Title News

the official publication of the American Land Title Association

Successful Advertising In Mobile

March, 1973

A Message from the Chairman, Title Insurance and Underwriters Section

MARCH, 1973

". . . . Absent thee from felicity a while, and draw thy breath in pain to tell my story." Thus spoke one of the greatest heroes of classical literature, Shakespeare's Hamlet, and thus might have spoken any anguished titleman a year or two ago when our industry first felt the smashing impact of adverse public opinion—the product of a chain reaction which began with the well-meaning, if misinformed, efforts of legislators ever alert to protect the interests of the citizens they serve; which activity in turn prompted the news media, ever alert to their responsibility to the citizenry, to flood the country with reports which in many instances served only to further confuse a general public who, at best, had little knowledge of our product and therefore little basis on which to correctly evaluate our product and the essential nature of our service.

However, the dedicated titleman did not expire gently and ring down the curtain on a questionable performance of courage. The dedicated titleman—who could be any one or all of those hundreds in attendance at the American Land Title Association's Mid-Winter Conference in Phoenix several weeks ago—took up the challenge to tell his own story, began to apply himself diligently to the formidable task at hand, and thus far has proved himself a worthy combatant in the battle against a hostile press, to educate the American home buyer to the essential service that is provided him by our industry, and to educate that American to the fact that the titleman is a man of honor and integrity, that he belongs to an industry which is constantly working to regulate itself.

The dedicated titleman was again reminded through the outstanding program at this year's Mid-Winter, that our American Land Title Association, in expanding its staff to broaden our public relations program, and in its Herculean effort to give full coverage and attention to matters of national concern to the land title industry, has given us the tools to work with. He has used these tools intelligently, and has succeeded in driving a wedge into that hard shell of adverse public opinion, and the progress made thus far is heartening. He has learned through almost two years of hard work that there are conscientious legislators on both the state and national level who are working toward an understanding of the concepts involved in a very complex business, and who have developed a healthy philosophy as relates to the title industry and the service it renders the American home-buying public.

The dedicated titleman knows that by maintaining close contact with competent and knowledgeable representatives in government, there will be a better chance to bring about the legislation which will prevent the federal government, with federal regulation, from eroding the quality of the service we provide, and further—and more dangerously—from eroding the financial stability of the companies who provide that service.

The dedicated titleman knows that through our national and state associations, we can accomplish constructive measures to provide for regulation at the state level, and this is evidenced by the splendid work the ALTA has done thus far in cooperating with the National Association of Insurance Commissioners in developing and revising our Model Title Insurance Code of 1964. He knows that it is urgent that we continue to tell our own story, that we be alert to every opportunity to bring before the home-buying public and the numerous industries in fields related to real estate who depend upon our vital services, the real story—our story. Thus far, the titleman has done a creditable job, but he knows that we cannot slacken our efforts by one iota.

Sincerely,

Robert C. Dawson

Robert C. Dawson

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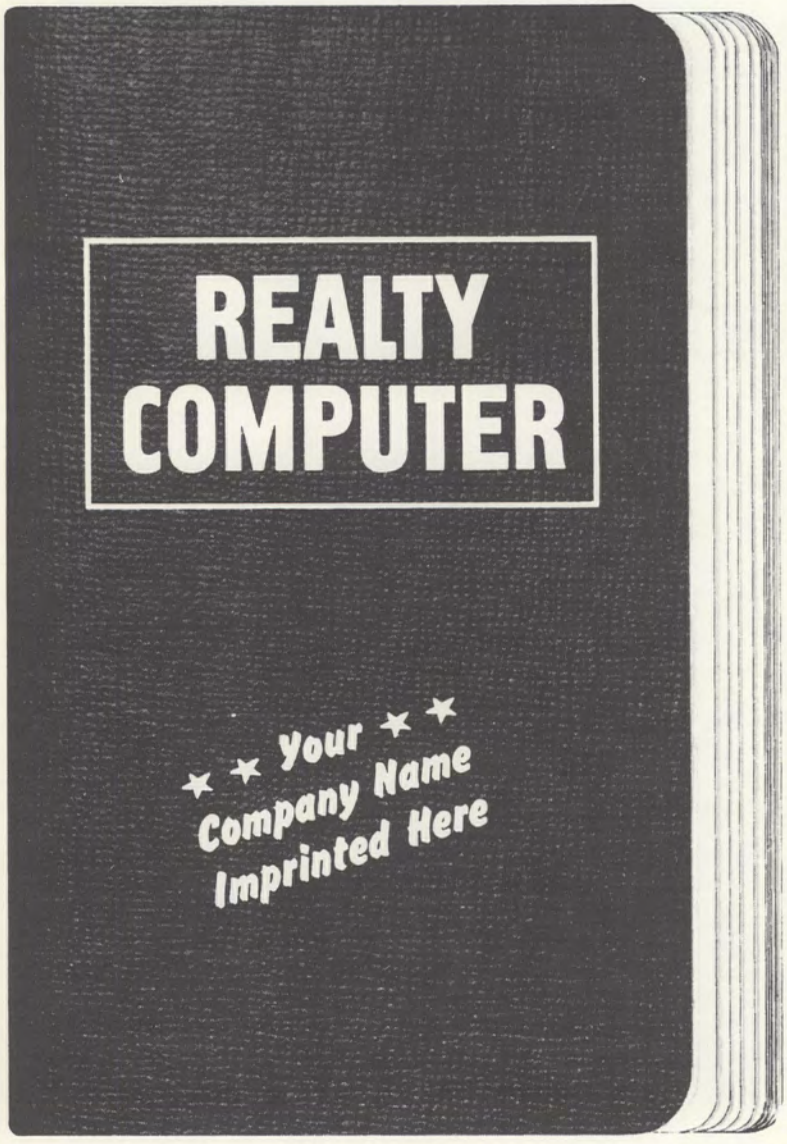

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meeting timetable

1973

March 14-16, 1973
ALTA Mid-Winter Conference
Del Webb's TowneHouse
Phoenix, Arizona

March 30-31, 1973
Florida Land Title Association Mid-Year Meeting
Hilton Hotel
Tallahassee, Florida

April 12-14, 1973
Arkansas Land Title Association
Fayetteville, Arkansas

April 13-15, 1973
Oklahoma Land Title Association
Camelot Inn
Tulsa, Oklahoma

May 3-5, 1973
Texas Land Title Association
Camino Real Hotel
Mexico City, Mexico

May 6-8, 1973
Iowa Land Title Association
Hyatt House
Des Moines, Iowa

May 10-12, 1973
New Mexico Land Title Association
Airport Marina Hotel
Albuquerque, New Mexico

May 10-12, 1973
Washington Land Title Association
Evergreen Inn
Olympia, Washington

May 23-25, 1973
California Land Title Association
Newporter Inn
Newport Beach, California

June 3-5, 1973
Pennsylvania Land Title Association
Host Corral
Lancaster, Pennsylvania

June 7-10, 1973
New England Land Title Association
Stratton Mountain Inn
Stratton Mountain, Vermont

June 8-9, 1973
South Dakota Land Title Association
Holiday Inn
Mitchell, South Dakota

June 14-16, 1973
Idaho, Montana and Wyoming Land Title Associations
Pink Garter Plaza
Jackson, Wyoming

June 20-22, 1973
Illinois Land Title Association
Drake Hotel
Chicago, Illinois

June 21-23, 1973
Colorado and Utah Land Title Associations
Manor Vail
Vail, Colorado

June 21-23, 1973
Oregon Land Title Association
Ka-Nee-Tah Lodge
Warm Springs, Oregon

June 24-26, 1973
Michigan Land Title Association
Hidden Valley
Gaylord, Michigan

July 12-14, 1973
New Jersey Land Title Association
Seaview Country Club
Absecon, New Jersey

August 6-9, 1973
American Bar Association Annual Meeting
Sheraton-Park Hotel
Washington, D.C.

