided to 'spread' my business out to include Commonwealth."



A Commonwealth Land Title Insurance Company goodwill campaign to help local real estate brokers made use of transit advertising. Inserting the first campaign car card aboard a local public transit bus are (from left) Alfred Dombrowski, president of the Philadelphia Real Estate Board; and Edward S. Schmidt and Fred B. Fromhold, respective vice president—secretary, and president of Commonwealth.

names
names in the news
names



BLAESE



McCONVILLE



MARSHALL



WACHTER



BRESLIN



CONNELLY

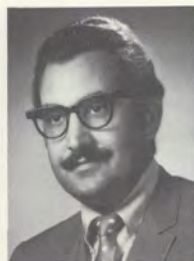
R.M. Blaese has been elected chairman of the board and chief executive officer of Title Insurance Company of Minnesota. **C.J. McConville** succeeds him as president, and **J.C. Connelly** has been named senior vice president and counsel.

Minnesota Title also has announced the following promotions in other company locations:

In Phoenix, **Al F. Bouchert**, as-



BOUCHERT



SIKOKIS

sistant vice president and manager, to vice president and manager, and **George J. Sikokis**, assistant secretary, to assistant vice president and assistant manager.

In Kansas City, **Stuart D. Hines** to vice president.

In Jacksonville, Fla., **George B. Marshall** to assistant vice president, and **Douglas S. Harden** to assistant secretary.

In Houston, **Gary D. Beasley** to assistant secretary.

In Atlanta, **Jonella M. Payne** to assistant secretary.

In Milwaukee, **M.A. Pollack** to assistant secretary.

In Minneapolis, **R.L. Mathson** and **R.R. Solie** to assistant secretaries; and **G.H. Gentry** and **G.K. Stoddard** to escrow officers.

* * *

The Title Guarantee Company has announced the elections of **Lawrence J. Wachter, Jr.**, to senior vice president and regional manager, Long Island region, based in the Mineola (N.Y.) office; and **John G. Breslin**, vice president in charge of institutional accounts within New York City.

Title Guarantee also has announced the promotions of **Frances H. Herman**, Mineola, **William W. Rome**,

Jamaica, and **Edward P. Scharfenberger**, New York, to assistant title officers. **Robert C. Forker** has been elected assistant secretary—New York sales.

* * *



McGIRR

C.H. (Jack) McGirr has been appointed vice president and Washington County (Ore.) manager for Pioneer National Title Insurance Company. He replaces **Keith Hill**, who recently was named assistant county manager, King County, Seattle, Washington.

* * *

Title Insurance Corporation of Pennsylvania has announced the following elections: **Elmer G. Angstadt**, **William H. Bateman**, **S. Richard Cook**, **Michael F. Frederick**, **William J. Hoolahan**, and **John G. Keidel** to title officers; **Richard J. Little** to assistant title officer and manager,



BATEMAN



COOK



FULTON

Larry C. Fulton has been elected counsel for Lawyers Title Insurance Corporation Denver branch office.

* * *

William DeSimone has been promoted to title officer at Commonwealth Land Title Insurance Company, Sansome Street (Philadelphia) branch.

* * *



FREDERICK



HOOLAHAN



KEIDEL



CARABELLO



LANT

Bryn Mawr office; John C. Carabello, Jr., to assistant title officer and assistant manager, Norristown (Pa.) branch office.

* * *

Ira C. Denton, former senior vice president and senior trust officer of First National Bank of Memphis, has been elected president, Commerce Title Guaranty Company board of directors.



DENTON

Cole County Abstract Marks Fiftieth Year

Cole County Abstract, Realty & Insurance Co., Jefferson City, Mo., recently commemorated its fiftieth anniversary in business with a large and informative ad in the local Sunday News and Tribune.

Lester M. Smith, secretary of the company, is a member of the ALTA Abstracters and Title Insurance Agents Section Executive Committee, a member of the ALTA Legislative Committee, and a member of

the board of directors of the Missouri Land Title Association.

His wife, Evelyn R. Smith, president of the company, served a 1967-69 term on the MLTA board and was the first woman to hold office on that body.

Besides photographs, the company newspaper ad also includes helpful public information under the headings, "What Does an Abstract Plant Consist of?", "An Abstract and Its Purpose", and, "Title Insurance".

Clarkson Elected CLTA President



Thomas A. Clarkson

Thomas A. Clarkson, president, Land Title Insurance Company, San Diego, was elected 1971-72 president of California Land Title Association at its 64th annual state convention May 21-22 in San Jose.

