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1979

Title News



**Inside This Issue: An Interview With
Sen. John Tower (R-Texas)**



a message from the Chairman, Abstracters & Title Insurance Agents Section

"I am at a total loss to explain what it takes to elicit meaningful dialogue in the title business." With these words an ALTA committee chairman expressed his frustration after receiving only 30 responses to a widely distributed questionnaire—the end-product of a great amount of sacrificial work by the members of his committee.

A year ago a membership questionnaire was distributed by the Association's officers to evaluate the performance of the Association in meeting the needs of its members. That questionnaire not only provided a system of rating existing performance but also asked for suggestions for improvement. Given this open-ended opportunity for input into the direction and activities of ALTA, only 11.5 percent of its members responded.

Every person in the leadership of our Association could cite many similar examples.

Although ALTA is small in comparison with many national trade associations, its achievements are impressive when compared to those same organizations. How much more effective would ALTA be if every member took an active role in shaping it! Our members have much to contribute to the common good in the way of experience, expertise and mature judgment.

It is repeating the obvious to say that ours is a diverse membership. Although that diversity sometimes creates problems, it can give strength, because it provides a great basis for a broad cross section of input into the shaping of this organization and its activities. ALTA officers constantly seek means of obtaining that broad input through rearrangement of the official and committee structure of ALTA, through convention and conference programming, through visits by ALTA representatives to state and regional title conventions and through questionnaires such as those which I have mentioned.

Does the lack of member response indicate complete satisfaction?
Impossible.

Does it result from a lack of interest in the success of one's own business or profession? *Hardly.*

Does it result from the feeling that a single voice will be ineffective?
Possibly.

Does it result from human procrastination and inertia? *Probably.*

It is in the enlightened self-interest of every member of the title industry that the American Land Title Association be an ever expanding, an ever more efficient, an ever more effective organization. That can be only if the entire membership determines to have a part in its direction.

I challenge each reader of this message, not just to be responsive to future questionnaires, but—before turning a page in this issue of *Title News* or passing on to another task—to drop me a line with a suggestion for or criticism of your national association. What would you like to see covered at the 1979 Annual Convention? Or what changes would you make in convention and conference format? Or how would you increase communication among members, officers and staff? Or what should ALTA be doing which it is not doing now? Or what should ALTA not be doing which it is doing now?

Just one suggestion.

Now.

The address is Post Office Box 432, Memphis, Tenn. 38101.

Will the response exceed 11.5 percent?

Sincerely,

J.L. Boren Jr.



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A system that tells you
"Richard Ried" and "Dick Reed"
 are the same person.

REPORT CF-03
 THE FOLLOWING JUDGMENTS HAVE BEEN FOUND:
 *** SEARCH SPECIFICATIONS *** RICH
 NAME: RIED

SEARCH JUDGMENTS
 DIRECT INQUIRY
 TIME: 10:28:39
 PAGE: 1

INDIVIDUAL NAME:	DATE OF JUDGMENT:	CREDITOR:	VOLUME:	READ PAGE:	TYPE:	COMMENT:	SAMPLE AMOUNT:
RICHARD	01/01/79	PNTI	1	6	INDIVIDUAL	SAMPLE	1,000.00
FRANK	01/01/79	PNTI	1	1		SAMPLE	1,000.00
RICHIE	01/01/79	PNTI	1	9		SAMPLE	1,000.00
DICK	01/01/79	PNTI	1	2		SAMPLE	1,000.00
RICK	01/01/79	PNTI	1	5		SAMPLE	1,000.00
RICKY	01/01/79	PNTI	1	3		SAMPLE	1,000.00
RICH	01/01/79	PNTI	1	7		SAMPLE	1,000.00
RICHARD	01/01/79	PNTI	1	4		SAMPLE	1,000.00
RICHARD	01/01/79	PNTI	1	8		SAMPLE	1,000.00

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Title Insurance and the Hairdresser

The following was adapted from a presentation for the spouses of titlepeople at the 1978 ALTA Annual Convention in Boca Raton, Fla. It was presented by James W. Robinson, senior vice president, public relations, American Title Insurance Co., Miami, Fla., and Bonnie Notestein, president of Westland Title Co., Hialeah, Fla.

As you know, my name is Jim Robinson. I've been in the title business 127 years. During that time, I've had a lot of failures, a few successes, a lot of disappointments and a few honors. I can tell you there's been no honor, no assignment more important than the one I have this morning and that is the opportunity to speak to you ladies of the American Land Title Association.

There are two reasons why I feel this way. The first is that this is an historic moment. We've never done this before and it's been my conviction for some time that the ladies would be interested in a serious program, if it were not too long and if it were presented properly.

The second reason that I feel this is an important assignment for me is that I have great empathy for you people who are asked a great many questions about our business and, in some cases, haven't been supplied with all of the answers.

I spent 18 years of my life with a very fine title insurance company headquartered in Chicago. After 18 years of talking about the title insurance business, people would say to members of my family, "Where does Jim work?" And, they would reply, "He works for a bank!" So, I know exactly what it's like for people to face that vast reservoir of ignorance about the business of title insurance. Therefore, I'm hoping that for just a little while today we can

exchange some ideas that you will be able to use in your own lives and in your own businesses.

I also recognize that many of you in the audience know more about title insurance than I do. That doesn't worry me a bit. I expect you to nod your heads when I say something that you agree is important.

I know that some of you will think that a male chauvinist pig chose the title of this program, suggesting that the only time that ladies can discuss business is at the hairdressers. Well, I confess. I chose that title for two reasons.