August 22-25, 1973
New York State Land Title Association
Whiteface Inn
Lake Placid, New York

August 23-25, 1973
Minnesota Land Title Association
Quadna Mountain Lodge
Hill City, Minnesota

August 24-25, 1973
Kansas Land Title Association
Wichita Holiday Plaza
Wichita, Kansas

September 6-8, 1973
Ohio Land Title Association
Salt Fork Lodge
Cambridge, Ohio

September 13-14, 1973
Wisconsin Land Title Association, Inc.
The Dome Resort
Marinette, Wisconsin

September 13-15, 1973
North Dakota Land Title Association
Villager Motel
Lincoln, Nebraska

September 14-16, 1973
Missouri Land Title Association
Hotel Muehlebach
Kansas City, Missouri

September 30-October 4, 1973
ALTA Annual Convention
Century Plaza
Los Angeles, California

October 22-24, 1973
Mortgage Bankers Association of America
New York Hilton, and the Americana
New York, New York

October 28-30, 1973
Indiana Land Title Association
Atkinson Hotel
Indianapolis, Indiana

November 7-10, 1973
Dixie Land Title Association
Sheraton-Biloxi
Biloxi, Mississippi

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Features

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ON THE COVER: Kirby S. Ross, president, Title Guaranty & Abstract Company, Mobile, Ala., steps in front of the local television camera as part of a successful company advertising campaign. For the details, please turn to page 7.

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GARY L. GARRITY, Editor

Jeffrey M. Bucher, Member
Federal Reserve System Board of Governors

Bank Holding Companies: Their Constraints Rewritten

(Editor's note: This article is adapted from remarks presented in January before the Banking, Corporation, and Business Law Section of the New York State Bar Association.)

* * *

When the Congress set out in the late 1960's to amend the Bank Holding Company Act, the principal impulse was the fact that an exemption in the original 1956 Act had turned out to be a serious loophole. As you are well aware, the 1956 statute applied only to holding companies owning more than one bank. A bank holding company with only one bank could acquire nonbank businesses very much as it pleased, without need to register as a bank holding company and with no obligation to be bound by the limitations on nonbanking activities applying to multibank holding companies.

It seemed to certain members of Congress and others that the rush to the one-bank holding company format in the closing years of the 1960s could lead to the undoing of the American tradition that commerce and finance are economic forces that can and should be required to deal at arm's length with one another, so as to avoid the concentrations of power that produced the zaibatsu one ocean away on one side of us, and the cartel across another. Some might have conjured visions of the multibillion dollar United States banks converting themselves to one-bank holding companies and acquiring—or being acquired by—multibillion dollar industrial giants. I doubt very much that the sensible businessmen who run our largest businesses would have had the bad judgment to fly so directly in the face of American tradition—of which they are a part—and laws against monopoly power, but the legal situation did not foreclose it. But even without such ultimate spectaculars, competition for market position was bound to bring about combinations of bank and nonbank holdings that would be increasingly large, and increasingly uncomfortable, unless the legal situation permitting it were amended.

Following a study of the problems presented by the trend toward formations of one-bank holding companies, the Federal Reserve on February 20, 1969, issued a "Statement of Principles" expressing the Board's belief that an end to the one-bank exemption was essential. The statement noted the "recent trend in the formation of one-bank holding companies" and the facts that "the unique characteristics of banks led the Congress in 1933 to separate banking from non-banking business, and in 1956 to reinforce that policy by limiting the activities of multibank holding companies to the management and control of banks and closely related activities."

The Board's statement stressed that this separation should be maintained. To that end, it made two basic recommendations:

> "1. The Board believes that it is essential that one-bank holding companies be included within the purview of the Act.
>
> "2. The Board considers that under present circumstances the law should not permit a bank to become a part of a conglomerate organization."

Thus, as suggested by the Board's Statement of Principles, the 1970 Amendments to the Bank Holding Company Act were born in apprehension that the wall separating the financing of production from the business of producing goods or services was crumbling, and that new restrictions should be enacted to make that wall intact again.

But the Board's statement added something else, as it turned out, quite significantly:

> "(The Board) also believes, however, that, consistent with continued growth and development of a dynamic and increasingly complex economy, banks should be granted freedom to innovate new services and procedures, either directly, or through wholly-owned subsidiaries, or through affiliates in a holding company system, subject to administrative approval of entry and acquisitions. . . ."

Further on in its statement—which contained many points that I am not touching on here—the Board indicated the parameters it would have in mind in administering such greater freedom for banks to innovate new services and procedures:

> "...In determining whether a particular activity by bank holding company organizations is consistent with the public interest, consideration must be given to whether the benefits of such affiliation outweigh the potential dangers at which separation of banking from nonbanking businesses has been directed. Such benefits would include greater convenience to the public, increased competition, and gains in efficiency for the economy generally as well as for the holding company organization. The potential dangers . . . are undue concentration of resources, decreased competition, conflicts of interest leading to less equality in the availability of credit, and dangers to the soundness of the nation's banking business."

The Amendments to the Bank Holding Company Act signed into law at the end of 1970 reflected, by and large, the Board's formulation of the nature and need for new banking legislation to bring the one-bank holding company into the regulatory fold. Thus—and this is one of the main points I want to make—the new legislation, born in apprehension and a spirit of constraint, while meeting misgivings by putting all but certain grandfathered one-bank holding companies under the same regulatory constraints as apply to multibank holding companies, went much further. It rewrote the constraints.

This was not done without much agonizing in the Congress over the extent—if any—to which the amended bank holding company law gave greater freedom for bank holding companies to acquire non-banking businesses. In the end, the Congress left it to the Board to interpret as well as implement the new legislation. The Board by its actions has indicated that it can only interpret the words approved by the Congress as providing greater scope for bank holding companies to make non-bank acquisitions than they had under the old Act. But, at the same time, the Board has

Governor Bucher

very considerably qualified the use of that greater scope by the emphasis it has placed upon the tests of public benefit implied or stated in the new Act. Thus, it has been and is the view of the Board, as demonstrated in its implementation of the new legislation, that any acquisition—however comfortably within the strictly legal confines of the new reservation—must also be within the public benefit tests before it can be approved. The result, as I see it, is much greater freedom for banking to innovate, balanced off against strong emphasis upon how that freedom may be used.

The point here is that no one can take the new Act and run wild with it, without reference to whether an intended acquisition might create an undue concentration of resources, weaken competition, ride down conflicts of interest or erode the soundness of the nation's banking system. That is true, fundamental and important. I think it is also probably generally understood. I believe the Board stands ready to emphasize that understanding whenever there is need to do so.

In general, the problem disguised as an opportunity posed for bank management by the new Act lies in the fact that the new legislation may well lead banking out of the routine of making the major portion of its profits chiefly from the spread between the cost of acquiring and the price of lending money.

Saying it another way, your client finds himself governed by legislation which provides him with the opportunity to achieve a better balanced business mix, yielding a more dependable profits curve, than the ups and downs traditional to banking. In the process, banking as an institution will have an opportunity to escape, in the public eye, from the image of the money lender pure and simple, and take on, instead, a new image, of a service-oriented center for a variety of financial and finance-related services, capable of giving increased support, in a more competitive setting, to the consumers, businesses and communities served by banks in a bank holding company. This opportunity, of course, carries with it a real challenge to the banking legal fraternity—which challenge many of you have undoubtedly already found.