Other officers elected include: Allen C. McGurk, senior vice president, Title Insurance and Trust Company, Los Angeles, first vice president; Hale Warn, president and chief executive officer, TI, treasurer; and Robert E. Burns, Sacramento, secretary.

GENUINE Engraved Stationery **FREE DIES AND PROOFS**

LETTERHEADS \$23.00 FOR 1000

BUSINESS CARDS 1000 FOR 19.00
 BUSINESS ANNOUNCEMENTS 500 FOR 37.00
 RUBBER STAMPS - 90¢ PER LINE - OVER 31" \$1.40 PER LINE
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Write for FREE PROOF TODAY

DEWBERRY ENGRAVING CO. WORLD'S LARGEST ENGRAVER
 3201 So. 4th AVE., BIRMINGHAM, ALA. 35222

First Title Holds Property Symposium

Members of the North Carolina Bar Association recently were invited to participate in a Symposium on Real Property, sponsored by First Title Insurance Company, Raleigh, N.C.

Speakers for the Symposium, which was held in Raleigh, included:

Robert Kratovil, vice president, Chicago Title and Trust Company, "Title Examination Under Uniform Commercial Code"; Frank E. Roegge, vice president and investment counsel, Metropolitan Life Insurance Company, New York, "Modern Methods of Real Estate Financing"; Charles Nauts, associate senior title



Herbert L. Toms, president and general counsel, First Title Insurance Company, Raleigh, N.C., opens the first Symposium on Real Property for members of the North Carolina Bar Association.

counsel, Pioneer National Title Insurance Company, Los Angeles, "Title Insurance Underwriting—A National View"; Dr. Robert E. Lee, professor of law, Wake Forest University, Win-

ston-Salem, "Family Law and Real Property Problems"; Charles L. Fulton, attorney, Manning, Fulton & Skinner, Raleigh, "Liens, Mortgages and Foreclosures"; Dr. James A. Webster, Jr., professor of law, Wake Forest University, "Recent Decisions and Statutory Changes"; Herbert L. Toms, Jr., president and general counsel, First Title Insurance Company, "Relationship of Certifying Attorney and Title Insurance Company". Another featured speaker was James W. Robinson, senior vice president, American Title Insurance Company, Miami.

A special feature of the Symposium was the presentation of a special award to Frederick B. McCall, professor emeritus of the University of North Carolina School of Law. Professor McCall was recognized for his outstanding contributions to real property law in North Carolina.

G. E. Goetzinger Named OLTA President

George E. Goetzinger, Goetzinger Abstract Company, Woodward, was elected 1971-72 president of Oklahoma Land Title Association during its sixty-sixth annual convention, which was held in Tulsa April 30-May 1.

Also elected were John Kirkpatrick, Guaranty Abstract Company, Tulsa, vice president; W.O. (Bill) Cooper, Jr., The Bryan County Abstract Co., Durant, treasurer; and

John H. Goetzinger, Goetzinger Abstract, secretary.

Speakers for the convention included Alvin W. Long, president, Chicago Title and Trust Company and 1970-71 ALTA president; Robert Harry, Harry Mortgage Company, Oklahoma City; Howard Cotner, member, Oklahoma House of Representatives and past president of OLTA; and Jim Gillie, Phillips Petroleum Company public relations department.



Shown here are two highlights of the 1971 Oklahoma Land Title Association Annual Convention in Tulsa. One was the presentation of a traditional Indian headdress to ALTA President Al Long. Earl Adams, OLTA past president, does the honors. Among the many



activities planned for Convention delegates was a tour of the Catoosa Locks. Enjoying related scenery in the accompanying photograph are, from left, John Warren, ALTA vice president, Tom Holstein, ALTA immediate past president, and their wives, Nora Holstein and Becky Warren.

PART V: 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 Committee report. Chairman Osborn reports that 81 cases have been chosen from this number for the report. Other installments may be found in the December, 1970, and February, April, and May, 1971, issues of *Title News*.)