First, I go to my own barber for a haircut every ten days.

Each time he says, "Where do you work, Mr. Robinson?"

I say, "I work for a title insurance company."

He'll say, "What's that?"

Then I proceed to explain. We do this routine every ten days. I'm sure you must get the same thing from your hairdressers and possibly worse.

A variation of that scene can happen to me with some frequency in any city in this country. I'll be in an office building. I'll get in an elevator on the 10th floor. There's only one other person there. I reach out my hand and say, "Good morning. I'm Jim Robinson. I'm with American Title Insurance Co."

And he says to me, "Oh, you're one of those bandits who charge people so much money and don't take any risks." Then he steps off at the fourth floor, leaving me a frustrated character. My whole day is ruined.

If I could get that guy backed into a corner, as sometimes I do, and spend an hour with him, I'd grab him by the lapels or by the throat and I would say to him, "Young man, I

want you to appreciate that title insurance companies help mankind fulfill a basic human desire—the secure ownership of real property.

"Title insurance companies provide a needed service at a reasonable cost. A title insurance policy is the biggest bargain you're ever going to get in this world no matter what you buy unless you get it for nothing."

Those are the things I would like to tell him if I could just get him alone for a while. The fact is that title insurance companies make a contribution to the local, state and national economies. In your own communities, look around at the buildings, the farms and the



Hairdresser—(continued)

factories. Before a shovel of dirt was turned, some titleman or woman did a job, made an investigation, put his reputation on the line, provided the assurance so necessary before funds could flow and construction could begin. Title insurance companies employ 80,000 or more people who are taxpayers in this country. The companies themselves pay staggering amounts of taxes. With all of that being true, and we know it's true, can we say that everybody loves us, everybody respects and admires the title insurance people? Of course they do—right? Absolutely wrong.

Not long ago I reread some of the testimony that was presented to the U.S. Congress committees that were considering the enactment of the Real Estate Settlement Procedures Act of 1974. It's a horror story.

I won't bore you with all of the quotes, but let me give you just a couple of them. A consumer lawyer in Washington, D.C., says that the real estate settlement industry is the most incestuous in the nation. That's a nice, choice word to describe a vital and efficient service.

A professor at American University in Washington says competitive forces in the conveyancing industry manifest themselves in an elaborate system of referral fees, kickbacks, rebates and commissions which increase the total settlement costs.

The Federal Trade Commission said, "We agree that the performance of title insurance companies is very poor. Substantial consumer benefit could result if the price of title insurance could be brought down."

Wouldn't that be nice? It would be nice if you could get a loaf of bread for nothing, too. But you can't.

Our friend Sen. Proxmire said, "Title insurance companies receive a billion dollars a year in premiums. Less than three percent of this amount is paid out in losses. So it seems that this can be construed as a 97 percent rip-off."

Of course, we have a perfect answer to all of these statements. We just don't always get the opportunity to respond. The purpose of this meeting is to supply some answers.

A well-known Washington, D.C., lawyer says, "If public land records are adequate and if there were a title registration system as there should be, there would be no justification for maintaining expensive private

"As far as the public is concerned—my barber, your hairdresser—there is a very good reason why they don't understand title insurance."

title plants, which really duplicate the public records."

As you know, that's how we provide the service to the public—by maintaining title plants so we can make an efficient search and examination of titles before we issue our policies.

As far as the public is concerned—my barber, your hairdresser—there is a very good reason why they don't understand title insurance. They only encounter it two or three times in their lifetimes when they buy real property. I don't blame them for not being fascinated by the subject of easements and restrictions and covenants running with the land and all of those aspects of our business.

A great deal of mail comes across my desk about the wonderful service that stockbrokers provide. Because I don't have any money to invest, I throw it away. It's the same way with title insurance. It is not until that magic moment when they are about to buy real property that they suddenly become logical prospects for our propaganda. That's a part of our job.

In our industry we have some 80,000 employees at least and they should all be good salesmen for the title industry. We know that they aren't always and to the extent that they aren't, it's our fault, because we haven't stimulated them properly. We haven't motivated them. We haven't trained, educated and instructed them the way we should. We're doing the best we can with our limited resources. It occurred to me that the same is true of the members of our families—our wives, children and relatives as well as our friends. They should be good salespersons for the title industry, too, because we do such a good job.

Considering the climate of ignorance and misinformation, why doesn't the title industry educate people? Well, there are a lot of good reasons why we don't educate the general public. For one thing, it would cost too much money. You see, people think of the title industry as being a giant, financial organization with unlimited financial resources. The truth of the matter is, ours is a very small, modest industry. It's just that we do

such an important job that we seem to be bigger than we are. The truth is you could take the whole industry and put it in one department of General Motors or one department of the conglomerate that owns my company.

Secondly, we would be wasting our money to try to educate people who are not interested in title insurance until that magic moment when they buy property and that might be nine years down the road. By that time, they've grown older and they've forgotten what we told them. So most of our company promotions are aimed at those people who are presumed to know something about title insurance—the mortgage lender, the real estate broker, the lawyer, the home builder and the land developer. Those are our audiences. Those are our targets.

That creates a serious problem politically, because the legislators are influenced by the vast reservoir of ignorance that they encounter at home about title insurance. So they go to Washington or their state capitals and they hear all kinds of nonsense and they pass stupid laws that restrict our ability to serve the public the way we should be serving it.