". . . that divides the desert from the sown. . . "

Omar Khayam sang of the delights of those places where the desert ends and the green begins. Being a poet, he declared himself satisfied with a jug of wine, a loaf of bread and a pretty girl beside him. He knew nothing, or at least did not care to write about, the problems of economic development involved in having available even his simple requirements.

As background to the rest of my remarks, I want to pause briefly to mark the desert from the sown; that is, the permitted and the unpermitted under the new bank holding company law. But, being no poet, I cannot promise to confine myself only to delights and to ignore the problems implied.

First, although I am well aware that some of you can recite the list by heart, I will briefly touch on the activities or classes of activities presently available to a bank holding company under the 1970 Amendments to the Bank Holding Company Act:

- —Lending, such as done by a mortgage, finance, credit card or factoring company.
- —Consumer loan banks—an industrial bank, Morris Plan Bank or industrial loan company—oper-

ating in accordance with state law.

- Servicing loans or other extensions of credit for any person.
- Trust functions.
- Acting as investment or financial adviser.
- Leasing of personal property so long as the lease is expected to provide a full payout. Comparable treatment with respect to real property leases has recently been the subject of a published proposal.
- Making either equity or debt investments designed primarily to promote community welfare, such as development of low-income areas.
- Providing bookkeeping or data processing services for the internal operations of a holding company and its subsidiaries, and other data processing of a financial, banking or related nature.
- Acting as insurance agent or broker in offices at which the holding company or its subsidiaries are otherwise engaged in business, or in an adjacent office.
- Management of property held by the bank holding company or its subsidiaries, for conducting its own bank and related operations, or property held in a fiduciary capacity.
- Underwriting credit life, health and accident insurance.
- Acquisition of businesses not included in the Board's approval list, when the applicant demonstrates that the acquisition is necessary to permit it to more readily market assets subject to divestiture.

This, in brief, is the sown: the presently defined area in which banking can innovate new services. But let me add two cautions. First, it is no more than a summary. I have not attempted to convey the fine print. You, of course, are in a position to advise yourselves of provisos affecting most of these decisions. Further, announcement of a "permissible" activity does not, of course, make it automatically available. It must be applied for, and must pass the tests of public benefit that I previously stressed. An activity may be generally permissible, but not available, for instance, in the particular setting of a banking market, or in the non-bank competitive setting it would affect.

What of the desert? I will not take time to list in detail those activities that the Board has turned down. In interpretations published in the *Federal Register* in April and September of this year, the Board listed the following as not being, in the Board's opinion, so closely related to banking or managing or controlling banks as to be a proper incident thereto:

- Equity funding (later changed, without change in substance, to Insurance Premium Funding);
- Real estate brokerage;
- Land development;
- Real estate syndication;
- Management consulting;
- Property management, and;
- Operation of savings and loan associations, at least for the present.

As with permissible activities, I have given only a summary, and there is a fine print to consider. As for applicability, anyone is free to apply for an activity that has been declared nonpermissible, but the applicant must be prepared to present facts and arguments not considered earlier by the Board. Further, anyone may apply to engage in an activity of a type that has not been ruled upon either way.

Some Effects of the 1970 Amendments

A table in the August 1972, *Federal Reserve Bulletin* revealed some quantitative effects of the 1970 Amendments to the Bank Holding Company Act. It showed, as of June 30, 1972—and much more has been added since—that there were bank holding companies in 50 states and the District of Columbia. The total number of companies was 1,601, and they held 2,571 banks and 12,279 branches. This was nearly 40 per cent of all commercial banks in the United States. Furthermore, banks in bank holding companies at mid-1972 held over 60 per cent of all United States bank assets.

At the end of 1970—just before the new legislation went into effect—there were 121 registered multibank holding companies in the United States, holding 895 banks and 3,260 branches. They held 12 per cent of all bank offices in the United States and 16 per cent of all deposits.

Another way of measuring the effect is the impact on the System's workload: In the five years before the 1970 amendments went into effect, the System passed upon an average of 69 bank holding company cases a year. In 1971—the first year of the new legislation—the Board acted on 234 bank holding company applications. In 1972, we processed some 500 cases. We estimate that the number will be over 800 in 1973.

These figures indicate that the new bank holding company legislation has permanently affected financial structure in the United States. There is no slackening in the number of applications for the formation or expansion of bank holding companies coming to the Board. I conclude that we as yet have no evidence that the attraction of this form of banking structure has run its course, and that there is no reason, as yet, to believe that the portion of American banking that is now in bank holding company groups will not be substantially larger in the future than it is now.

That being the case, it is well to take a look at some of the problems disguised as opportunities and some of the opportunities disguised as problems, in the bank holding company formulation; that is, some benefits and some cautions.

Some Cautions

Let me take up first the main reasons for caution that I see, and then discuss the benefits to banking, and to the public it serves, that ought to flow from the new bank holding company law.

All of the cautions I have in mind might be stated in one general way: the enlarged scope permitted by the 1970 amendments for banking to affiliate itself with nonbanking business involves a single comprehensive danger: bankers will be dealing with businesses that—even though closely related to banking—are in fact significantly different from banking in important respects, and that, therefore, open prospects for substantial management errors.

Every banker considering forming, or becoming the financial center, of a bank

Continued on page 14

Successful Campaign in Mobile

A multi-media advertising campaign to obtain high identification for Title Guaranty and Abstract Company in the Mobile, Alabama, market area proved successful during the last half of 1972.

The campaign featured newspaper ads and radio and television commercials, and was designed for heavy initial exposure diminishing to reminder-type advertising at the end. Considerable comment was generated in the market area by the campaign and impact on the local real estate industry was significant, according to O. B. Taylor, Jr., president of Mississippi Valley Title Insurance Company, underwriter for which Title Guaranty and Abstract is a branch.

Operating on a budget of slightly over $1,000 per month, the campaign focused on identifying Title Guaranty and Abstract as a modern, up-to-date company rendering fast, capable service to the community—and (through radio and television) on identifying Kirby Ross, manager of the branch.

Newspaper ads were published once a week in the local paper, and were alternated with one serious and one humorous ad. Continuity was aided by publishing the Title Guaranty and Abstract signature at the bottom of each ad—complete with an illustration of a document in a circle with the words, "Full Circle Of Service".

One serious ad leads with the caption, "Why title protection?", and responds with, "Because you shouldn't take any chances on losing the biggest investment you make in your life—your home." The ad goes on to discuss land title hazards, title insurance protection, re-issue savings to the buyer, and closes with, "Why not see us about a small investment to protect your biggest investment."

A humorous ad includes a drawing of a family being evicted by a mustachioed villain in top hat, leads with the caption, "You can never be too sure about property ownership", and opens with the sentence, "Unfortunately, this scene isn't confined to the Silver Screen." The copy goes on to describe title hazards; points out that, "We're Title Guaranty and Abstract Company, and we don't want to see you playing this scene next";

At left, O. B. Taylor, Jr., seated, Mississippi Valley Title president, and Sutton Marks, president of Gordon Marks & Company, Inc., a Jackson, Miss., public relations-advertising agency, check mechanicals for newspaper ads used in the Mobile, Ala., campaign. At right, John T. Cossar (left),

Mississippi Valley vice president, and George Williams, Marks & Company vice president, go over a storyboard for a television commercial at the WLBT studios as Kirby S. Ross, Title Guaranty & Abstract Company president, waits in front of camera prior to videotaping.

explains title protection offered by the company and mentions Title Guaranty and Abstract escrow service, abstract plant, and data processing equipment; and closes by suggesting,"Give us some thought if you're about to build or buy a home. It could save you a disastrous scene."