RECORDING

W. W. Planning, Inc. v. Clark, Ariz. App. —, 456 P. 2d 406 (1969)

A seller and a buyer agreed in writing that if the buyer did not commence construction of apartments on the property in eighteen months, the buyer was to reconvey the property free of encumbrances. The agreement was notarized but not acknowledged and was filed. Two hours before the agreement was filed, a mortgage from the buyer to a mortgage company, entered into after the buyer-seller agreement was filed, a mortgage from at the same time two assignments of the mortgage, an agreement by Clark to purchase the note and mortgage upon default and demand in one year, and an assignment of the Clark agreement to a bank were filed. Subsequently, in order of occurrence, the seller notified Clark of its interest; the bank received payment of the note on default from Clark and assigned the note and mortgage back to him; the buyer quit-claimed the property back to the seller (deed was recorded); seller quit-claimed the property to W. W. Planning, Inc.; Clark instituted the suit against W. W. Planning, Inc.,

to foreclose the mortgage. The trial court entered judgment for Clark, declaring his lien and interest superior to that of W. W. Planning. The court of appeals affirmed the judgment for Clark, holding that under the Arizona recording statutes, A. R. S. 33-411 and 33-412, an instrument must be acknowledged to impart constructive notice, and at any rate the original mortgagee was a subsequent purchaser for value without actual or constructive notice, and filing of the buyer-seller agreement could not foreclose its rights. Also, since the assignments and the mortgage agreement were filed two hours before the buyer-seller agreement, the court found them prior under the recording statutes. The subsequent notice to Clark that the buyer-seller agreement existed before he took an assignment back from the bank was of no effect, the court said, because as successor assignee of the original mortgage, Clark acquired all the rights and interests enjoyed by the original mortgagee, and a bona fide purchaser can transmit good title to a person who has notice of a prior adverse equity or right.

Kahn v. Deerpark Inv. Co., 115 Ill. App. 2d 121 (1969)

An assignment of rents is subject to the recording laws governing real estate. Unaccrued rents are not personal property but are incorporeal hereditaments.

Note: In some states an assignment of rents is personalty.

RESTRICTIONS AND ZONING

Centers, Inc., v. Guy Gilliland, 234 Southern Reporter, 2d Series, Page 883 (Ala. 1970)

Residents in a subdivision brought

suit seeking an injunction to prohibit the use of the property as a parking lot in violation of restrictive covenants.

Held: That where restrictions were placed on the property that no business of any kind, character, or description could be carried on on any lot or in any building constructed on any lot, and deeds given to the defendant stated that the property was subject to those restrictions, the defendant's use of the property for a parking lot as a necessary feature of the defendant's retail business was in violation of the restrictive covenants.

Sky Mountain Ranch Subdivision Property Owners Association v. Williams, — Ariz. App. — P. 2d — (1970)

The restrictive covenants provided that only one single-family dwelling could be erected on each subdivision tract (division of the tracts was not prohibited). The owner of one of the tracts sold one-half thereof and his grantee proceeded to construct a single-family dwelling thereon. Other owners filed a complaint seeking to enjoin the further construction of the partially completed house. The trial court denied the injunctive relief and the court of appeals affirmed. The court held that the restrictions had not yet been violated since they did not forbid the division of a tract and since only one single-family dwelling had been built. Dictum in the decision suggested that construction upon the remaining one-half of the tract would be a violation.

Donoghue v. Prynwood Corporation, Adv. Sh. 161 (Mass. 1970)

Prynwood Corporation sold lots in a development by deeds including varying restrictions, but all providing

that "finished plans of any proposed house had to be approved" by Prynwood. Most deeds, but not the one to Dr. Donoghue, the plaintiff, reserved the right to amend and waive the restrictions. Prynwood's principal officer declined to approve plans calling for a flat roof, which he disliked. Dr. Donoghue sought declaratory relief from the restriction and Prynwood unsuccessfully sought injunction against construction. Dr. Donoghue built the house, most of it between the trial and the judge's report, without decision.

Held: Following *Patrone v. Falcone*, 345 Mass. 659: That in the absence of a common scheme (*Snow v. Van Dam*, 291 Mass. 477), the restriction was enforceable only by the grantor, whose refusal to approve was unreasonable. The plaintiff, therefore, though he "unwisely took certain risks in proceeding to build," obtained a decree in his favor.

The case emphasizes the necessity for uniformity in deeds out of a common grantor if restrictions are to be enforceable by grantees against each other, and for reasonable standards of approval if required.

Yeager v. Cassidy, 20 Ohio Misc. 251 (1969)

Subdivision restrictions provided: "Said premises shall be used exclusively for residence purposes. There shall not be erected more than one private dwelling, with incidental or necessary outbuildings. Said dwelling shall be of not less than 4 rooms with a solid foundation, and cost not less than \$5,000.00 . . ."

Defendant placed on his lot a mobile home of 5 rooms which, with improvements, would cost \$8,862.00, and on a concrete and block foundation.

