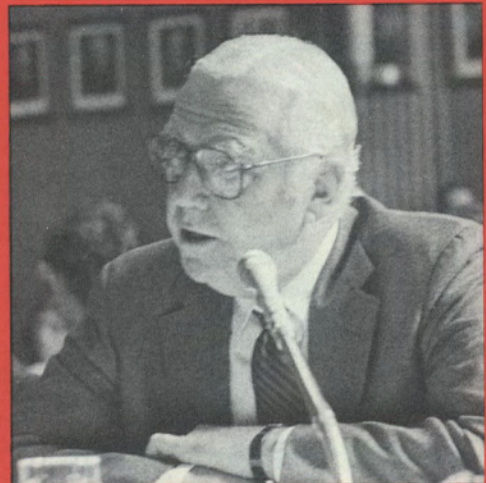


April 1984

TITLE NEWS



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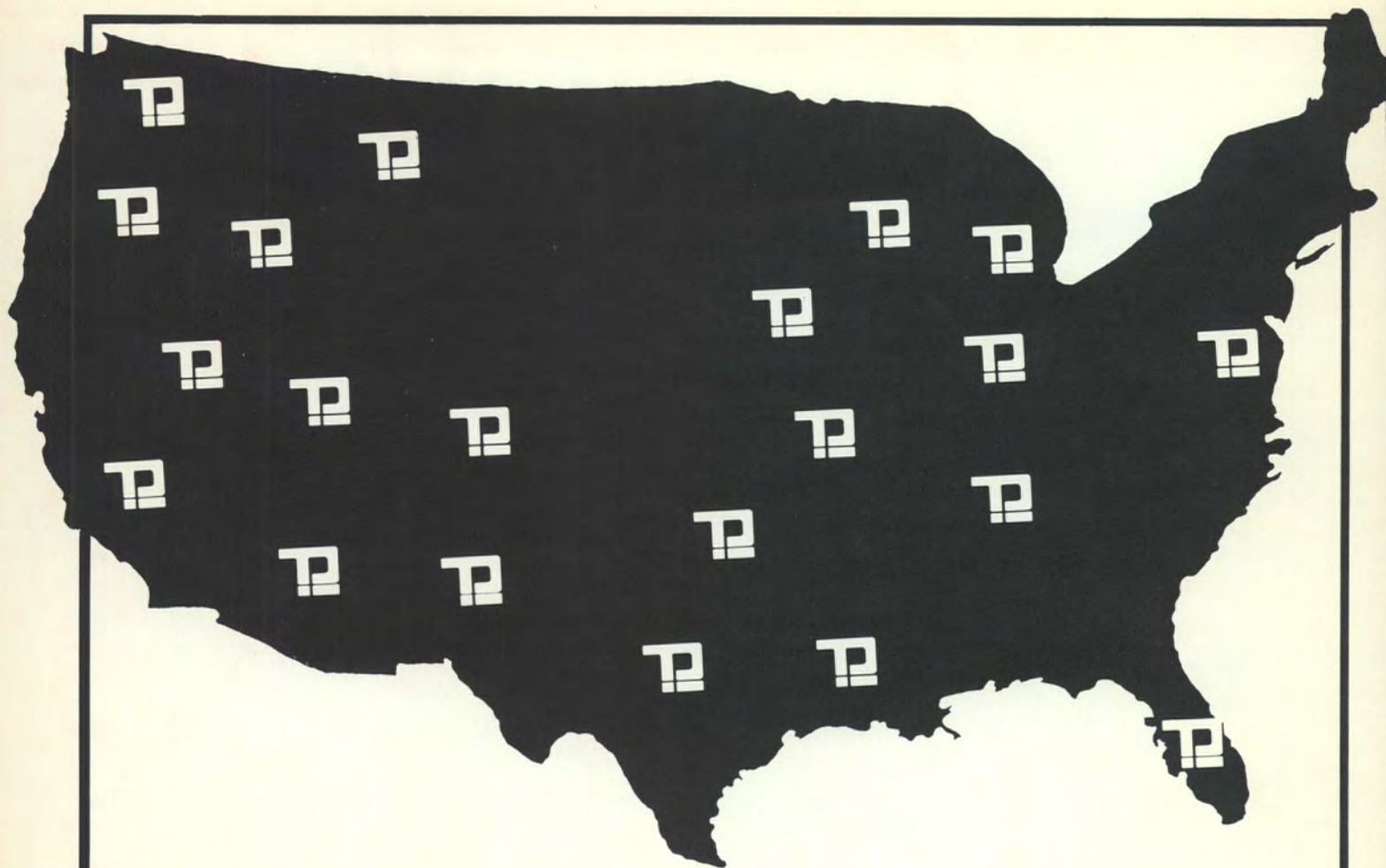
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Front Cover

ALTA President D. P. Kennedy presents testimony of the Association concerning the financial institutions deregulation issue at recent hearings held in Washington before the Senate Committee on Banking, Housing and Urban Affairs. President Kennedy, who is president of the First American Title Insurance Company, Santa Ana, California, told the committee that adverse effects on lenders, the secondary mortgage market, the title industry and consumers will result unless there are prohibitions against banks and other financial institutions—and their affiliates—issuing title insurance policies on their own loans. In the other photograph, the ALTA president visits following presentation of his testimony with Committee Chairman Jake Garn (R-Utah), right, and Committee Member Christopher J. Dodd (D-Connecticut). For details on the hearings, see the March issue of the ALTA *Capital Comment* newsletter.



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A Message From The Chairman, Title Insurance & Underwriters Section

How I hate the terms *lobbyist* or *special interest group*! The politicians have put the taint of obscenity on those titles and the news media regularly heap their vituperations on anyone directly or remotely connected with them. But, they do exist and try as we may to disguise them with other names such as *legislative advocates* or consumer affairs, the plain truth is that they are still lobbyists and special interest groups no matter how thick the application of cosmetic semantics.

It is also a fact that, despite all we have learned in our high school civics courses, governments, both state and federal, rarely respond to an individual citizen's effort. Only when individual citizens associate themselves in some common cause can they hope for any kind of accomplishment.

Our individual or personal repugnance notwithstanding, we must deal with a political system which affects our lives and business each day in greater and greater detail.

To represent our interest at the federal level, we have associated ourselves together in a special interest group called the American Land Title Association. Some might say that the ALTA is not a special interest group. Well, it is to me. It's my special interest and your special interest which we want the ALTA to address. Our support for ALTA depends to a greater or lesser degree on how well it represents OUR interests.