Radio commercials were used during early morning drive time, with a 60-second commercial each morning. A different 15-minute broadcast segment was selected for airing a Title Guaranty and Abstract commercial each day—on a rotating basis for 20 weeks. The drive time period chosen was between 7 and 9 a.m. on both AM and FM—with the AM station reaching a market of people primarily from 25 to 49 years old and the FM station concentrating in a market of people primarily between the ages of 18 and 34. With a combination rate for the radio time, the commercials proved quite worthwhile since two popular personalities ran the program during drive time and brought a good ready-made audience.

In one radio commercial, a man asks another if he really needs title protection for his home. The second man discusses title hazards and protection, mentions Title Guaranty and Abstract and its manager, and closes with, "Does that answer your question?" The first man replies with, "Uh, what *was* the question?", and a taped announcer closing winds up the spot.

On television, a favorable combination was developed using one commercial per week on an early evening news show and one commercial per week on a late evening news show. The television commercials were concentrated on establishing identification of the branch manager.

One 30-second videotaped television commercial opens with an illustration of a home in flames, while the audio portion notes that almost everyone has fire insurance on their home—but not everyone has title protection. The commercial briefly explains title hazards and Ross appears on camera to comment on Title Guaranty and Abstract protection capability.

Reflecting on the campaign, which was conducted in cooperation with Gordon Marks & Company, Inc., Mississippi Valley Title's advertising agency, Taylor commented, "On practically every occasion of a visit by me to this branch office, I would either overhear some customer talking about the campaign or someone whom I knew would compliment me directly thereon."

Newspaper ads used in the campaign featured both a serious approach and the humorous treatment shown at left.

Mortgage Insurance New TI Endeavor

The TI Corporation (of California) has announced that it is entering the private mortgage insurance business with the establishment of the Ticor Mortgage Insurance Companies.

Ernest J. Loebbecke, TI board chairman, said that David O. Maxwell, who has resigned from his government post as general counsel of the United States Department of Housing and Urban Development, is president of the new companies. Maxwell, a former insurance commissioner for the Commonwealth of Pennsylvania, is responsible for the companies' national operations, which are headquartered in Los Angeles.

Loebbecke said the new, wholly owned private mortgage insurance subsidiaries begin operations early in 1973. Original capitalization of approximately $10 million will be increased in the future as required by premium volume.

Loebbecke said that the market for private mortgage insurance is expanding tremendously. He estimated that the industry would grow from less than $10 billion in insured loans in 1971 to more than $30 billion by the end of 1978.

Part II: ALTA Judiciary Committee Report

(Editor's note: Members of the ALTA Judiciary Committee have submitted over 500 cases to Chairman John S. Osborn, Jr., of the Louisville law firm of Tarrant, Combs, Blackwell & Bullitt, for consideration in the preparation of the annual Committee report. Chairman Osborn reports that 116 cases have been chosen for the report. For a previous installment of the report, please see the February, 1973, issue of *Title News*.)

* * *

BOUNDARIES

Keebler v. Investments Unlimited, Inc., 260 So. 2d 856, Fla. App. 1972, 1st DCA

Suit to quiet title to fractional part of section bordering on Gulf of Mexico and to determine the boundary.

The fractional section 31 had a northern corner boundary shown on certain subdivision plats. Defendants deraigned their title from a subdivision of the southern quarter of section 30 and a 1947 resurvey showing the Gulf of Mexico as southern boundary of the defendants' lots. They claimed the additional lands by reason of accretion.

Plaintiff deraigned its title to fractional section 31 from a 1934 patent from the United States.

There having been at all times a fractional section 31, the northern boundary was declared to be an extension of the northern boundary of section 32 and the southern boundary of section 29 as shown on the subdivision plats mentioned.

McAndrews v. Spencer, 447 Pa. 268, 290 A. 2d 258 (1972)

In this case the court held that where a deed describes a roadway which is neither a highway nor dedicated to public use, as a boundary line of a parcel of real estate, the grantee acquires by implication an easement over that land and not a fee to the center of it. The grantor's contrary intent, as shown by his subsequent grant of the fee of the realty to another, is irrelevant.

Sellman v. Schaaf, 26 Ohio App. 2d 35, 269 N. E. 2d 60 (1971)

A plat was recorded reciting that "all lots have been staked; monuments and new galvanized iron pipes are being placed on the ground at the points indicated on the plats." In fact not all monuments had been placed, but, nevertheless, lots were sold by reference to the plat and improvements were made by the plaintiff purchasers, including erection of a fence along a supposed lot line according to a new survey. A subsequent survey was made by defendant. As a result of this survey, defendant relocated plaintiff's fence within the bounds of land occupied by plaintiff, cutting plaintiff off from some of his improvements. Each party made adverse claims of title against the other.

Held: A plat is a symbolic representation of an actual survey. Where the actual location of a corner as established by a surveyor differs from the location as shown on the plat, the former controls. The primary function of the second surveyor is to find where boundaries were established by the first surveyor. If monuments no longer exist, the second surveyor must locate the actual place where they originally stood. If this cannot be done, the probable location must be established by reference to the courses and distances shown on the plat. If the original monument can be located, its location controls, even if its location is erroneously shown on the plat. Here stakes had in fact been placed by the original surveyor, had subsequently been lost, and their original location had been recreated on the ground by plaintiff's new survey.

DEEDS

Preissman v. Harmatz, 288 Atl. 2d 180, 264 Md. 715 (1972)

The court of appeals noted in passing in this case that a purchaser from an executor or trustee is not entitled to demand a deed containing a covenant of special warranty because executors and trustees can convey no better title than they have and are without power in their representative capacity to bind the estate.

Shulansky v. Michaels, 14 Ariz. App. 402, 484 P. 2d 14 (1971)

A treasurer's tax deed was issued to L. Michaels *or* B. Michaels for certain real property and its validity was attacked on the basis that a deed to two grantees in the alternative or disjunctive is void for uncertainty. The court held that, in construing a deed, every attempt should be made to carry out the intent of the grantor, and that substance rather than form should control. In this instance the conveyance was from the State to an individual and the statutes provided that after prescribed steps had been taken the treasurer *shall* issue a deed, etc. Consequently, it was the treasurer's duty and his intent to convey through a valid deed. Therefore, the word "or" should be considered as a conjunctive to carry out the intent of the parties and to validate the deed.

La Pierre v. Kalergis, 251 So. 2d 885, Fla. App. 1971

Deed from father and mother to mother and daughter reciting that "pursuant to Section 689.15 F. S., provision is hereby and in this instrument expressly made for the right of survivorship between the parties" was sufficient to create a joint tenancy with right of survivorship between mother and daughter.

F. S. 689.15 abolished the common law doctrine of right of survivorship among joint tenants unless the conveyance specifically so provides. The common law doctrine required such things as unity of interest, title, time, and possession, among others. The court held that the legislature by enactment of F. S. 689.15 "brushed away all such restraints."

The court noted, however, that in the instant case the grantees received title with the elements of unity present.

This appears to be the first Florida case to rule on this precise point. Heretofore most title attorneys have taken the position that no joint tenancy was created since one of the grantees was already in title and in posses-

sion, thus the necessary unities were not present.