In all of our companies, we rely on the American Land Title Association primarily to spread the gospel and to do this education job. ALTA does it mostly through two committees—the Government Relations Committee and the Public Relations Committee. I've played a very minor part in both of those committees and I'm just as pleased as can be with the progress we're making.

To demonstrate what ALTA is doing, I've put together a potpourri of different public service announcements. (At this point, the public service announcements were shown, followed by a showing of American Title Insurance Co.'s sound slide presentation, *The Titleman Can.*)

Following the first portion of the program, a simulated television interview conducted by James J. Kirpatrick (Robinson) focuses on title insurance. The interviewee is Bonnie Notestein, president of Westland

Title Co., Hialeah, Fla., and Gulfstream Title Co., Miami. The interview follows.

Kirpatrick: You people in the title business make a lot of noise about forgery, runaway brides and other dramatic title risks, but the truth is, the chances of any defect occurring in the title to a home I might buy is extremely remote—like being struck by lightning. Why should I pay for title insurance?

Notestein: It isn't remote if it happens to you. Your investment in your home is probably the largest one you make in your lifetime. You can be protected against the loss of your investment by paying a one-time premium for title insurance. I wish you would spend one week in the claims department of any large title company. It would be a revelation. Here is one company's claims and loss summary for a two-week period:

- A \$5,600 loss occasioned by failure to except a filed uniform commercial code financing statement
- A claim involving ten acres previously conveyed by a grantor
- A \$75,000 loss arising from a policy which insured 15,000 acres of Tennessee mountain land which did not exist
- A \$1,200 loss resulting from failure to give notice of foreclosure to a lienor as required by Arizona law
- A \$9,000 loss in Michigan arising from affirmative assurance against mechanic's liens
- An interesting \$1,000 loss based upon the fact that the searcher was unaware that the conveyance by the wife was by the second wife and not the first one as co-grantee in a prior deed
- A \$2,900 loss in Puerto Rico caused by a delay in registering the insured first mortgage, allowing a gap during which a second mortgage gained priority
- A \$1,300 loss arising from an unrecorded sales contract
- A \$7,000 mechanic's lien loss in Michigan
- A Texas loss occasioned because someone moved a road which cut off 42 acres from the insured premises

- A \$3,975 loss due to an escrow officer's disbursing directly to a builder when the sum should have gone for a partial release of a mortgage
- A Maryland claim arising from a demolition lien for work necessary to eliminate a structurally deteriorated building
- A Wisconsin claim based upon forgery in the chain of title
- A Michigan claim involving the establishment of the value of lake frontage to which title was lost.

Going back just a little farther, recently the title insurance company I represent paid \$250,000 to a New York corporation whose title to a Georgia apartment complex was insured in 1973 by American Title. Three months earlier it was discovered that, in 1971, a mortgage had been filed for record, a fact unknown to the insured at the time the transaction was closed. The existence of the mortgage was unknown also to American Title when it issued its policy, because the clerk of the county in which the property is located had failed to index the mortgage in the real property records.

Then there was the case of the land developer whose plans included a row of houses fronting on a street which is also a half-section line. Now it develops that one provision of the plat of subdivision prohibits straightline driveways which would necessitate backing a car onto a half section line street. No mention of this restriction appears in the title policy.

An in-depth investigation is in order.

There was the situation involving a well on the insured's property. The well serviced the owner of adjoining property who asserted a half interest in the water rights. The cost of paying for the defense of the policyholder was substantial.

Another claim arose by reason of a faulty escrow agreement which provided for certain repairs required by the Veterans Administration.

Still another claim was based upon litigation commenced by four individuals who asserted a one-seventh interest as alleged heirs at law of a deceased grantor.

The list is a long one—a conveyance by an incompetent; a class action suit to set aside a lease covering property designated by ancient statutes for school purposes; a motor vehicle tax lien against the property of a policyholder; a claim involving a questionable survey; a 1913 local restriction prohibiting gas stations and other commercial uses; a porch which encroaches two feet over the building line; a suit based upon an erroneous condominium declaration; a case in which homestead was not properly released; a situation wherein the property was assessed in one county but taxes had been paid on the same property in a different county.

I have carried fire insurance on my home and furniture for many years and I have never made a claim. I have never received a dime for any loss. Every year for all that time I have paid a premium to the fire insurance company and what's more as a prudent person, I'll continue to do so because the peace of mind that I have knowing that I'm protected is well worth the cost. The same is true of title insurance—and I pay only one premium for the service and protection!

Kirpatrick: I bought a home four months ago. At that time there was a search made of the public records and I ordered and paid for a title insurance policy. Nothing has happened to the title since I bought the house. I'm being transferred to New York and I'm selling the place to a young executive and his wife. Why do we have to go through the whole thing again and pay for it?

Notestein: You know that nothing has happened to the title since you bought the house—or at least you *think* nothing has happened, but how does the purchaser know that? And why should he entrust his life's savings on the word of a stranger?

People who ask this question are obsessed by the extent of time which might elapse between transactions. Actually time has very little to do with it. Each real estate transaction involves, for the protection of the lender and the purchaser, a new search of widely scattered public records, an investigation of the insurability of the title and the details incident to the closing of the transaction and the issuance of a title insurance policy. Consider the following two cases. A man owned a tract of land for 40

"I wish you would spend one week in the claims department of any large title company. It would be a revelation."