In answer to the question whether this violated the above restriction, the court held that it did not; that the language did not expressly exclude a mobile home and that the words "building," "house," and similar words frequently used in restrictions were absent; that unless mobile homes are explicitly excluded by the terms of a protective covenant their use should not be enjoined, provided that the dwelling otherwise conforms to the spirit of the restriction.

SURVEYOR'S LIABILITY

Rozny v. Marnul, 43 Ill. 2d 54, 250 N. E. 2d 656 (1969)

A registered surveyor supplied an inaccurate survey to a builder who procured a mortgage on the property in 1955. The builder sold the property to the plaintiff in 1956. In 1964, the plaintiff discovered the error and sued the surveyor.

Held: Privity is no longer a defense to a third party tort action, but rather the liability will be measured by the duty owed. Here, where there is an absolute guaranty on the survey, the defendant knows third parties will rely upon it and, as the potential liability is limited to a small group of users, it will be imposed. The statute of limitations in this instance is triggered by discovery of the error, since passage of time does not complicate evidentiary matters.

TAXATION

United States v. Estate of Thomas S. Donnelly, Sr., 90 S. Ct. 1033 (Mich. 1970)

Action by United States to enforce federal tax lien against subsequent purchaser of real estate. The Treasury Department did not collect on the tax liability of Donnelly, the former owner. "Rather, between 1950 and his death in 1963, it obtained waivers from him of the statute of limitations on the assessed liability, the last of which extended the time for collection to December 31, 1966." In 1960, the property was sold by Donnelly to the present owners. The Michigan statute in effect at the time the lien arose required that notices of federal tax liens contain a description of the real estate in order to be filed with the county register of deeds. The Department, believing that the Michigan statute did not authorize filing of the standard federal notice (which did not describe the real estate) filed its notice in United States district court.

The Carlsons did not have actual notice of the lien on Donnelly's land. After their purchase, the United States Supreme Court in *U. S. v. Union Central Life Insurance Co.* (1961), 368 U.S. 291, held that the Department

had been right in maintaining that it did not have to conform its lien notices to the Michigan requirement and that the filing in the appropriate district court was sufficient.

In the instant case, the district court refused to apply the Union Central case retroactively to give the 1950 federal lien priority over Carlsons' 1960 good-faith purchase. The supreme court held that acts of Congress are generally to be applied uniformly throughout the country and the United States, like others, is entitled to adhere to what it believes to be the correct interpretation of a statute and to reap the benefits of that adherence if it proves to be correct, and that the decision in Union Central was entitled to retroactive effect. "In rare cases, decisions construing federal statutes might be denied full retroactive effect, as for instance where this court overrules its own construction of a statute, but this is not such a case."

Howard v. Dor El Realty Co., 20 Ohio App. 2d 191 (1969)

The advertisement of tax delinquent lands by the county auditor omitted the name of the landowner who owned a one-half interest in the premises. The land was forfeited to the state and subsequently sold at auction sale. Landowner whose name was omitted in the advertisement sought to set aside the forfeiture and subsequent sale for the reason that his name did not appear as a co-owner on the auditor's records.

Held: It is the duty of a property owner to pay real estate taxes and to see that his property is properly listed on the tax records and, therefore, the sale of such lands will not be disturbed by reason of a mistake on the part of a public official in omitting the name of the co-owner.

Board of Commissioners v. Midwest Associates, Inc., 245 N. E. 2d 853 (Ind. 1969)

The United States owned certain real estate which it sold under an executory contract which provided for vendee to pay all taxes lawfully assessed. Vendee failed to pay real estate taxes because the fee simple owner is not obligated to pay such taxes. Taxes

became delinquent and county commenced procedure to sell real estate. Vendee requested injunction.

Held: The interest of the United States in the real estate was converted into personalty from and after execution of the executory contract. The contract transferred to vendee the equity in the land which represents realty. The U. S. government retained only a legal title as security and is in substance in the position of a mortgagee. When the vendee entered into possession, its equity in the land became subject to the jurisdiction of Indiana.

Case of first impression.

TITLE INSURANCE

Caravan Products Company v. Ritchie, 259 Atl. 2d 223 (N. J. 1969)

Where a title insurer issued to a purchaser a document entitled, "Preliminary Report of Title," which recited "ordered" after entry for unconfirmed assessment search, and supplement to the report expressly advised that there was no unconfirmed municipal assessments, the insurer's liability to purchaser for damage resulting from existence of an unconfirmed assessment was contractual and the damages were not to be measured in negligence. The purchaser's damages were not satisfied by the vendor's payment to purchaser of a part of the assessment in settlement of the claim, and the purchaser was allowed to recover the balance of the assessment from the title insurance company.