Of course, we may squabble over which of our special interests gets the most attention from the ALTA, but for the most part we have all made compromises so that our Association can have a unity of purpose and can be our voice in government.

But ALTA cannot represent us in the political arenas of today without our

collective help. ALTA needs not only our ideas, but also our money. We cannot expect it to lobby effectively on our behalf without providing the means to make itself heard, and what that means is money. Without money our Association stands mute in the halls of Congress. Without money we can't support our friends—we can only curse our enemies.

Each year TIPAC comes to you, passes its old familiar hat and asks you to drop in a few dollars to help it get through one more federal election. The people who run TIPAC are not professional fund raisers—they are just ordinary members of ALTA like you and me. They expend a lot of effort in soliciting your help, but many of you have not responded. What a tragedy that so few TIPAC supporters carry the burden for so many others who have not recognized their own special interests. I strongly urge that you sit down, without delay, and show your support for those fellow members who are working so hard on our behalf. Many of you, I know, intend to respond but have neglected to do so. Before you know it, TIPAC's campaign for funds is over, a year has gone by, and you are staring at a new solicitation. So do something now! You'll be surprised how good you will feel knowing that you have voluntarily contributed to a noble cause . . . a special interest group . . . YOURSELF.

A handwritten signature in cursive script that reads "Gerald L. Ippel".

Gerald L. Ippel

Will Free Enterprise Overcome The Controlled Business Problem?



(The following views have been expressed by Ron R. Rush, executive vice president, Lawyers Title of El Paso, Texas, who is currently vice president of the Texas Land Title Association. Title News welcomes commentary from readers on the controlled business issue and other topics of interest to the title industry.)

In today's market place, one of the many problems confronting independent title agents is the phenomenon of controlled business. Presently, the approach being considered to handle this situation is controlled business legislation.

Handling this problem legislatively, however, is similar to playing the game of "pin-the-tail-on-the-donkey." Although on first blush passing the appropriate legislation seems easy enough with the blindfold off, once the blindfold goes on you can encounter a lot more problems than you first thought. One often finds that he has pinned the "controlled business legislation" tail on himself. Put in other words, "the ox that gets gored is the ox that set out to do the goring."

What is interesting is that the controlled business phenomenon is of rather recent vintage and is an outgrowth of the real estate market roller coaster we have all experienced since the mid 1970s. The first step of the evolution began as a result of the attractive profits experienced by title agents in the early 1970s. Underwriters who witnessed these profits offered large sums to buy up independent agencies and create a network of branches. Their thought was: "Why should we accept such a small percentage when we can get 100 per cent if we are the agency?" Big bucks were sunk into the branch operations and sizeable overheads were undertaken.

When the real estate roller coaster began to top and turn down, the underwriter branch operations began to lose astronomical sums in the early 1980s. The overnight answer to the problem was to sell the money-losing branch operations to

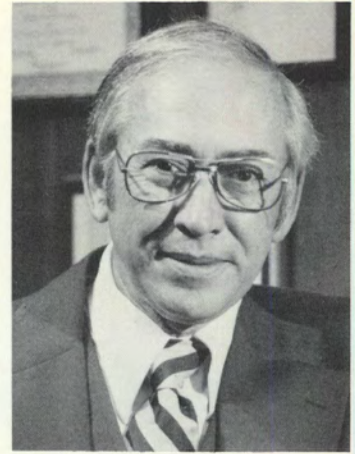
producers of the title business. The underwriters then were willing to give up 100 per cent of the large profits in return for getting out from under the responsibility of 100 per cent of the losses in the down market.

Overnight, money-losing branch operations could be converted from a money loser to a profitable operation. Accepting a small portion of all the premiums written was certainly better than accepting 100 per cent of the losses of a money-losing branch operation. From a producer's point of view, the idea of profiting from the dollars one spends on its own business was equally attractive. However, from the point of view of a competitor, a controlled business independent agent is a lot tougher competition than an out of town underwriter. In fact, there was no competition at all, obviously, for the producers business.

Given that the controlled business agency is of rather recent vintage, it will be interesting to see how the producers view their controlled title operations when the next down cycle hits in the real estate market. Will they have the financial strength or desire to pump money into the operations when the next down cycle hits? Will the producers feel their dollars invested in a controlled agency produce enough overall return in both good and bad markets to justify their investments and the management headaches involved?

My intuition is that we are in the "heyday of the controlled independent agency" and that the fad in the long run will begin to die quickly and accelerate with each down turn in the market. Thus, in the long run, the economic market place itself probably will control the "controlled" business problem better than any "pin-the-tail-on-the-donkey legislation." However, the one disconcerting thought is, "in the long run, we'll all be dead."

I just hope we'll live long enough and our businesses will survive long enough so that the free enterprise economic market place can work its magic and put an end to the growth of the controlled business problem for an independent title agency.



R. "Joe" Cantrell
"A title agent for title people"



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Land Title Institute Performance Impressive

It is no longer news that the title industry has felt the bumps of an unstable economy in recent years. But the statistics remain impressive in showing that, through the downturns and necessary budget cuts by title companies, the Land Title Institute has continued to be successful.

Located in Winter Haven, Florida, LTI as an educational arm of ALTA offers an

employee upgrading service that title company managers find important in both good and bad economic times. Recently, the Institute has experienced another upsurge in the number of company subscribers, and employees enrolling in its correspondence study.

Ramona Chergoski, LTI registrar and assistant secretary-treasurer, sees the latest increase in subscribers as a result

of title company staff reductions during the recent recession.

"Now that the real estate market is improving, companies must train new personnel to meet the needs of additional business," she said.

LTI has enrolled 18 new subscribing companies during the past six months and 547 employees have signed up for its correspondence courses. A 250 per cent increase in the number of course textbooks sent to employees has been experienced in comparison to the same period last year, reflecting the upswing in employee participation. In January and February of this year, the Institute awarded 115 certificates of achievement to 85 Basic Course and 30 Advanced General Course graduates. Ninety-five per cent of the Basic Course graduates, including personnel from messengers to presidents, continue on in the Advanced General Course.

The Institute operates a self-paced correspondence program for companies which pay a monthly tuition fee based on their total number of employees, plus a nominal charge for texts and test materials. A company may enroll as many employees as desired.