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Hairdresser—(continued)

years; never mortgaged it; always paid his taxes, and never had anything happen which would encumber the title. Another man owned a piece of property for two weeks. During that time he divorced his wife; he had a judgment against him; he filed in bankruptcy, and he may even have been dishonest and sold the property to more than one person. The amount of work involved in searching the second man's title and the risk assumed by the title insurance company is far greater even though the first man held title for 40 years. When a share of stock is purchased, a commission is paid. If that stock is sold the next day, it involves another commission because there is a certain amount of work and risk involved. That work and extent of risk is multiplied many times in the case of the ownership of real property.

Kirpatrick: No wonder title companies charge so much for title insurance. You give kickbacks to lawyers, bankers, homebuilders and others and the poor buyer has to pay the freight. I understand title companies pay as much as 50 percent in some cases.

Notestein: I'm sorry, Jim, but you've been misinformed. Title companies don't give kickbacks to anyone. In fact, Section 8 of the Real Estate Settlement Procedures Act of 1974 imposes a \$10,000 fine and a year in jail for any title person who gives "anything of value" to anyone as an inducement to secure title insurance business. Actually, you are confusing two subjects: referral fees (which are illegal) and commissions paid to agents (which are not only legal—they are a part of a system which might very well represent the most efficient and economical method of providing title service and protection). I am an agent for a title insurance company and I retain a share of the premium. What I do to earn that rather modest sum would take more time to recite than we have today. I am a specialist. I see to it that all parties to a real estate transaction get what they bargained for.

Kirpatrick: Title companies have a

vested interest in keeping public land records inefficient and in a state of confusion. There should be a government owned and operated system of title protection similar to that in effect in European countries.

Notestein: Once again, Jim, you're confusing two separate subjects. Let's take them one at a time.

The belief that the title insurance industry has any "stake" in the complex and frequently chaotic state of land title information record keeping in many localities throughout the United States is not only totally unfounded, but irrational. On the contrary, the problems posed by the many different locations in which land title records are located, the difficulties of performing a title search from a grantor-grantee index, and the volume and complexity of liens, claims and encumbrances that are recognized in real property only result in increasing the title insurance industry's own costs of providing services and the number of title claims that must be defended against or satisfied.

The need for improvement and simplification of land title records are objectives that have been sought by the American Land Title Association and its members for many years. Among the many recommendations, activities and projects that have been made, undertaken or supported by the title insurance industry in furtherance of these objectives are:

- Support for the substitution of a tract index (that could greatly simplify title searching) in place of the cumbersome and inefficient grantor-grantee indices that are presently used in many areas of the country
- Recommendation and support for the centralization of all records affecting land titles in a single location, in place of the system that exists in many areas, including the District of Columbia, whereby land title records may be located in a dozen or more different offices or buildings
- Support of the work, initiated under the American Bar Foundation, to develop a universal land identifier system that will be compatible for

application to land title records and other land-related records such as land use, ecology, etc.

- Cooperation with the National Conference of Commissioners on Uniform State Laws to develop a Uniform Land Transactions Code, the purpose of which is "to simplify, clarify and modernize the law governing real estate transactions"
- Cooperation with the American Bar Association in the development of the Uniform Probate Code, which greatly simplifies the transfer of real property in a decedent's estate
- Support of Section 13 of the Real Estate Settlement Procedures Act of 1974, which provides for the establishment on a demonstration basis of model land recordation systems "to facilitate and simplify land transfers and mortgage transactions" and
- Support of, and participation in, the April, 1975, meeting of the North American Conference on Modernization of Land Data Systems, one of a series of conferences designed to deal with the problems of developing land data record systems that will enable those who need such information, including government entities and private industry, to obtain the data more quickly and efficiently.

So you see, title companies have taken the lead in simplification of public records. Furthermore, in many areas they short-cut the search process by exchanging title information by relying on each other's policies and through the maintenance of joint title plants.

The second part of your question is nothing more than a tired old repetition of the "let the government do it" philosophy—one that has failed in 22 states in this country and provides a second class measure of protection and service in other countries.

You want an exercise in futility? Buy a parcel of land in Mexico or England or Australia. The cost will be greater; the service poorer, and the protection much less. In London a real estate transaction handled through a government-operated system will take an average of three months. In Los Angeles it will be done in three days. I could make an hour-long speech about the subject, but I'm sure you have more interesting questions to ask. I will add one thing—65 percent of American families own their own

(continued on page 17)

"Of all the misconceptions that are held about . . . the title insurance industry, perhaps the most pervasive and ill-founded is that the title insurance industry enjoys unreasonable profits."

ALTA Interviews

Texas Senator

In the following interview, Sen. John G. Tower (R-Texas) answers questions about the Real Estate Settlement Procedures Act, wage-price standards and other issues impacting on housing and business.

Sen. Tower is the second ranking Republican on the Senate Banking, Housing and Urban Affairs Committee. He also serves on the Housing and Urban Affairs and Economic Stabilization subcommittees. He is the ranking Republican on the Financial Institutions Subcommittee and on the Senate Armed Services Committee. His other committee assignments include the Senate Republican Policy Committee, which he chairs, and the Rules and Administration Committee. Sen. Tower is a member of the National Transportation Policy Study Commission.

He entered the Senate in 1961 when he won the seat of Lyndon B. Johnson in a special election. He was re-elected in 1966, 1972, and 1978, making him the fourth most senior Republican in the Senate.

ALTA: Presently the U.S. Department of Housing and Urban Development (HUD) is reviewing the impact the Real Estate Settlement Procedures Act (RESPA) has had in educating the consumer with regard to the mechanics of a real estate transaction with particular emphasis on closing costs. What impact do you think RESPA has had? What changes are necessary to strengthen the law, or should the federal government withdraw from its present involvement in real estate transactions?