Ryczkowski v. Chelsea Title and Guaranty Co., 449 P. 2d 261 (Nev. 1969)

The owner of a parcel of real property sought damages from the insurer of their title for failure of the policy to except an easement for an electric power transmission line created by a document recorded in 1949. Patent from the state to the predecessor in interest of plaintiff was recorded in 1952. The insurance policy excluded from its coverage "easements, liens or encumbrances not shown by the public records." Recorders in Nevada use the grantee-grantor indexing system.

Held: The document creating the

easement was "outside the chain of title" and therefore was within the exclusion from liability contained in the policy. The owner was denied relief.

Dallas Title and Guaranty Company v. Valdes, 445 S. W. 2d 26 (Tex. 1970)

This suit was against the grantor and the title company for breach of warranty in the deed.

Flanagan conveyed to Valdes the following: "All of Lot 9 Block G . . . fronting on U. S. 183 . . . and being the same as Lot 9 in Plat Book 7, Page 183 . . . and same fronting about 140 feet on said expressway." The title policy was issued with the survey exception left in the policy.

Valdes then discovered that U. S. 183 took up most of the lot.

The title company contended that the wording "same fronting about 140 feet on said expressway" excluded any part of the lot which did not front on the right-of-way. The court rejected this contention, holding that the description in the deed and in the title policy covered all of Lot 9.

The title company further contended that the survey exception relieved it of liability. The court rejected this contention, stating that it was manifest that the title policy intended to insure the title to Lot 9, as it appeared in the public records, although a search would have revealed that most of it had been conveyed to the state for a highway.

It was further contended that the "monetary loss" should be limited to the market value rather than the consideration paid. The court held that the policy did not require an assured to establish that the consideration paid was the market value.

Prendergast v. Southern Title Guaranty Company, 454 S. W. 2d 803 (Tex. 1970)

The Prendergasts entered into a contract to sell their property to one Milner, who refused to take title because the record title showed an outstanding fractional interest. The Prendergasts were unable to give a quitclaim deed to the outstanding interest, and the sale to Milner was abandoned. The Prendergasts then sued Southern

Title Guaranty Company on their owner's policy. The court held that the language of the title guaranty policy, providing that the insurer shall not be liable until adverse interest, claim, or right shall have been held valid by a court of last resort to which either litigant may apply did not preclude insureds' recovery for breach of basic contract of the guaranty until an adverse claim to the property had finally been adjudicated, but was merely a limitation on the guarantor's liability in those situations wherein adverse claimant had filed suit against the insureds and the guarantor had undertaken its defense.

Waite v. Aetna Casualty and Surety Company, 77 Wn. 2d 862 (Wash. 1970)

In a case not involving title insurance, the Washington court said: ". . . this court has held that where the insurer refused to defend the law suit on the ground that the claim alleged is not covered by the policy, and the claim is one in fact not covered, the insurer is not responsible for the insured's expenses in defending the suit. . . . The rule is that where an insurer *wrongfully* refuses to defend, it will be required to pay the judgment or settlement to the extent of its policy limits and also reimburse the insured for his costs reasonably incurred in defense of the action. . . . We know of no rule of law which would impose liability upon the respondent for claims against which it gave no insurance or for attorney's fees incurred in defending against them. The appellants have advanced no reasons why justice or public policy requires the adoption of such a rule."

Title Insurance Section To Be Continued

Beach 94 Years Old

The *Arkansas Democrat*, Little Rock, recently carried an article about the ninety-fourth anniversary of a local concern, Beach Abstract & Guaranty Company.

In 1877, A.D. Beach, a civil engi-

neer who had helped survey the Isthmus of Panama for a possible ship canal, arrived in Little Rock from New York and began making surveys, title searches, and abstracts in Pulaski County. This was the beginning of Beach Abstract Company. The company has continued operations in the Little Rock area for its entire 94 years.

Burton Dougan, who joined the company in 1931 as an office boy while still in high school, has been president of Beach Abstract since 1957. Other officers include E.A. Bowen, Jr., vice president and secretary; Charles Dougan, vice president and treasurer; and Thomas P. McDonnell and John A. Cameron, vice presidents and escrow officers.

James P. Whitney Dies in Minnesota



James P. Whitney

Services were June 9 at Crookston, Minn., for James P. Whitney, 50, a former member of the ALTA Board of Governors and past president of the Minnesota Land Title Association, who died June 5 at a Crookston hospital.