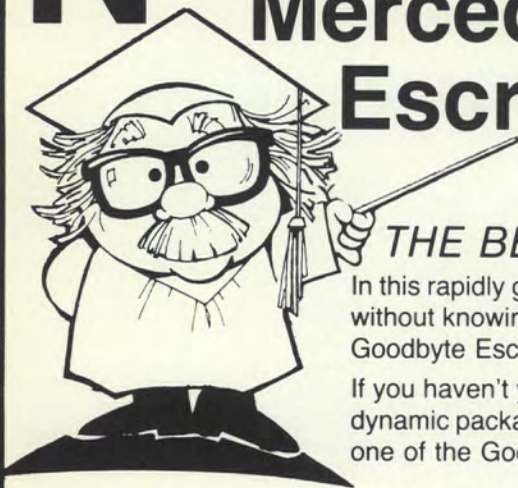
The Basic Course is composed of 12 sections covering topics including chain of title, title defects and losses, the need for land title assurance and title industry terminology. The Advanced General Course is composed of 18 sections,



Discussing Land Title Institutes correspondence study at T.A. Title Insurance Company, Upper Darby, Pennsylvania, are, seated, from left, Marian DiStefano, assistant vice president and director of sales and marketing; Bette Eckroade, manager and director of training; and Armand Ricchi, vice president and district manager. Standing from left are Eugenia Leskie, assistant manager and claims supervisor, and Tina Sopko, secretary.

Continued on page 18

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Of Collisions and Computers

By Thomas McDonald

People might say that the business I am in has been on a collision course with the computer for years. The way I'd put it, the computer and my industry have met each other more than halfway--but, CONstructively.

Looking back on my own direct experience this past year, I have to feel that the computer is now as solidly entrenched in the title insurance industry as the typewriter is.

If I'd been asked the same question in 1968, I would not have been able to answer so confidently. In fact, I might have hoped it wasn't true. That's the year I went to Los Angeles for the express purpose of seeing a title company demonstrate its newly automated title plant. I remember my disappointment that the equipment I saw, impressive as it was, still fell short of meeting our particular needs--and it rented for \$40,000 a month!

But how's this for technological progress?

Last summer my firm bought--*bought*, not rented--a computer that does everything we want it to, for under \$20,000.

And the price included software (the programming which tailors a computer's capabilities to the user's needs), plus the training for our people. Seven of our employees now are able to operate the system, and not one had previously had any real computer experience. (I can run it, too, but most of them are better at it!) Our initial trainee was picked simply for manual dexterity: He knew how to play the piano!

One of the most agreeable revelations has been how quickly you can have a new computer turning out useful work. I used to

be put off by statements I'd hear at national conventions, to the effect that even when your computer is delivered, mister, hold it. Don't expect much production from it for six months. Not until you have the programming down pat. And that's going to cost you more, with professional programmers earning \$50 to \$65 an hour: another \$2,000 to \$3,000 per program. Even then it may or may not work the way you think it should.

Well, it seems to me, when you finally invest in a major piece of capital equipment, you want to use it right away. In our case, the time lag was less than three days.

Our people were trained by the computer supplier during one weekend. By Monday morning, they were turning out usable forms and real estate closings--not model ones, but live cases.

The point is, we came into the computer age on a "turnkey" basis. The computer, the

programming, and the training all came in one package.

The ease of a turnkey deal--along with the technological progress that has brought computers down in size and price--leads me to the conclusion that companies which compete in the land title arena are simply going to have to be computerized from now on to remain competitive.

That won't come as a surprise to my 1,900 or so colleagues in the American Land Title Association. One of the more pleasant duties shared by the four top officers of ALTA is that of visiting state associations around the country. As immediate past president, I've heard one matter of concern voiced again and again. Automation.

A lot of people in our business see it as a threat to survival. For others, it's an opportunity to seize before new entrepreneurs come along, as they surely will, to snatch it away. It wasn't just happenstance that ALTA's 1983 national convention devoted an entire day-long session to computerization, and that it drew excellent attendance.

I do believe it will be necessary in the next couple of years for title companies in medium-sized counties like ours in central Florida to get themselves computerized--or be out of business. The race is just that fast.

Our firm, Lawyers Title Group, Inc., which was founded in 1904 and employed my father in 1925, has had something of a history of trying to improve our office work. We bought the first Xerox machine in Seminole County, for instance, in 1960. Seminole is immediately north of Orlando's Orange County, and we also operate in



Thomas McDonald, the Immediate Past President of ALTA, is the President of Lawyers Title Group, Inc., headquartered in Sanford, Florida. He has served as President of the Florida Land Title Association (1975-76), as a Member of the Board of

Governors of ALTA (1963-66), and as a Member-at-Large of the association's Executive Committee (1977-78). Mr. McDonald also was formerly Mayor of the City of Sanford and a member of the Florida state Legislature.

Volusia County, just north of Seminole. Our main offices are in the two county seats, Sanford and DeLand, with smaller offices in Daytona Beach and Longwood, used mostly for closings.

We're doing about 90 closings a month now and could handle 100, I think. Furthermore, I believe we could easily double that--with no addition in personnel--when one more computer terminal, our third, is installed in the Longwood office. These are desk-top microcomputers. What we call our "computer room" is one small office room at our main place in Sanford. With between 35 and 40 personnel in toto, we're far from the smallest among a dozen or so title companies in our area, but not the biggest either. That's the other side to enjoying lots of transactions in a fast-growing region for housing. It brings in a lot of competition. So price is important in what we do, but service is extremely important. The computer has enhanced us both ways. Last summer I think we would have been lost without it.

This has always been a cyclical business, going up and down with transfer activity in real estate, mostly housing. But last summer, along with a normal business increase from the economic recovery, we had five big projects come together all at once. Even with the computer, we ran into a lot of overtime. But we were really able to produce--I'd say three to four times the work we'd have turned out otherwise.

The more usual time savings we have found to be at least 50 percent. That often means two hours instead of four, for instance. A relatively simple sale of a house--for cash or where there's a mortgage assumption instead of new financing--might be cut from two hours to one.

There's a multiplier on the time savings. Anywhere from five to eight people might be around the table. But extremely important, too, is the computer's ability to produce work accurately. A mortgage loan, for instance, has to be drawn in a fashion to enter the secondary mortgage market. With the closing computer you enter a certain piece of information one time, and it gets repeated in the proper space on all the forms.

Since the better programs include printing out checks and making sure everything balances, you're talking about probably 20 forms in all. I can think of the mortgage note, the HUD-1 form, the commitment, policy, the buyer-seller settlement sheets, the escrow accounting forms, and so on. With last-minute changes, too (and they're the rule rather than the exception), the computer's particularly valuable. It zips right through in a few minutes for all the forms and checks. In fact, I really don't know how we got along without it before.