Sen. Tower: Generally, I feel that the cost of compliance with RESPA probably outweighs the benefits. One helpful feature of the Act has been the requirement that a uniform settlement statement be used at the time of real estate closings.

Although the information booklet could be helpful to the consumer if it were actually read by the potential home buyer prior to the time he contracts for settlement services, I am told that few consumers read the booklet, and it probably is given to the consumer too late in the home-buying process.

My personal choice would be for the states to adopt a uniform statute which would eliminate the need for federal action in the area. Real estate settlements are essentially of a local nature, and their regulation would be best left to the states.

ALTA: Regarding the wage-price standards, do you believe Congress will give the president standby authority to invoke mandatory controls? Since the government is establishing standards for wages and prices within the private sector, would you favor the formation of a businessman's ad hoc committee to monitor government spending practices?

Sen. Tower: On March 14, the Senate Banking Committee reported to the

full Senate a bill (S. 349) to extend the duration of the Council on Wage and Price Stability without including authority for the president to invoke mandatory controls. There will probably be an effort later in the year to include in other legislation, mandatory control authority. Neither mandatory nor the so-called "voluntary" guidelines reach irresponsible government spending and regulation which are a primary cause of inflation. I would certainly favor the formation of a businessman's ad hoc committee to monitor government spending practices.

ALTA: As the 96th Congress convenes, what do you expect will be the major issues to be considered by the Senate Banking Committee?

Sen. Tower: One of the major issues will be the so-called Fed membership problem. This will include consideration of legislation to require all commercial banks to hold reserves at the Federal Reserve and legislation which I have introduced to reduce the reserve burden of member banks through a reduction in reserve requirements and the payment of interest on reserves.

The committee also will consider a proposal for consolidating the three bank regulatory agencies into a single agency. In addition, the committee will consider proposals for restricting the insurance activities of bank holding companies, changes in the Export Administration Act in order to encourage more U.S. exports and changes in Regulation Q in order to allow small savers to earn a higher rate of return on their savings deposits. The committee also will consider the authorization legislation of HUD, at which time I am hopeful that the committee will favorably consider a bill I have introduced to repeal the inflationary Davis-Bacon Act as it applies to our nation's housing and community development programs. The commit-

tee already has reported out legislation authorizing additional funding for the Council on Wage and Price Stability to carry out the president's wage and price guidelines.

ALTA: In recent years, federal agencies and departments have been criticized for promulgating scores of unnecessary regulations. The business community and the consumer have felt the impact of this "busy" work through escalating costs, unnecessary and meaningless

disclosures and stacks of superfluous paperwork. What do you think Congress can do to obtain more legislative control over the rule-making authority of the federal agencies?

Sen. Tower: Estimates on the cost of government regulation run as high as \$130 billion a year. A major problem is for Congress to gain control over the independent regulatory agencies. This is particularly acute in the case of the Federal Trade Commission (FTC), which can regulate

practically every aspect of our commercial life under its broad mandate to prohibit conduct which is considered "unfair" or "deceptive." To remedy this, I have introduced the FTC Regulatory Review Act (S. 193) to provide the opportunity for congressional review and possible disapproval of each rule proposed by the FTC. This proposal is designed to provide the American citizens, through their elected representatives, an effective and democratic means of control over regulations governing what they can buy and sell in the marketplace.

ALTA: The recent elections reflect a shift in the mood of the country away from government involvement and government regulation. What impact will this atmosphere have on federal housing programs? How will it affect mandatory inner-city credit allocation proposals or increased appropriations for HUD housing subsidy programs?

Sen. Tower: I am hopeful that there will be a move away from more government and regulation in the area of housing. However, it is unclear at this time just how far Congress will move in this direction. That will only become evident as the committee considers the authorization legislation for HUD in April.

One action that the committee could take to reduce unnecessary and inflationary regulation would be to approve legislation I have introduced to eliminate the Davis-Bacon Act.

As far as the level of funding for HUD's housing subsidy programs is concerned, the outlook is not bright. The Senate Banking Committee already has indicated to the Budget Committee its willingness to exceed the president's budget for HUD's housing programs by about \$9 billion, a move I opposed. Hopefully, the committee will reconsider this decision during its review of the authorization legislation later this year.



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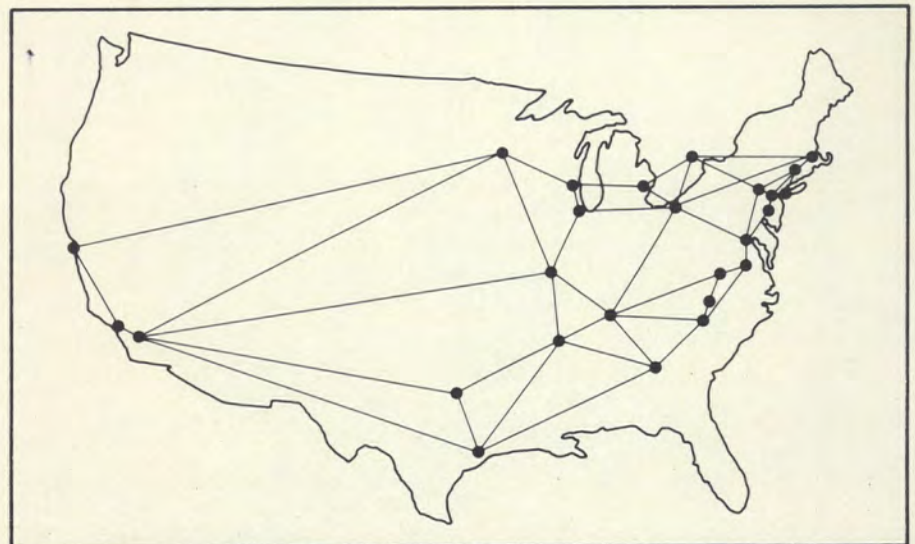
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TIPAC's Solicitation Takes New Approach

successful solicitation methods with their colleagues.