Peninsular Point, Inc. v. South Georgia Dairy Co-op, 251 So. 2d 690, Fla. App. 1st DCA Fla. (1971)

Plat to which reference was made in sale of lots contained the following language: " . . . and does hereby dedicate to the perpetual use of the public, as public highways, the streets as shown hereon, reserving unto itself, its heirs, successors, assigns, or legal representatives, the reversion or reversions of the same, whenever abandoned by the public or discontinued by law."

A street was abandoned by county comissioners.

The court held that ordinarily when a public right of way is dedicated on a plat the abutting owners each own to the center of the street on the theory that the street is an easement and when the street is abandoned the burden of the easement is removed. This is true unless a contrary intent is evidenced as the court found in the language quoted above.

The result was that the original developer retained title to the street and thus owned the strip when it was abandoned by the public.

For title insurance purposes this is an unfortunate outcome because so many plat dedications contain the same or similar language, especially the older ones. If an abutting owner claims title to a portion of an abandoned street in such a plat it would be necessary to get a deed from the developer or his successors which could prove virtually impossible in many cases and would leave a portion of the property uninsurable.

Since this case, the legislature has acted to eliminate this result by enacting a statute requiring the reservation to appear in the deed from the developer to abutting grantee, otherwise the reversion is conveyed with the lot.

Armstrong v. Smith, 251 So. 2d 216 (Ala. 1971)

A bill in equity was brought by name grantee in a deed against her children to determine ownership of real property. The deed recited that the grantor "for and in consideration of the love and affection we bear toward our beloved daughter Cynthia Elizabeth Lucas and her offspring, do hereby grant, give, and convey unto our said daughter and offspring or heirs the following described lands."

Held: Under a deed conveying a tract of land to the grantor's daughter and offspring or heirs followed by a directive that the land was not to be mortgaged or sold, the daughter took an estate in fee simple title or at least an estate in fee simple title converted by statute to a fee simple unencumbered by any estate in her children, some or all of whom were soon to be in existence at the effective date of the deed.

EASEMENTS

Franke & Martin v. Southwestern Bell Telephone, No. 55,533, Div. 1, Supreme Court of Missouri

The above utility maintained an underground concrete conduit containing wires and cables along the right of way of land owned by the Missouri State Highway Commission by virtue of a "permit" granted by the latter after the commission, by virtue of Section 227.240, V.A.M.S., had ordered Southwestern Bell to relocate the conduit. Thereafter, pursuant to Section 227.290, the commission ordered a sale of the tract across which said conduit ran. The purchasers took it without actual or constructive notice of the conduit, and, upon refusal of Southwestern Bell to pay damages or relocate (no recorded or unrecorded easement being produced) filed suit for damages for trespass. Trial court held in favor of Southwestern Bell, granting it "a franchise or property right with respect to its facilities and conduit as situated in the subject parcel, which right was subject only to the limited supervisory powers accorded the State Highway Commission under the laws of Missouri." (Section 227.240, V.A.M.S.)

Held: Revised and remanded for further proceedings.

The Supreme Court held that Southwestern Bell acquired only a license from the Highway Commission to place its conduit and manholes on subject property when it was a part of the right of way and then under control and supervision of the commission. And, further, that the consent or license to use the right of way given Southwestern Bell by the Highway Commission did not extend beyond the commission's occupancy of the right of way and could give Southwestern Bell no right in such land after title passed to plaintiffs. As a consequence, Southwestern Bell became a trespasser upon plaintiffs' land from the date of plaintiffs' demand for Southwestern Bell to move or pay.

Deakyne v. Commissioners of Lewes, 341 F. Supp. 952 (Del. 1972)

In this case the court held that an easement for a public road may be established under Delaware's statutes (17 Del. C. Section 509) by a showing that the road was uninterruptedly used by the public for twenty years and maintained for the same length of time at public expense. Neither hostile, continuous, and exclusive use, nor express written exercise of dominion over the road need be shown. The court also ruled that such an easement gave the municipality the right to lay a sewer line beneath the road.

State Dept. of Transp. v. Florida East Coast Ry. Co., 262 So. 2d 480 (Fla App. 1972)

Condemnation of a portion of railroad row for highway purposes is allowable under statute authorizing taking of RR property not necessary to operation or function of RR.

In this case Department of Transportation had been using and maintaining the 30 feet sought to be condemned for more than four years. It was thus claimed as an automatic public dedication under F. S. 337.31 without payment of compensation. Defense of Railway Company—that one public body cannot take land from another public body—was not good on the ground that a railroad is not a "public body" in the sense of an agency or political subdivision of the state but is rather a franchised public use company.

This is in contrast with State Dept. of Transp. v. Florida East Coast Ry. Co., 239 So. 587, September 9, 1970, where the court would not apply the automatic dedication statute to the railroad's property because of the grant of easement, albeit an unrecorded easement of many years standing. No easement was mentioned in the instant case, so presumably there was none.

Beattie v. Swanson, 1971 Mass. Adv. Sh. 1189

Bill for declaratory relief. Mr. and Mrs. Smart owned land shown on a development plan. They conveyed lot 15 to plaintiff's predecessors in title and the premises came to the plaintiffs by deeds bounding this lot "northeasterly by a proposed street as shown on said plan . . . and easterly by a curved line forming the intersection of said proposed street and Worcester Lane." However, a right of way over the same proposed street had previously been granted to buyers of 8½ acres north and east of lot 15 and the Smarts held 16 acres more west and north of lot 15. In these circumstances a master, the superior court, and the supreme judicial court, all decided that the Smarts had retained the fee in the proposed street. The supreme judicial court, recognizing the still general rule that mention of a way as a boundary normally conveys title to the middle of the way, pointed out that earlier cases warned that the rule was "merely a principle of interpretation," and here held justified a finding of intent that the fee stay in the owner-developer. Compare the earlier case of *Thompson v. Lorden*, 1970, Mass. Adv. Sh. 1307, where deeds were construed to reach to the middle of adjoining ways but not to a park between parallel ways. The case law apparently remains that intent of the parties governs, but bound on a way indicates intent to convey the fee to the middle, if the grantor owns it. Chapter 684 of the Acts of 1971, effective January 1, 1972, provides by statute that in these circumstances a deed carries the fee to the middle of the way, unless negated.

Town of Pittsfield v. Cianchette, 279 A. 2d 527 (Me.1971)

The defendant owned a dam constructed about 75 years ago and which created an artificial pond. More than 50 years ago the plaintiff extended three trunk line sewers into the artificial pond. The sewer lines provide a sewerage disposal system for from 500 to 600 people. The sewage was collected from the residences, carried through the trunk lines and dumped into the artificial pond created by the dam and then carried downstream. There was nothing in the record to show ownership by the plaintiff of any land abutting or under the pond. The sewer lines were constructed openly and notoriously for the entire 50 years. The defendant raised the gates of the dam, lowering the level of the pond and exposing the sewer lines. Action was brought seeking injunctive relief direct-

ing the defendant to maintain the level of the pond by keeping the gates closed. The defendant had never used the dam for any commercial or business purpose. There was nothing to indicate that the defendant's dam had at any time been damaged or interfered with by the presence and operation of the sewerage system.

Held: Plaintiff can gain no prescriptive rights against defendant, because defendant's rights were never invaded by the operation of the sewer lines by plaintiff. The enjoyment of its rights by plaintiff has not been inconsistent with or contrary to the rights of defendant. Injunctive relief denied.

Soltis v. Miller, 444 Pa. 357 (1971)

A dispute arose between adjoining land owners over the existence and restricted nature of a right-of-way from one party's landlocked property across the other party's property to a public way. The right-of-way had been used primarily for agricultural purposes, but there was testimony that in the future the land might be used for its timber or minerals since it was unzoned rural land.