Except for one college-educated man (who has other responsibilities), six out of our seven computer operators are secretaries with high school backgrounds. They earn \$10,000 to \$14,000 a year. The nearest any of

"There's a multiplier on the time savings. Anywhere from five to eight people might be around the table. But extremely important, too, is the computer's ability to produce work accurately."

them had to previous computer experience was operation of a typewriter with a memory. I estimate that the savings on additional personnel to produce as much work as we do now amounts to at least two people, which would be \$30,000 to \$40,000 a year.

But there's another benefit at least as important. That's the way the computer has increased our business. We've been able to generate information very quickly for real estate customers. They want to know what kind of closing costs their clients can expect. Now we can get them advance information so fast, it has noticeably promoted our business.

The Competitive Edge

Better service gives you other competitive edges. Any delay in closing a real estate transaction costs somebody money. It might be a builder whose construction loan runs to the last day when a sale closes. One day's delay, on a larger commercial project, might mean \$200 to \$1,000 of additional expense. With a closing on a house it could mean \$15 or \$20 a day interest expense.

I have no idea what that \$40,000-a-month computer I saw in 1968 would cost today. No doubt it would be much more compact, and ideally, I wouldn't need--or have to pay for--all its capabilities, but just what fits into an operation like mine. And that apparently was the approach taken by my supplier.

In my travels around the country for ALTA, I often heard mention of SULCUS Computer Corporation of Greensburg, Pa. Here was a firm which had chosen to specialize in automating the land title industry, tailoring its system to meet local needs in what is certainly a multi-jurisdictional industry.

With the Spring 1983 housing pickup came a real urgency to automate our shop. I had been on the verge of buying another company's product when I saw the SULCUS system demonstrated at a dealer's in Maryland, and the right features fell into place.

First, it was a stand-alone system, not tied in to a main "brain" in another location. The programming was in keyboard English, rather than a specialized computer language. It was reasonable in price. Best of all, it was sold "turnkey."

We bought not only the hardware, but the programming and the employee training. It's a comfort when the supplier doesn't turn you loose till you can handle the system.

Under a monthly fee and agreement for "support, maintenance and enhancement," we also have quick access to the supplier's own people if there's a problem. We've had very few malfunctions, and we have a distributor in Florida that we can call. But there's also a hot line to the national office, and so far we haven't found anything that couldn't be fixed by my own people more or less by phone. We've even been able to use hot line advice to modify certain things to fit our operation.

What About Tomorrow?

Well, what if some other computer system came along that's better?

Here's how I look at that. There are biggies in any market, but to compete effectively at automating land title transactions, anybody would have to have programs to fit the market. Of course, with the market niche they have, I'd expect our present supplier to keep its own programs up to date. That's clearly the direction they're taking.

Another point. If new equipment comes along, you can still use older computers in some phase of your operation. And then, the total investment is not so staggering that you couldn't justify a switch in two or three years. Your money's worth has come out of it in a relatively short time.

In 1979, Seminole County began computerization of its title plant, and since then we have been going to the courthouse every day for microfilm copies of real estate transactions recorded the day before. We index these into our own manually operated title plant, but within the next year or two we plan to enter our plant in the computers serving our offices, and thus are going to be able to make our searches all by in-house computer.

This is one of the most dramatic cost-cutting trends in the title search and insurance business, especially in states with a high volume of real estate activity. I expect companies that aren't large enough to automate their title plants singly will join others in the cost-spreading of a central title plant. That would be a logical accommodation that even smaller companies can make to the computer.

But we've got to make the accommodation. We're in an information age and the computer is the key to competing.

Title Insurance For the Mineral Estate

By Russell W. Jordan III

During the past few years, title insurers have been receiving more and more requests for the insurance of coal and other hard minerals and have been receiving inquiries regarding the possibility of insuring interests in oil and gas or leaseholds of oil or gas.

Title insurance companies and their personnel traditionally have had no great expertise with respect to mineral interests and, until relatively recent times, have been unwilling to insure a severed interest in coal, oil, gas or other minerals. It was thought that the examination of such mineral titles could be quite complex, and title insurance companies have always had questions about whether or not such interests did always constitute an interest in real property and would be fully protected by the recording acts.

In this article, I would like to present some general background regarding how title insurers have dealt with the problem of insuring title to minerals heretofore, explain certain basic factors that should always be considered in attempting to underwrite severed interests in minerals, and comment on modifications to the ALTA Owner's Policy Form B-1970 made by Lawyers Title Insurance Corporation in order to more safely undertake this risk.

Finally, quite apart from insuring a severed interest in minerals, I will comment very briefly with respect to the problem of dealing with requests for

affirmative insurance over outstanding mineral interests.

ALTA Policy Used in Past

Sometimes in the past, when the owner of a mineral interest or a lessee of minerals wanted assurance that his or her grantor or lessor had good title to the land, the title insurer would issue to such owner or lessee an ALTA owner's title insurance policy which, though it did not insure the estate or the lease in the minerals, would insure the owner or lessee that the grantor or lessor did have good title to the land. In other words, the owner's policy would show as the insured the owner of the mineral interest, but would show title vested in the fee simple owner (the grantor or lessor), and would set forth the status of the title at the date of the policy. If the policy did not accurately reflect the title as stated, and the insured suffered loss on account of same, then the title insurer would incur liability.

In any consideration of insuring coal, oil, gas, or other minerals as severed minerals, there are certain basic determinations that the title insurance company must make.

First, it must determine that the particular interest does constitute an interest in real property and will get the full benefit of the recording acts. In other words, will the deed of coal be treated like a deed of land such that the grantee can record the deed and cut off the rights of subsequent grantees and

cut off creditors of the grantor? Making this determination can only be accomplished by carefully researching the law of the state where the particular mineral is situated.

Second, the title insurance company must receive an examination of title by an attorney or title examiner who is qualified and experienced in the examination of mineral titles. Most title insurance underwriters probably have lists of approved attorneys numbering in the thousands and, while these attorneys are thought to have great expertise in the field of real estate law, most are probably not at all experts in examining title to and evaluating a title to a mineral interest. Likewise, the typical title examiner probably has had little or no experience with mineral titles. It is critical to the prudent insuring and underwriting of a severed interest in minerals that the title be examined by an attorney or examiner with expertise in this field.

Third, there must be a determination of the value of the mineral interest to be insured. Generally, if there is a current sale or transfer of the mineral interest, the consideration for the transfer should give some evidence as to the value of the mineral estate. If there is no sale, but rather a reservation of minerals, then the title insurance company may need an appraisal from a mining engineer or geologist regarding the value of the mineral interest which is the subject of the title insurance policy. In the case of an oil or gas lease, the bonus plus the delay

rentals may serve as an appropriate guide for establishing the amount of the policy.