Mel Kensinger of El Paso Abstract Co., Colorado Springs, Colo., stressed the importance of communicating with fellow land title people. Kensinger, who had a very successful solicitation program in 1978, reported that he conducted 17 mailings relating to TIPAC to his Colorado land title associates.

Lem Putnam of Pioneer National Title Insurance Co., Portland, Ore., described the need for as much personal contact as possible. He also requested that the large underwriting companies, in conjunction with the state advisory trustees, organize their solicitation procedures in order that all qualified employees have the opportunity to contribute.

Another state advisory trustee, Chip Stanley of Lawyers Title Insurance Corp., Columbia, S.C., suggested the mailings include specific federal election information such as who will be running, voting records, committee assignments and the impact certain elections could have on the title insurance industry.



In a meeting, TIPAC trustees discuss the approach this year's solicitation program will take. Left to right they are Gerald L. Ippel, treasurer; Francis E. O'Connor, chairman, and Ralph C. Smith, vice chairman.

The Title Industry Political Action Committee (TIPAC) Board of Trustees has introduced the authorization and solicitation program for 1979. The new approach emphasizes more personalized contact between TIPAC State Advisory Trustees and their constituents. In addition, large title insurance underwriters have named TIPAC coordinators who will manage the TIPAC program within their respective companies.

The new plan was introduced at two regional meetings which state advisory trustees attended to discuss solicitation strategy and contribution goals for each state.

The meetings were held in Denver, Colo., and Washington, D.C., and featured a prominent member of Congress who explained the importance of the business community's involvement through political action committees.

In Denver, freshman Sen. William L. Armstrong (R-Colo.) encouraged the TIPAC executives to expand their efforts for the sake of the free enterprise system. "TIPAC not only helps elect federal candidates worthy of your support, but also increases the awareness of the title insurance industry in the minds of elected officials," Sen. Armstrong said.

At the eastern regional meeting in Washington, D.C., TIPAC Advisory Trustees heard from Rep. David Evans (D-Ind.) who also advocated the need for the title industry to remain active in the legislative process. Evans reported that members of Congress rely heavily on meaningful information provided by their business constituents.

"No congressman has time to study and research each legislative proposal brought to the House floor for a vote. We look to our constituents, especially those with practical working knowledge in the business community, to assist us in determining the impact legislation would have on the country," Sen. Evans said.

In addition to presentations from elected officials, a number of State Advisory Trustees shared their

TIPAC Board of Trustees Chairman Francis E. O'Connor, Chicago Title & Trust Co., Chicago, Ill., emphasized the important role TIPAC will play in the new Congress. During the next couple years, Congress is likely to consider topics of potential and specific interest to the land title industry. These topics include:

- The Torrens system
- Modification or repeal of the McCarran-Ferguson Act
- Lender-pay
- Overall review of the Real Estate Settlement Procedures Act (RESPA)
- Resolution to the Indian land claims disputes

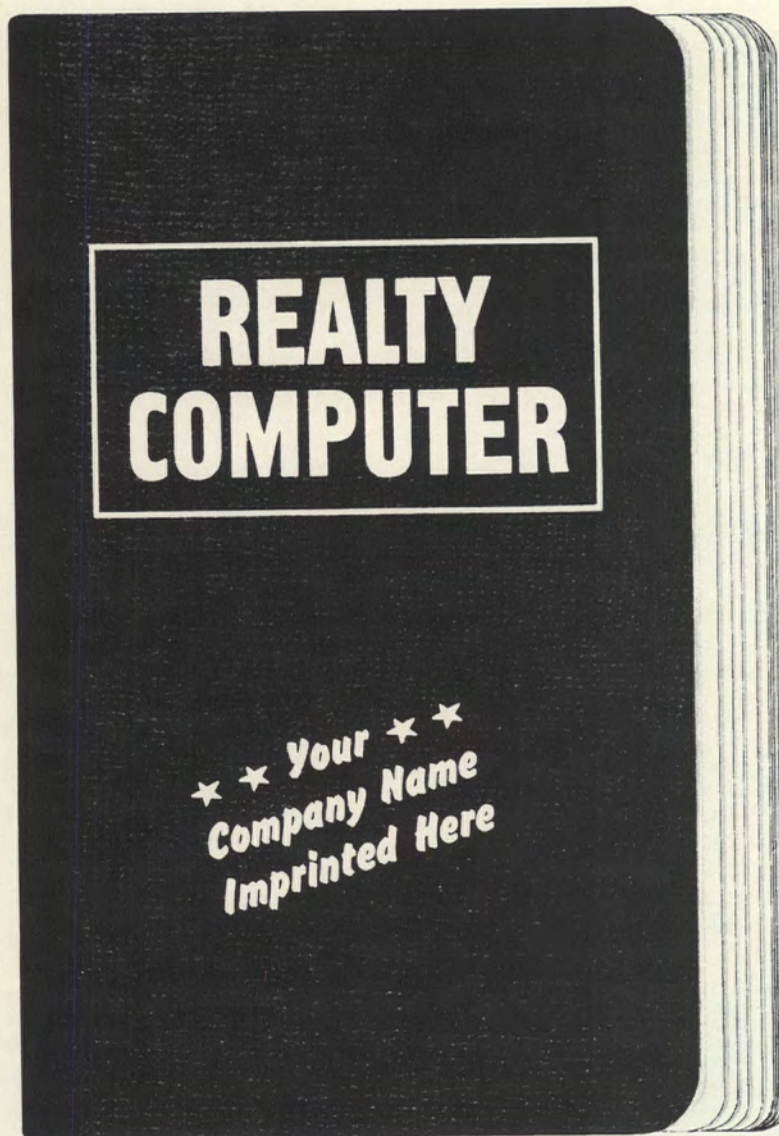
Chairman O'Connor announced that the 1979-80 TIPAC contribution goal will be \$80,000. The solicitation program is underway and authorization and solicitation materials have been sent to every ALTA member.