Held: A right-of-way by necessity should be sufficiently broad so as to provide for any reasonable and lawful use of the land required by the land-locked parcel. Enlarged uses in easements resulting from changes in the use of the dominant tenement should be recognized as within the scope of the original easement.

Case of first impression.

Ward v. McGlory, 265 N. E. 2d 78 (Mass. 1970)

Grantors sold McGlory land, inaccessible except over their remaining land, "together with a right-of-way over other land of the grantors on the existing roadway east of the bar." Grantee put two electric poles along the right-of-way and has used them to support electric wires to his land. Grantors complained.

Held: The easement given in the deed did not include the right to transmit electric current over the land.

ESTATES

Howard v. Reynolds, 30 Ohio St. 2d 214 (1972)

R, a resident of Vermont, died intestate in Rome, Italy, survived by an uncle and five cousins. His Ohio estate of over a million dollars consisted of stocks and bonds. Because of his incompetency, these assets were under guardianship of his uncle, subject to the control and jurisdiction of the Probate Court of Lucas County, Ohio, and in the possession of the Toledo Trust Company as depository.

Under the law of Vermont the uncle would take the entire estate. Under the law of Ohio he would inherit only one-fourth, the remainder going to the deceased's five cousins.

The court held that the power to regulate the transmission, administration, and distribution of personal property rests with the state of its situs and that Ohio as the situs state could either transfer the property to the jurisdiction of the domicile state for probate or subject it to Ohio's administration and processes.

Ohio has long followed the rule that intestate succession to personal property is governed by the law of the deceased owner's domicile (in this case Vermont).

Labine v. Vincent, 91 S. Ct. 1017 (1971)

Petition by guardian of illegitimate child for appointment of administrator, and, among other things, for declaratory relief that illegitimate child is sole heir of decedent under Louisiana law. The decedent, who was the father of the child, had acknowledged the child and had died intestate. Louisiana law barred an illegitimate child from sharing equally with legitimates in an intestate estate. The central issue was whether or not the bar to the illegitimate child was in violation of the equal protection and due process clauses of the Constitution of the United States. The state court had refused the illegitimate child relief.

Held: Affirmed. The power to preclude illegitimate children from inheritance under the Louisiana intestate succession provisions was within state powers and was not in contravention of the equal protection or due process clauses of the Constitution. The Court distinguished the case from its conclusions in *Levy v. Louisiana*, 391 U. S. 68 (1968) and *Glona v. American Guarantee & Liability Insurance Co.*, 391 U. S. 73 (1968).

Several states have similar statutes, and the case resolves an issue previously in doubt.

Bank of Delaware, Trustee v. Bank of Delaware, Executor, 289 Atl. 2d 639

Court of Chancery of Delaware, New Castle, decided that where an inter vivos trust provided that the income should be divided equally between the settlor's wife and only child and after the death of the child the income should be divided among the settlor's grandchildren until the youngest reached the age of 21, at which time the shares should be distributed, but if the daughter died without leaving issue or lawful issue of a deceased child, the net income was to go to the settlor for life and upon his death to be divided equally among his next of kin, the next of kin to be determined on the date of the death of the daughter who survived the settlor but left no issue or issue of a deceased child surviving her.

Adams v. Foster, 466 S. W. 2d 706 (Mo., 1971)

Plaintiff petitioned to quiet title in him after the death of his alleged wife, who was the title owner of the real estate. Plaintiff claimed title as a survivor in tenancy by entireties. Plaintiff failed to prove that he was lawfully married to decedent and did not establish any contract creating joint tenancy with right of survivorship.

Held: Since plaintiff and decendent were never lawfully married, plaintiff was not entitled to right of survivorship as incident of tenancy by entireties, in view of the fact that tenancy by entireties can only exist between husband and wife.

Bastians v. Bastians, 36 App. Div. 2d 1020, 321 N. Y. S. 2d 480 (1971)

In a suit brought by a wife against a husband for divorce, the husband counterclaimed requesting the court to decree that if the divorce should be granted it would also grant a judgment decreeing the partition and sale of the home owned by husband and wife as tenants by entirety.

Held: Even though a tenancy by the entirety cannot be made the subject of an action for partition, the defendant's counterclaim is drafted contingent upon the dissolution of the marriage, in which case ownership of this property will be held by these parties as tenants in common. At that time the partition will lie.

Moore v. Vines, 461 S. W. 2d 642 (Texas 1971)

Vines and wife executed a joint will leaving to Vines a life estate in Trust "A," her separate property, subject to an oil and gas lease. Mrs. Vines pre-deceased Vines. The first lease expired and production was obtained under a second lease. Vines and remaindermen seek determination of who is entitled to receive royalty.

Held: For remaindermen. The lease in effect upon Mrs. Vines's death, under which no production was obtained, does not "open the mine" under the Open Mine Doctrine, and, once the lease expires, life tenant is excluded from receiving royalties.

Initial Texas decision drawing the outside limit of the Open Mine Doctrine.

Pietro v. Leonetti, 26 Ohio App. 2d 221, 270 N. E. 2d 660 (1971)

In January 1969 decedent and his wife acquired title to subject realty as joint tenants with the right of survivorship. The purchase price of $27,900 was paid by $10,000 cash and $17,900 first mortgage. In March of 1969 the husband died. No payments on the mortgage had been made and his will made no provision for his wife who elected to take under the statute of descent and distribution. In July of 1969 she sold the realty and presented a claim against the husband's estate for reimbursement for one-half of the balance due on the mortgage.

Held: Wife is entitled to reimbursement from the estate for the deceased husband's share of the joint obligation to repay the mortgage debt.

Case of first impression in Ohio which adopts the majority view.

Next:

Eminent Domain

association corner

state

Missouri, Dixie Land Title Associations Elect New Officers

Newly-elected officers of the Missouri Land Title Association are shown in the photograph at left, which was taken during the Association's Annual Convention last September in St. Louis. Front row, from left, are William B. Boyd, vice president; Mrs. Phyllis Schnebelen, president; Hugh B. Robinson, secretary-treasurer. Back row, from left, are, all board members, Warren H. Wemhoener, J. E. Barnes, Jr., Mrs. Mary Brown, Raymond L. Thompson, and Raymond O. Douglas. Charles Hansen, Association board member, was unable to be present when this photograph was made. In the other photograph are ALTA President James O. Hickman (who was ALTA vice president at the time of the MLTA Convention) and wife Pat; Hickman was a featured speaker at the meeting. Mrs. Schnebelen is a graduate of the St. Louis University School of Law.

These photographs from the Dixie Land Title Association Annual Convention in Savannah last November show newly-elected Association President O. B. Taylor, Jr., and newly-elected Association Vice President Mrs. Marie McLaughlin. Maclin Smith, Jr., right, DLTA immediate past president, presents Thomas A. Hackett, outgoing president of the Association, a plaque in the center photograph. At right are ALTA Treasurer James G. Schmidt and wife Marion. In addition to Schmidt, featured speakers at the Convention included ALTA Title Insurance and Underwriters Section Chairman Robert C. Dawson. Convention highlights included an update on ALTA national activity of interest to the land title industry.

MLTA Members Elect Schnebelen

Members of the Missouri Land Title Association elected Mrs. Phyllis Schnebelen, Farmington, president during their 1972 Annual Convention held last September in St. Louis.

Mrs. Schnebelen received her law degree from the St. Louis University School of Law.