Some Experience With Coal

Having said that as a general proposition title insurance companies have not traditionally insured title to severed mineral interests, I must quickly go on to say that some title insurance companies have had limited experience in insuring title to coal and coal leases in a number of states. These states include Virginia, West Virginia, Kentucky, Tennessee, Pennsylvania, Ohio, Illinois and possibly others.

When severed interests in coal or coal leases have been insured, generally the ALTA Owner's Policy Form B-1970 has been used. This policy is, of course, designed to insure fee simple interests in land, easements, or leasehold interests, but it can be tailored with various exceptions so that a severed interest in hard minerals like coal could be insured. The estate or interest insured by the policy would read "fee simple" or "leasehold." Then, preceding the description of the land in Schedule A, the following language would be included:

All of the coal in, on, or under the land described as follows:

In addition to the normal exceptions disclosed by the title examination (taxes, restrictive covenants, easements, etc.), four additional exceptions were added since the policy was insuring a severed interest in coal. These four basic exceptions would read substantially as follows:

1. No insurance is afforded that any minerals will be found in place or underlying the premises or that minerals that may have formerly existed have not been removed.

2. No insurance is afforded against any damages to the surface or any improvement on the surface caused by the removal of any mineral.

3. Nothing contained in the policy shall be construed as insuring against the rights of the owners of the surface.

4. Nothing contained in the policy shall be construed as defining or interpreting or guaranteeing the nature, the extent, or the manner of the exercise of mineral rights incidental to the exploitation and removal of said minerals from the premises.

Policy Modification Indicated

So much for how title insurers have previously insured severed mineral interests. With increasing demands for the

"With increasing demands for the insurance of interests in minerals . . . it would seem that the ALTA Owner's Policy Form B-1970 needs to be re-examined and modified. . . ."

insurance of interests in minerals, particularly oil and gas, and assuming that this type of insurance is to be underwritten in the future with more frequency, it would seem that the ALTA Owner's Policy Form B-1970 needs to be re-examined and modified in order to provide a more suitable insuring form for the insurance of this type of risk.

Lawyers Title Insurance Corporation recently has completed the drafting of two new mineral policies. While both mineral policies are very similar (the Insuring Provisions and the Exclusions from Coverage of these two policies being virtually identical), one, called the Mineral Policy, is designed to insure interests in hard minerals such as coal, lead, copper, zinc, etc., and the other, called the Oil and Gas Policy, is designed to insure interests in oil and gas. The format of these policies is patterned very closely after the ALTA Owner's Policy Form B-1970, but there have been significant changes in the Insuring Provisions and in the Exclusions from Coverage.

Lawyers Title has modified slightly Insuring Provision One so that it provides insurance against loss or damage

by reason of the title to the estate or interest in the minerals located in the land described in Schedule A being vested, at the date of the policy, otherwise than as set forth in Schedule A. This insures the owner of the mineral interest that the title to said mineral interest is indeed vested in him or her at the date of the policy.

Insuring Provision Two insures against any defect in or lien or encumbrance on the title to the estate or interest insured by the policy, and existing as of the date of the policy. This would pick up just about any outstanding interest in a third party, recorded or unrecorded. It would insure against an outstanding undivided interest in minerals, an outstanding federal tax lien or judgment lien, an outstanding mortgage or deed of trust, or an outstanding assessment lien.

Insuring Provision Three, dealing with access to and from the land, and Insuring Provision Four, dealing with unmarketability of title, were thought to be inappropriate when insuring a severed mineral estate and were dropped from the Insuring Provisions and incorporated in the Exclusions from Coverage.

The Exclusions from Coverage set forth those matters which are intended to be expressly excluded from the coverage of the policy. The first two exclusions are nearly the same as those contained in the ALTA Owner's Policy Form B-1970 and exclude such matters as building and zoning ordinances, the right of eminent domain, and governmental rights of police power. However, also incorporated as a part of the first exclusion in the Lawyers Title mineral policies is any law, ordinance, or governmental regulation requiring the reclamation or restoration of the land or any such law, ordinance, or governmental regulation which might prohibit, restrict, or regulate the exploration or drilling for, or the extraction, mining, removal, or processing of any oil, gas, coal, or other minerals from, on,



Russell W. Jordan III is assistant general counsel for Lawyers Title Insurance Corporation in the company's national headquarters in Richmond, Virginia. He received his law degree from the University of Richmond Law School and is a member of the Virginia State Bar, the Virginia Bar Association, the Richmond Bar Association and the American Bar Association. He has served as chairman of the ABA Significant Literature Committee and chairman of the Condemnation Committee of the ABA Real Property, Probate and Trust Law Section. He has lectured on title insurance in the continuing legal education programs of the Virginia, South Carolina and Tennessee bar associations.

or within the land. It should be noted that the title insurance policy is designed to insure the *title* to the estate or interest in the minerals; the owner of the mineral interest will probably want an attorney to represent him or her with respect to compliance with such matters as zoning, governmental regulations, and environmental regulations.

The third exclusion of the Lawyers Title mineral policies was lifted verbatim out of the ALTA Owner's Policy Form B-1970 and excludes those liens, defects or encumbrances that may be (1) created or agreed to by the insured, (2) known to be insured and not reported to the company, (3) resulting in no loss to the insured, or (4) attaching after the date of the policy.

Exclusions 4 through 9 of the Lawyers Title mineral policies were added as additional exclusions due to the fact that these policies were designed to insure severed interests in minerals. Exclusion 4 excludes any duty to provide or any liability for surface support, lateral support, or subjacent support of the land. Also, it makes it clear that the title insurance company has no liability for surface subsidence, including liability which might result from damage to the land or any improvement on the land caused by the exercise of the mineral rights. These matters all appear to be the subject of casualty insurance, and it would not seem appropriate that such matters be covered by a title insurance policy.

Exclusion 5 excludes a legal right of access to and from the land or the minerals. While the ALTA Owner's Policy Form B-1970 automatically insures access to and from the property, it was thought that such insurance should not be afforded automatically in insuring title to severed minerals, but rather such insurance should be considered on an individual basis and, where appropriate, offered by a special endorsement to the policy.

In the case of an interest in oil and gas, insuring access to the oil and gas estate would involve the title insurer making determinations and incurring risks far beyond the normal limits of title insurance, and Lawyers Title elected not to furnish any insurance regarding access to an oil and gas estate.