This year's program features a sound-slide presentation that will be available on a complimentary loan basis to affiliated state associations as well as ALTA corporate members who would like to tell the TIPAC story to their employees.

In the 13-minute color show, congressional recipients of TIPAC contributions explain the importance of a continued commitment from the business community to help shape purposeful federal legislation.

(continued on page 15)

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TIPAC—(continued)

In addition to being a useful tool in TIPAC activities, the slide show indicates a growing positive awareness of the land title industry in Congress. The show was produced by ALTA Director of Public Relations Gary L. Garrity.

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Write ALTA's Washington office for complimentary 13-minute color audiovisual slide show. The show illustrates how effective TIPAC has been thanks to your continued support. Since only limited copies are available, requests will be considered on a first come basis.

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Hairdresser—(continued)

homes. No other country in the world comes close and this record of home ownership is made possible, at least in part, by the contribution of title insurance companies.

It is so easy to say, "Let the government do it." The government also can print newspapers, manufacture clothing and operate farms, but those activities aren't necessarily in the best interest of the people.

Kirpatrick: I'm buying a condominium unit. I know the builder has a blanket title insurance policy covering the entire project. Why should I pay for another policy on my condominium unit?

Notestein: You should buy another one for exactly the same reason you need title insurance when you buy a single-family dwelling—regardless of what title evidence the former owner might have. A title policy insuring the condominium developer does not offer you protection. Further, a great many things might have happened to the title to your individual condominium unit since the blanket policy was issued. There may be

unpaid taxes, judgments, mechanic's liens, errors in the records—all sorts of possibilities of defects which could cost you money and heartache.

Kirpatrick: Title insurance charges are excessive. You examine the title to make sure there are no defects, then you charge the poor buyer a big fee for insurance. Title companies pay out only four or five percent of premiums, while casualty companies pay anywhere from 40 to 60 percent. How can you get away with it?

Notestein: That's a typical "have you quit kicking your grandmother" question. Title companies don't "get away with" anything. They provide a vital service at a reasonable cost. They help mankind fulfill a basic human desire—the secure ownership of real property.

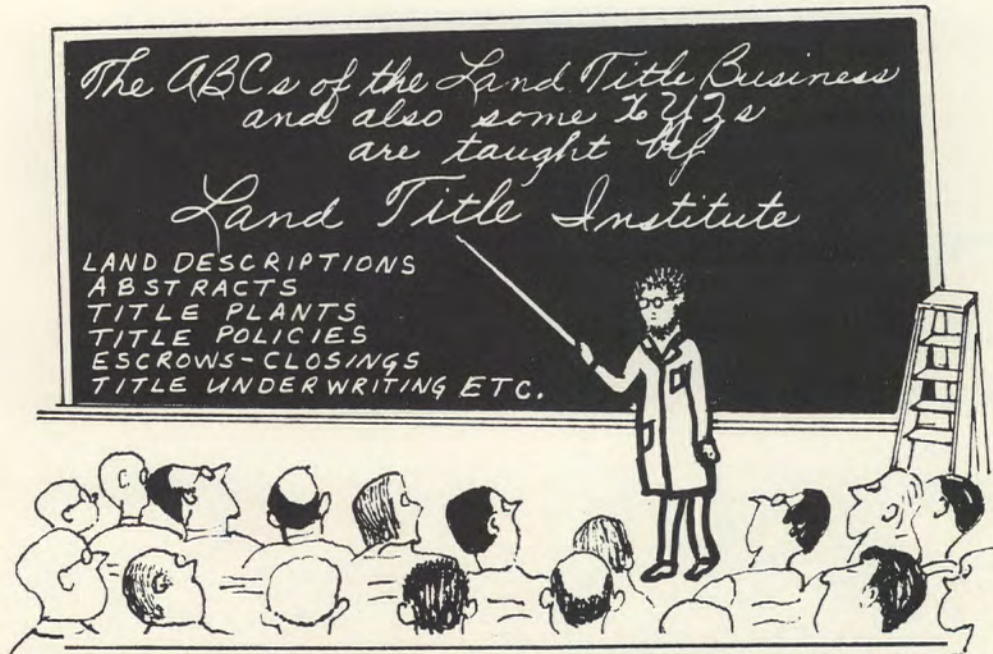
Of all the misconceptions that are held about title insurance and the title insurance industry, perhaps the most pervasive and ill-founded is that the title insurance industry enjoys unreasonable profits. Starting with the unfounded premise that title insurance charges are, by some undefined standard, "too high," it

becomes an easy leap to the conclusion that title insurance profits are "too high." In fact, however, by any rational or traditional test, it is clear that the profitability of the title insurance industry is quite modest and below the level of profitability of American industry in general.