Other newly-elected officers are William B. Boyd, Fulton, vice president; Hugh B. Robinson, Carrollton, secretary-treasurer; and, new board members, Charles E. Hansen, Union, Warren H. Wemhoener, Clayton, and Mrs. Mary Brown, Bowling Green.

Convention highlights included a speech by ALTA President James O. Hickman (who was ALTA vice president at the time of the MLTA Convention), who reported on activity of ALTA at the national level.

Commonwealth Executive Honored

Albert E. (Bert) Spencer, Commonwealth Land Title Insurance Company vice president, second from right, was the first non-Realtor to ever receive a special "Man Of The Year" Award of the West Philadelphia Chapter, Philadelphia Board of Realtors, at recent surprise ceremonies. Making the presentation in recognition of Spencer's many years of service as Board secretary is Mike Micali, president of Profident Savings Association of Philadelphia. Others, from left, are Vince diCicchio, new Board president, Louis Starkman, Board past president, and Commonwealth President Fred B. Fromhold.

TICP Senior Title Officer Succumbs

Word has been received of the death of George M. Sauers, Jr., senior title officer and manager of the production department, The Title Insurance Corporation of Pennsylvania, Bryn Mawr, Pa., on December 28.

He had been associated with that company for nine years.

PLTA Retains Public Relations Firm

A consumer education program is being developed by the Pennsylvania Land Title Association, which has hired the public relations firm of Albert Frank-Guenther Law, Inc. for that purpose.

names in the news

Transamerica Title Insurance Co. has announced the following promotions: **Thomas G. Kenney,** president, to chief executive officer; **William Gilliland** to Southern California regional manager; **Leo R. French** to Northern California regional manager; **Anthony T. Maisto** to regional manager in Denver; **James L. Roffe** to regional manager in Littleton (Colo.); and **Warren A. Kennedy** to assistant manager of Washington-Alaska operations.

* * *

Mid-South Title Co. has elected **George M. Houston,** president, to board chairman and chief executive officer; **J. L. Boren, Jr.,** executive vice president, to president; **J. L. Boren, Sr.,** board chairman, to senior chairman of the board; and **Thomas A. Griffin, Jr.,** vice president and manager of the abstract department, to executive vice president.

* * *

Robert H. Bollum has been named president and chief executive officer of Land Title Insurance Co., San Diego. He succeeds **Thomas A. Clarkson,** who will remain as chairman of the board.

* * *

N. Bruce Boney, Jr., has been named president of Lawyers Title of North Carolina, Inc. following the retirement of **Mrs. Cornelia McK. Trott,** who was in the title insurance business 25 years. Other promotions include **W. Dunlop White, Jr.,** of Winston-Salem, to executive vice president and **Edwin B. Hatch** of Raleigh to vice president.

* * *

KENNEY

GILLILAND

FRENCH

MAISTO

ROFFE

KENNEDY

HOUSTON

BOREN, JR.

Arthur C. Johnson, former assistant counsel, has been elected executive vice president and chief administrative officer of St. Paul Abstract and Title Guarantee Co.

BOREN, SR.

GRIFFIN

BOLLUM

CLARKSON

BONEY

JOHNSON

BANK HOLDING COMPANIES—
continued from page 6

holding company, should keep this danger foremost in mind. Similarly, the executive of a nonbank company considering acquiring a bank should be

equally wary, for banking is a highly specialized business that only banking experts can run.

What this suggests, I think, is that after legal hurdles regarding structure have been overcome, the key to successful bank holding company operation lies in very careful consideration of management problems. Some banks may be run by men of such instinctive entrepreneurial skill that they can take on the widely differing managerial problems of some or all of the bank-related businesses already approved by the Federal Reserve Board. But such skill is rare. In most cases, bankers will have to depend upon management other than their own, when they affiliate with their bank—say—a data processing, or a factoring, or a leasing company, or all of these and more.

The difficulty here does not end when you find a well-run company that you can bring into your bank holding company. Generally, the company will have been a medium to small organization, managed by men accustomed to making the final decisions, and accustomed to making those decisions upon the relatively narrow basis of the ins and outs of their particular business. As a subsidiary of a bank holding company, even given the maximum autonomy prudently permissible, they will no longer have the final say. Further, their decisions will have to be placed in the broader context of the well-being of the holding company as a whole. For example, a data processing company may have to provide services in profitable, but less than optimum lots, in terms of profits, as part of a service package offered by the holding company. Very often, excellent management brought into a holding company by acquisition will soon exit because it cannot accommodate itself to such a management environment. Thus, in considering a nonbank affiliation, bank management must have it in mind—even when acquiring management that is known to be skillful—that the new affiliate may have to go through a fairly extensive period of management development before it becomes a solid member of the holding company's team, yielding fully the profits it is capable of making as part of that team and making the team as a whole more profitable.

While the management problem can be touchy in the case of an acquisition that has familiar and good management, it is obvious that the problem is all the more critical where an acquisition involves taking over management that is not familiar to the chief executives of the holding company, and particularly where lack of personal knowledge is combined with lack of a seasoned record of performance against which the ability of the intended affiliates' management can be judged.

Finally, management must always have in mind the question, when contemplating a nonbank acquisition, whether the holding company—as distinct from its bank subsidiaries—has the capital resources to get through a period of management development when the new affiliate's profits may be low or even negative. This is one reason the Board is concerned about the capital structure involved in holding company formations, and in the capitalization of holding company subsidiaries, bank or nonbank.

These are the central and pervading problems wrapped in the bright bindings of bank holding company potentials. Let me mention just one other rather general reason for caution. This is the fact that most of the nonbank businesses permissible to bank holding companies are service businesses, and service companies generally make their profits from fees. Banks, on the other hand, although they too are a service business, are accustomed to making their profits mainly from the spread between the cost of acquiring money and the price they can charge for money when they lend it or invest it.

Many bankers, perhaps most, will find themselves uneasy trying to shift their thinking to a fee basis, because this will require them, perhaps for the first time in their business career, to go through a careful costing process. The fee must cover costs—all real costs—and a profit. Here, bank holding company management must ask itself if it has the flexibility of mind, the inclination to change—and the willingness to risk its success—upon its ability to cost out the services it will be providing, and place competitive and profitable fee prices upon them. In this case, as in the more general management problem already noted, it may be necessary for them to take into their calculations a rather lengthy learning period, when the holding company's financial resources must be adequate to get through a time of management development that could be slow and costly.

Some Benefits

You may ask, why should all these bankers, your clients, take the plunge?

The answer, I think, lies about half in the fact that technology has its own dynamics, and brings about change that can be resisted, for the most part, only by the few and the special. We have assembly line production because the technology for such production became available. We have the dial telephone because the technology for such electronic programming became available. The other half of the answer, I think, is that new technology has a way of coming into being when there is a need, or a desire, for it. Printing was developed about when enough people able to read were present to make it a practical industry. The automobile came along when population growth and other demand and technical factors made the horse obsolete. There is a picture of Herbert Hoover watching the election returns that made him President on a tiny television set. But radio had not yet peaked and the depression of the Thirties discouraged introduction of new big ticket items. After the war of the Forties, and after radar demonstrated to all, in that war, the practicality of the electronic image, the already existing television technology came quickly into general use.

I believe that a combination of electronic bookkeeping abilities, high capacity communications technology, new management methods and public needs and desires is behind the spread of the bank holding company. It is not just that we *want* to bank differently from our grandfathers. It is also that we *need* to bank differently from our grandfathers. The population our banking system serves is so much larger. So many more people make so many more, and more complex, transactions. Needs for financing of businesses and households are larger, based on larger gross national product and family incomes. The credit card is with us as a financing instrument competing with traditional banking. The public is aware of the speed and efficiency that can be wrung out of the computer, and—despite wide-

spread run-in troubles with computerization—the public wants this efficiency and hold-down of costs in banking as elsewhere.