In the case of an interest in coal or other hard minerals, the title insurer will want to consider both access to and from the land and access to the minerals. If the property should abut a public road or thoroughfare or, if the title insurance company can obtain appropriate certifi-

cations from its examining attorney as to the existence of an easement for access, the title insurer could, by endorsement to the policy, provide insurance as to access to and from the land.

On the question of access to the hard minerals themselves, the title insurer will have to exercise extreme caution and carefully evaluate the deed or the lease granting the mineral estate to be assured there is contained in said deed or lease a specific grant to the owner of the mineral estate of the right to go on to the property and to remove minerals. Any affirmative insurance furnished with respect to access to and from the minerals would, of course, be subject to that portion of the exclusions from coverage having to do with laws, ordinances, or regulations regarding zoning and environmental matters.

Exclusion 6 excludes any right, title, interest or easement in any property beyond the boundaries of the land, or in any abutting streets, roads, avenues, etc. Exclusion 7 excludes claims or title of others to water located upon, in, or under the land or the lack of any water rights appurtenant to the estate insured. While the ability to utilize water rights on the property might be critical in some mining operations, it is not a matter that can be automatically included within the coverage of a title insurance policy without research, examination, and certification with respect to the ownership of such water rights.

Exclusion 8 contains an exclusion to unmarketability of title. Title insurance companies have not had enough experience in insuring title to severed minerals to automatically insure the marketability of the mineral estate. In addition, there are almost no guidelines or standards with respect to a "marketable" mineral title.

Finally, Exclusion 9 points out the fact that the policy does not insure that any coal, oil, gas, or other minerals do in fact exist in or under the land at the date of the policy, or that any coal, oil, gas, or other minerals which may have formerly existed have not already been removed.

Schedule A of the Lawyers Title mineral policies sets forth the face amount of insurance and the effective date of the policy. Schedule A also identifies the insured, tells what estate or interest in the minerals is covered by the policy (fee simple or leasehold), and tells in whom said estate or interest is vested at the date of the policy. Further, Schedule A sets forth the legal description of the land.

Schedule B contains all of the exceptions on title which would be disclosed by the title examination, such as taxes, easements, restrictive covenants, and mortgage liens. Schedule B of the Lawyers Title mineral policies has three pre-printed exceptions, the first two of which are only applicable in the case of leasehold titles and the third of which is a general survey exception.

In deciding whether or not to insure title to a severed mineral interest within a given jurisdiction, two key factors previously mentioned cannot be over-emphasized: first, with respect to the particular mineral interest to be insured, a conclusive determination that such interest will be considered real estate and will be protected by the recording statutes and, second, a thorough title examination by an attorney or title examiner extremely competent in the field of mineral titles.

Affirmative Insurance—Minerals

Turning 180 degrees from the subject of insuring title to a severed mineral interest, title insurers have been receiving, perhaps with as great a frequency as requests for insurance of severed minerals, requests for affirmative insurance over outstanding mineral interests. In analyzing any situation to determine whether or not the title insurer may safely insure against an outstanding mineral interest, the title insurance company must consider a number of factors.

First, the insurer will want to consider when the reservation or the severance of minerals occurred—how long ago?

Second, the insurer will have to carefully analyze what the reservation or grant of mineral said—how broad was the reservation or grant? What appurtenances were reserved or granted? Can the owner of the minerals mine only within a limited area or can he or she mine anywhere on the subject property? Can buildings and improvements be disturbed?

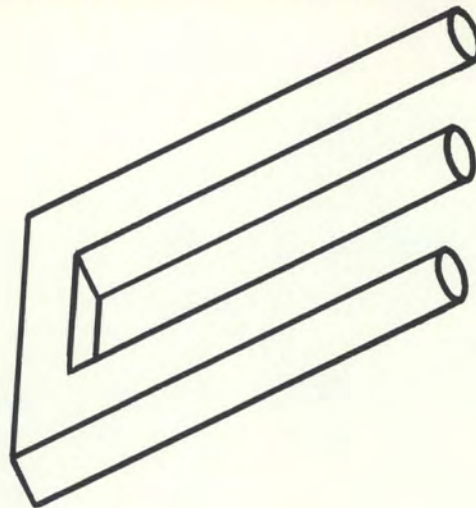
Third, the type of property which is the subject of title insurance needs to be evaluated. Is it rural property, urban property, downtown, or commercial?

Fourth, the likelihood of any mineral activity will have to be carefully evaluated. Has there been any mining activity in surrounding areas and, if so, to what extent?

Fifth, the title insurer must consider any restrictions on mining activities im-

Continued on page 19

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Cheap Isn't Always Best—And Neither Is Expensive When It Comes to Computers

By Dennis R. Johnson

CHEAP is not always good, but EXPENSIVE is not always the only way to go, either. Especially when it comes to computers and office computer systems. For example, there are general ledger and payroll systems being offered for \$5,000 and up, just for the programs, plus anywhere from \$5,000 to tens of thousands of dollars for the computer hardware to run them on. If you have a lot more money than you know what to do with, you may want to run out right now and buy one while they are still available because they probably won't be around much longer, at least at those prices.

The alternative is to spend a little time and save a lot of money. Looking through the local newspaper in any city of any size, you can find literally dozens of ads for very inexpensive computers and programs. It is possible to buy a 64K computer, disk drive for program and data storage, and a typewriter quality printer for less than \$700. Hook it to an old TV set, or even buy a small black and white 12-inch model for about \$89. Total hardware price: \$779 or less. Ten years ago, a comparable system would have cost well in excess of \$20,000. Yes, that's right, twenty THOUSAND dollars. I

Dennis R. Johnson is a member of the ALTA Abstracters and Title Insurance Agents Section Land Title Systems Committee and is an attorney and automated conveyancing consultant with offices in Spring, Texas.

know because I sold some of them when they first came out and, at that time, THAT was CHEAP!

Add about \$99.95 for a general ledger program, and maybe \$75 for a payroll program, and you have a neat little computer system to do all of your bookkeeping and payroll accounting for the staggering cost of about \$953.95. It is probably possible to do it for even less if you shop around a bit.

Now for the bad part. Actually, there are several bad parts. First, it will take a little of your time to shop around for the hardware and the programs. Second, it will take at least a couple of hours or so to learn how to run each of the programs. Third, you probably won't be able to have the computer print your payroll checks, but maybe you can. Fourth, if you need to make more than 1,500 or 2,000 general ledger entries per month or if you employ more than 50 or so employees, you might have to pay as much as \$200 for the programs (each). Well, that wasn't too bad, was it?