At the time of his death, he was vice president and treasurer of Strand-er Abstract & Investment Co.; he had been associated with that concern for 26 years.

He was a native of Crookston and, except for 4½ years Navy service in World War II, was a lifelong resident of that community.

meeting timetable



1971

August 12-14, 1971
Montana Land Title Association
Florence Hotel
Missoula, Montana

August 26-28, 1971
Minnesota Land Title Association
St. Paul Hilton
St. Paul, Minnesota

August 26-28, 1971
Nevada Land Title Association
CalNeva Lodge
Lake Tahoe, Nevada

September 15-17, 1971
Nebraska Title Association
Villager Motel
Lincoln, Nebraska

September 17-19, 1971
Missouri Land Title Association
Downtown Holiday Inn
Kansas City, Missouri

September 10-11, 1971
North Dakota Land Title Association
Tumbleweed Motel
Jamestown, North Dakota

September 17-18, 1971
Wisconsin Title Association
Racine Motor Inn
Racine, Wisconsin

September 23-25, 1971
Ohio Land Title Association
Sheraton-Columbus Motor Hotel
Columbus, Ohio

September 24-25, 1971
Kansas Land Title Association
Holiday Inn Towers
Kansas City, Kansas

October 3-6, 1971
ALTA Annual Convention
Statler Hilton Hotel
Detroit, Michigan

October 24-26, 1971
Indiana Land Title Association
Indianapolis Hilton
Indianapolis, Indiana

October 28-30, 1971
Florida Land Title Association
Colonnades Beach Hotel
Palm Beach Shores, Singer Island, Florida

November 4-5, 1971
Dixie Land Title Association
Mobile, Alabama

December 1, 1971
Louisiana Title Association
Royal Orleans Hotel
New Orleans, Louisiana

1972

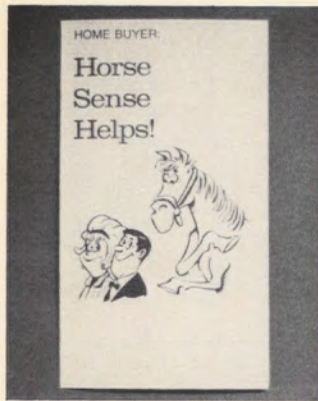
March 1-2-3, 1972
ALTA Mid-Winter Conference
Regency Hyatt House
Atlanta, Georgia

October 1-2-3-4, 1972
ALTA Annual Convention
Astroworld Complex
Houston, Texas

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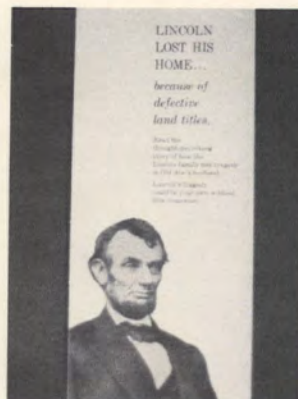
CLOSING COSTS AND YOUR PURCHASE OF A HOME. A guidebook for home buyer use in learning about local closing costs. Gives general pointers on purchasing a home and discusses typical settlement sheet items including land title services. 1-11 dozen, \$2.25 per dozen; 12 or more dozen, \$2.00 per dozen.



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HOW FHA HELPS THE HOME BUYER. This public education folder was developed in cooperation with FHA and basically explains FHA-insured mortgages and land title services. \$5.50 per 100 copies.



LINCOLN LOST HIS HOME... BECAUSE OF DEFECTIVE LAND TITLES... A memorable example of the need for land title protection is described in this folder. \$5.00 per 100 copies is the cost for this publication.



THE IMPORTANCE OF THE ABSTRACT IN YOUR COMMUNITY. An effectively illustrated booklet that uses art work from the award-winning ALTA film, "A Place Under The Sun", to tell about land title defects and the role of the abstract in land title protection. Room for imprinting on back cover. \$12.00 per 100 copies.

(CENTER) **PERSPECTIVE: AMERICA'S LAND TITLE INDUSTRY.** A collection of six articles by experts that comprehensively explain the land title industry and its services. This attractive booklet is available at 35 cents per copy for 1-48 copies and 30 cents per copy for 49 or more copies. (RIGHT) **THE AWARD-WINNING ALTA FILM, "A PLACE UNDER THE SUN."** Eye-catching color animation and an excellent script bring the story of the land title industry and its services to life in this highly-praised 21-minute sound film. Prints may be obtained for \$135.00 each.



American Land Title Association