It is popularly assumed that, because claims or losses paid by title insurance companies are so much lower as a percentage of revenues than in other lines of insurance, the difference must represent some greater margin of profit for the title insurance industry.

In fact, however, losses represent a smaller percentage of revenues in the title insurance industry because—unlike most other forms of insurance, where the major portion of the revenues is primarily intended to provide reimbursement for actuarially predictable losses that will arise because of *future* events—the primary focus of the title insurance industry is on the *prevention of losses* attributable to

(continued on page 18)



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Hairdresser—(concluded)

matters that have occurred *before* the date the title insurance policy is issued. In other words, *the primary objective of title insurance is loss prevention*, not pure risk assumption, and in this respect title insurance differs fundamentally from most other lines of insurance.

It should be noted that other kinds of insurance require a monthly or annual premium whereas a title insurance premium is paid only once and the protection it buys continues for the life of the loan, in the case of a mortgage policy and forever, in the case of an owner's policy. Title insurance rates are not high. They are low. Profits earned by title insurance companies have historically been meager in comparison with profits enjoyed by investors in other businesses.

Kirpatrick: It's my understanding that in many parts of the country, including the great Midwest, it is the custom to close a real estate transaction on the basis of an attorney's opinion. If this is good enough for the mortgage lender, why shouldn't it be good enough for me?

Notestein: A lawyer's opinion is necessarily limited to his examination based upon a search of the public records. Furthermore, he is human and subject to error. He is mortal and some day he will die. Certainly his financial resources as an individual are limited. In any event his opinion will not protect a purchaser against hidden risks, such as:

- Forgery
- Fraud in connection with the execution of documents
- Undue influence on a grantor or executor
- False personation by those purporting to be owners of the property
- Incorrect representation of marital status of grantors
- Undisclosed or missing heirs
- Wills not properly probated
- Mistaken interpretation of wills and trusts
- Mental incompetence of grantors
- Conveyance by a minor
- Birth of heirs subsequent to the date of a will
- Inadequate surveys
- Incorrect legal descriptions
- Non-delivery of deeds
- Unsatisfied claims not shown on the record
- Deeds executed under expired or false powers of attorneys

- Confusion due to similar or identical names
- Dower or curtesy rights of ex-spouse of former owners
- Incorrect indexing
- Clerical errors in recording legal documents
- Delivery of deeds after the death of a grantor.

Title insurance, on the other hand, not only protects against defects

which can be found in the public record but also *protects against the "hidden risks"* we've been talking about.

One more word of caution. A mortgage policy protects only the lender. To protect yourself against the possibility of financial loss due to title defects, you should always insist upon an owner's policy when you buy real property.

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May 6-8, 1979

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May 17-19, 1979

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The Inn of the Ozarks Convention Center
Eureka Springs, Arkansas

May 17-20, 1979

California Land Title Association
Marriott's Las Palmas Resort
Rancho Mirage, California

May 18-19, 1979

New Mexico Land Title Association
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Pennsylvania Land Title Association
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Lancaster, Pennsylvania

June 7-9, 1979

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Memphis, Tennessee

June 7-10, 1979

New England Land Title Association
Sea Crest Hotel
Falmouth, Massachusetts

June 10-12, 1979

New Jersey Land Title Association
Seaview Country Club
Absecon, New Jersey

June 14-17, 1979

Illinois Land Title Association
Playboy Resort
Lake Geneva, Wisconsin

June 21-23, 1979

Land Title Association of Colorado
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Keystone, Colorado

June 21-23, 1979

Oregon Land Title Association
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Calendar of Meetings

June 28-30, 1979

Michigan Land Title Association
Boyne Highlands
Harbor Springs, Michigan

June 28-30, 1979

Wyoming Land Title Association
Saratoga, Wyoming

July 19-21, 1979

Utah Land Title Association
Snowbird, Utah

August 2-4, 1979

Idaho Land Title Association
North Shore Lodge and Convention Center
Coeur D'Alene, Idaho

August 8-15, 1979

American Bar Association
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August 9-11, 1979

Montana Land Title Association
Sheraton Inn
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August 10-11, 1979

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Overland Park, Kansas

August 16-18, 1979

Minnesota Land Title Association
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September 7-9, 1979

Missouri Land Title Association
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September 8-11, 1979

Indiana Land Title Association
Sheraton West
Indianapolis, Indiana

September 9-11, 1979

Ohio Land Title Association
Sawmill Lodge
Huron, Ohio

September 12-15, 1979

Washington Land Title Association
Admiralty Resort
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September 13-15, 1979

North Dakota Title Association
Jamestown, North Dakota

September 19-21, 1979

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Columbus, Nebraska

September 25-28, 1979

New York State Land Title Association
Kutsher's Country Club
Monticello, New York

September 26-28, 1979

Wisconsin Land Title Association
Pfister Hotel
Milwaukee, Wisconsin

October 6-10, 1979

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New Orleans, Louisiana

October 14-17, 1979

ALTA Annual Convention
Hyatt Regency San Francisco
San Francisco, California

October 19, 1979

Nevada Land Title Association
Hyatt Lake Tahoe
Incline Village, Nevada

October 28-November 2, 1979

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November 15-17, 1979

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