Now for the REALLY bad news. It won't have a "magic name" on the front of the box and, if your system goes on the blink, you probably will have to tote the whole 30 or so pounds of it back to the computer store and wait a day or two to have it repaired.

Obviously, the system I have described is not the solution to all of your problems in fully computerizing your business. But, if you have been putting off the inevitable because it costs too much, this is a great way to get your feet wet. It WILL do the job, even if it isn't as fancy or as fast as a bigger system. And, you will learn enough to be a very smart buyer later on, if you decide to embark on a grander adventure.

This suggests there are now THREE certain things in life—death, taxes, and

a computer in your business. It's certainly something to think about.

Do teen-agers in your community know more about computers than you do? Perhaps. In California, a high school student recently used a \$99 computer to tap into commercial and military computers all over the world. The message here is that, if you haven't already begun, it's time to benefit from the experience of such computer-oriented young people and get started on the automation of your own office—with a relatively cheap, "off the shelf" system.

You DON'T have to learn to program a computer when using "off the shelf" software. There are about a zillion accounting and payroll programs available, even spread sheet and simple word processing programs for budget estimating and letter writing, respectively.

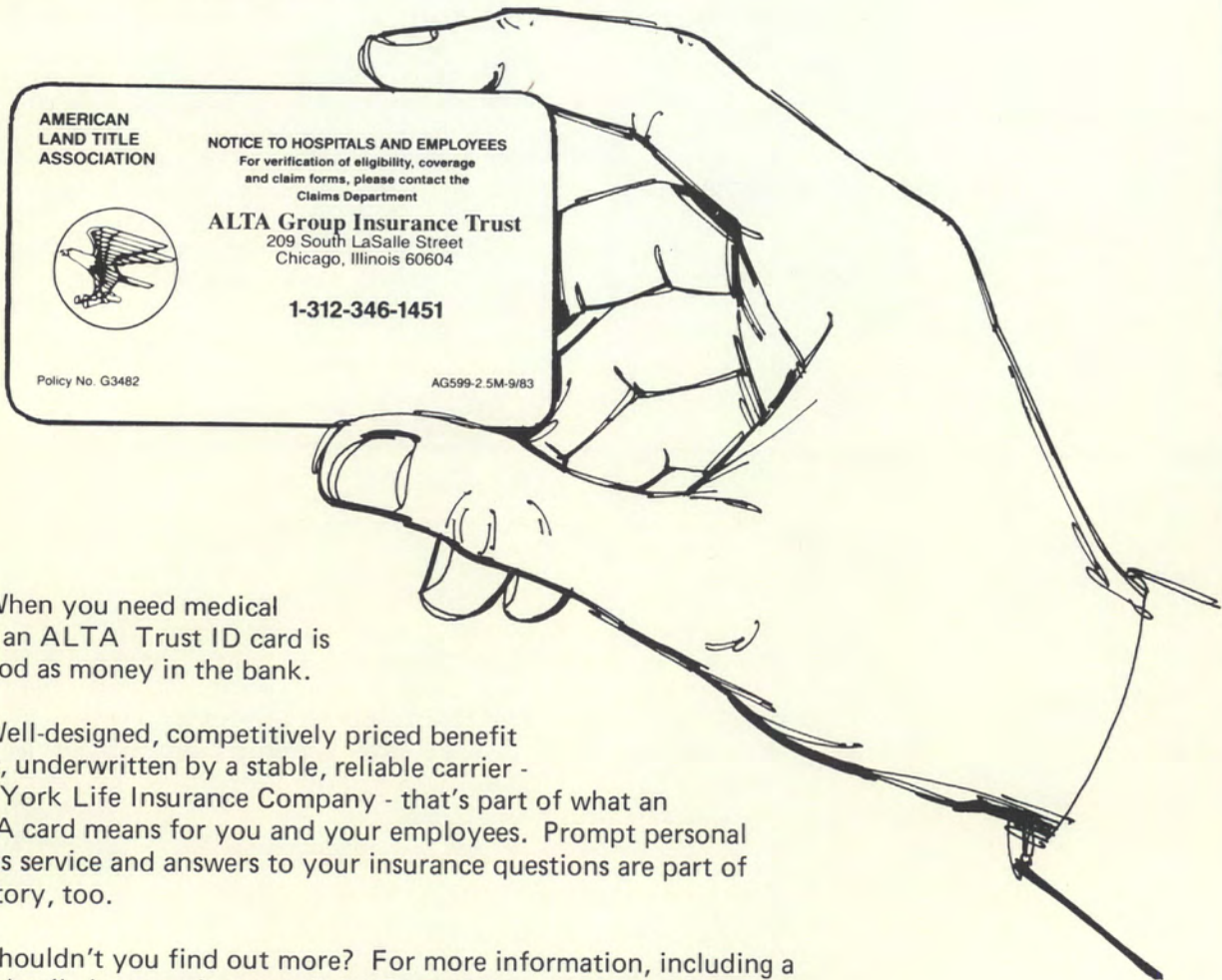
If you start now, you probably will have some superb questions and comments ready for the automation workshop and exhibit during the 1984 ALTA Annual Convention October 14-17 at the MGM Grand Hotel, Reno, Nevada. Exhibitors are expressing impressive interest regarding participation in AUTOMATION SYMBIOSIS—the automation show—which means that everyone present will have an excellent opportunity to see and discuss the latest innovations. You won't want to miss the workshop and exhibit. AUTOMATION SYMBIOSIS will be open during all Convention sessions.

Lawyers Acquires Agent in Baltimore

Lawyers Title Insurance Corporation has acquired Real Estate Title Company, Inc., Baltimore, Maryland, an agent of Lawyers Title since 1965.

John J. Neubauer, Jr., will continue to serve as chairman of the board and chief executive officer of Real Estate Title, which operates in the Baltimore metropolitan area.

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Houston Concern Under Tigor Name

American Title, oldest and one of the largest title operations in the Houston, Texas, metropolitan area, has begun

operating under the Tigor Title Insurance Company name, according to James P. Sibley, vice president of the local concern.

In addition to headquarters in Houston, there are nine company-owned offices serving Montgomery, Galveston, Brazoria, Ft. Bend and Harris counties.

Chicago Title Officer Workshop Speaker

Eileen Morris, Chicago Title Insurance Company escrow officer with 20 years experience in waivers and escrows, is a speaker at the Residential Construction Employers Council training workshop scheduled for April 6 in Oak Brook, Illinois.