For these and numerous other reasons that both make possible, and require, modernization of our financial service system, I think the bank holding company format is here to stay, and will be a very general phenomenon henceforward. I have been stating some of the main risks involved, as I see them, not to drive anyone off the bank holding company path, but to emphasize that the path is winding and narrow, and that it should be undertaken only by the wary, with prudence and good counsel.

Winding and narrow it may be, but it leads for those who have the skill and judgment to traverse it, to higher ground for banking, in terms of service to the public and in terms of sound and profitable banking.

The public's gain, as I see it, lies chiefly in two areas. One is increased competition. The Federal Reserve Board noted in its early Statement of Principles that *de novo* firms established by bank holding companies would generally be assumed to increase competition, by increasing outlets and service points, and the Board has given a boost to this form of increased competition by procedures for the approval of *de novo* affiliates of bank holding companies that are quicker and easier than for acquisitions of existing companies. In general, the Board has made pro-competitiveness a very major factor in approving or disapproving applications for bank holding company acquisitions.

The other main area of public gain lies in the efficiency and cost reduction available through computerized bookkeeping and other data handling, and the related packaging of services. So long as the Act's strict anti-tie-in provisions are honored, a bank holding company with a data processing subsidiary, for instance, can operate a computer of sufficient capacity to provide bookkeeping, payroll and like services to a large number of individuals and businesses. And—again remembering that tie-ins are not permitted—it can offer these services individually, or it can package them with related services, such as, for example, factoring, tax accounting, financial advice and leasing. Each of these services, when part of a package, can be made available at less cost than the price at which it could be provided separately. And, of course, offered as a package, there is a public gain in convenience similar to the convenience of the supermarket as compared to the grocery store, the notions store, the dairy store, the icehouse, the spice store and the other special outlets that once had to be visited separately to buy what is now available under one roof.

I have already indicated one of the chief benefits to banking. This is, getting off the traditional roller coaster of profit ups and downs and getting on—through the operation of an efficient mix of banking and bank-related services that can be packaged—to a steadier profit line.

I have also already mentioned the shift toward the earning of fees, and away from dependence upon the spread between the cost of acquiring funds and the price of providing funds, as the main source of banking profits. I brought this up earlier as a difficult passage for bankers to negotiate. I bring it up here as a substantial benefit to banking, once the problem of making the change has been successfully accomplished. As I noted, most of the non-bank affiliates of a bank holding company will be service companies earning fees. The benefit to banking lies in the fact that charging fees requires accurate costing of services. I suspect that few banks today—operating chiefly on money's cost/price spread—have an accurate idea of the cost of the services they provide to the public, and, consequently, do not know as precisely as they might why they make or lose money.

Let me mention one other general advantage of a technical nature. This relates to management, about which I have up to now been cautionary. Once the learning cruise has been completed, and a dependable and committed bank holding company complex of management is in place, there are substantial management advantages to be gained, by better development and use of management skills. These skills can be teamed where they are complementary. Managers can be moved, both laterally and vertically, as experience and abilities increase, and in step with the holding company's program for developing replacement management at the top. Until the very top levels of holding company management are reached, there is no narrowing command pyramid to impede management transfers, such as there is in one separate company. I think, consequently, that the diverse banking and related services that can now be brought together under the bank holding company umbrella will make for the development not just of better management, but also of better bank management. It will bring into the upper levels of banking men who are widely acquainted with a substantial range of the businesses, other than banking, that banking must finance.

Finally, let me come back to a thought that I expressed early in my remarks. That is, if the bank holding company develops as it should, as an instrument that improves the technical performance of banking services, holds down the cost of those services, provides the public with a supermarket of financial and related services at lower cost than would otherwise be the case, and makes for more competition in many lines of banking and related businesses, the public will not only be well served but, I think, will be well pleased. The story about the banker with one glass eye—that being the one with the kindly glint—will become a bit of history. Its place should be taken by a public view of banking as a wide-ranging industry that makes life more convenient and less expensive, for people, for the businesses where they earn their living and for their communities.

And you my friends of the legal fraternity can take pride in being a part of that development.

Essay Contest for Mid-South

Mid-South Title Company, Memphis, has announced a "Why I Believe in Memphis" essay contest open to graduating high school seniors in its home area. Entrants will compete for a single $500 prize, which will be applied toward college tuition and/or books and other learning materials for the winner.

Each school judges its own entries in the first round of the competition, with top essays judged by a panel of community leaders.

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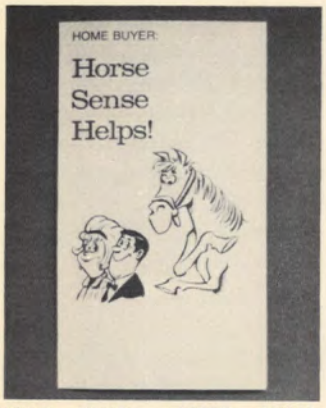
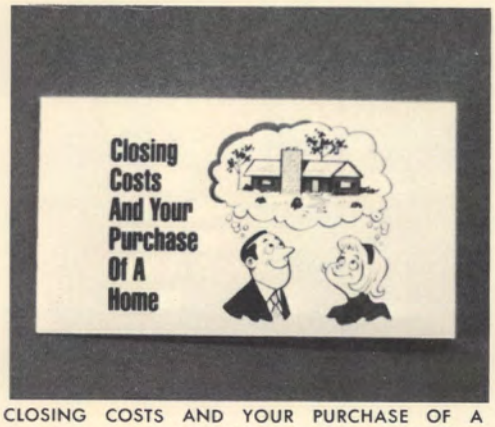


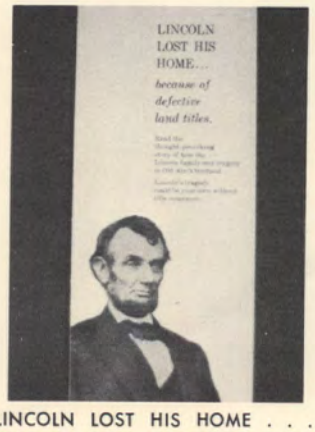
HOME BUYER: HORSE SENSE HELPS! A concisely-worded direct mail piece that quickly outlines title company services. 1-11 dozen, 65 cents per dozen; 12 or more dozen, 50 cents per dozen; designed to fit in a No. 10 envelope.



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.

AMERICAN LAND TITLE ASSOCIATION ANSWERS SOME IMPORTANT QUESTIONS ABOUT THE TITLE TO YOUR HOME. Includes the story of the land title industry. $16.00 per 100 copies of the booklet.

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.

(RIGHT) BLUEPRINT FOR HOME BUYING. Illustrated booklet contains consumer guidelines on important aspects of home buying. Explains roles of various professionals including broker, attorney and titleman. $18.00 per hundred copies, 20 cents each on 99 or fewer copies. (RIGHT) ALTA FULL-LENGTH FILMS: "BLUEPRINT FOR HOME BUYING." Colorful animated 16 mm. sound film, 14 minutes long, with guidance on home selection, financing, settlement. Basis for popular booklet mentioned above. $95 per print. "A PLACE UNDER THE SUN." Award winning 21 minute animated 16 mm. color sound film tells the story of the land title industry and its services. $135 per print.

American Land Title Association