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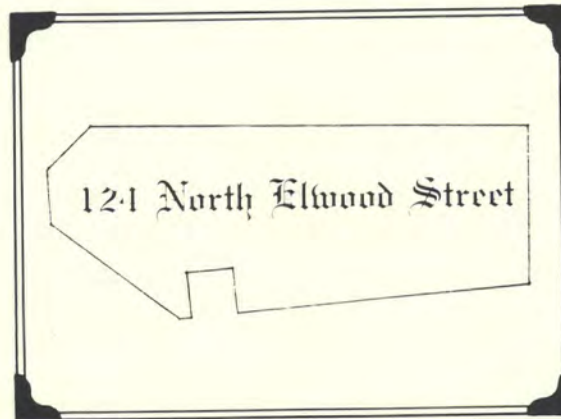
LTI—continued from page 8

which cover Basic Course aspects in more depth in addition to focusing on the approved attorney system, rate structures, easements, development of a title business, federal agencies and management problems.

The courses were not designed to be taken in succession, however, in line with requests from employers and employees. Basic Course graduates can enroll in the last six sections of the Advanced General Course if desired.

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dents are evaluated by open-book tests. The Institute also sends a quarterly report to each subscribing company, summarizing the work of all participants.

Materials Being Updated

Course materials originally were developed by Hart McKillop, a former senior vice president for Lawyers Title Insurance Corporation and an ALTA Honorary Member. These materials are being updated by experts before review by the trustees of the Institute: Thomas S. McDonald, president, Lawyers Title Group, Inc., Sanford, Florida, chairman; Glenn Graff, assistant state manager, Lawyers Title Insurance Corporation, Winter Haven, Florida, president; William J. McAuliffe, Jr., ALTA executive vice president, Washington, D.C., and McKillop, who also resides in Winter Haven.

One new subscriber company, T. A. Title Insurance Company, Newton Square, Pennsylvania, has just enrolled approximately 65 percent of its 180 employees. With a commitment to title industry training, T. A. Title, which held in-house training at Pennsylvania State University for its advanced employees, scheduled meetings for discussion of course materials, homework

and class content after completion of sections of the Basic Course.

Bette Eckroade, branch manager, T. A. Title, Upper Darby, Pennsylvania, said the basic course is taken by the support staff to "teach them why they do what they do." Experienced T. A. Title professionals who desire a reinforcement of their knowledge constitute the majority of Advanced General Course participants. The company is planning to develop "customized" in-house sectional courses for those employees who have completed the Advanced General Course.

Dynacomp, Inc., Phoenix, Arizona, a computerized title evidencing service company that maintains title plants in Arizona and branches in Nevada and Utah, is a subscriber that conducts LTI study on a classroom basis. Ellie Villalpando, director of education at Dynacomp, said a recent increase in local competition and a corresponding growth in the number of competitor branches influenced the Dynacomp decision to accelerate employee education through the Institute.

In addition to the Institute's recent growth in new subscribers, it has remained a vital factor in training for long-time subscribers such as Commonwealth Land Title Insurance Company

and the Title Insurance and Trust Company of Florida. Both have renewed their subscriptions with LTI annually since its inception 13 years ago.

As these examples indicate, more companies are finding LTI cost effective in enhancement of employee training—and their competitive posture. For more information, contact LTI, Post Office Box 9125, Winter Haven, Florida 33883 (telephone 813-294-6424).

Accompanying this article is a subject outline for the Basic Course and the Advanced General Course.

JORDAN—continued from page 14

posed by federal, state, or local government.

Once the above determinations are made, the title insurer will have to decide what, if any, affirmative coverage can be offered. The broadest form of coverage possible would be insurance against loss or damage by reason of the exercise of the outstanding mineral rights. The implications of this type of insurance may, however, go far beyond the traditional parameters of title insurance and should probably only be considered if the title insurer has determined that the outstanding mineral interest is extremely old, or perhaps unenforceable for some reason, and that the likelihood of the exercise of such outstanding mineral rights is almost nil.

The more traditional coverage, after taking all of the factors mentioned above into consideration, would be to insure against loss or damage to buildings and improvements by reason of the exercise of such outstanding mineral rights. Here, the title insurer must carefully consider whether or not the outstanding mineral rights provide for any active surface mining on the property to be insured. Generally, in providing any affirmative insurance of this sort no liability is assumed by the title insurer for loss or damage by reason of fire, explosion, or surface subsidence.

Thus, as you can see, mineral titles and mineral rights have presented difficult and interesting challenges to the title insurance industry for a number of years. In the future, if requests for the insurance of severed mineral interests continue to increase, it may be that the American Land Title Association will want to more closely evaluate the need for this kind of title insurance with a possible view towards the formulation of mineral policies by the Title Insurance Forms Committee.

Course Outline— Land Title Institute

Basic Course

- Sec. I What Is A Title—Real Property and Personal Property, How Titles Are Created—Nature of Chain Of Title, Possible Defects In Chain Of Title—How Title Losses Occur
- Sec. II Necessity of Land Title Assurance, Early Features of Land Title Assurance, The Recording Laws and the Public Records
- Sec. III Title Examinations—Methods and Procedures
- Sec. IV The Abstract—Its Development and Forms
- Sec. V A Word About Title Language—Title Industry Terms (Glossary)
- Sec. VI The Title Insurance Industry
- Sec. VII and VIII (combined)—Land Descriptions
- Sec. IX and X (combined)—Forms of Title Insurance Policies and Binders
- Sec. XI Basic Principles of Title Underwriting
- Sec. XII Escrows and Closings

Advanced General Course

- Sec. I Development of Title Assurance, Article, "Title Insurance," by McKillop (as reprinted from the University of Florida Law Review)
- Sec. II The Title Insurance Industry
- Sec. III Title Industry and Related Trade Associations
- Sec. IV Title Searching and Abstracting from the Public Records
- Sec. V Abstract and Title Plants—Their Structures and Use
- Sec. VI A Word About Title Language—Title Industry Terms (Glossary)
- Sec. VII and VIII (combined)—Land Descriptions
- Sec. IX and X (combined)—Forms of Title Insurance Policies and Binders
- Sec. XI Basic Principles of Title Underwriting
- Sec. XII Escrows and Closings
- Sec. XIII The Approved Attorney System—Insured Closing Service
- Sec. XIV Rate Structures
- Sec. XV Easements—Insuring Groups of Small Parcels
- Sec. XVI Development of Title Business—Sales
- Sec. XVII Federal Agencies
- Sec. XVIII Management Problems

Calendar of Meetings

April 16-18

Virginia Land Title Association
Tides Lodge
Irvington, Virginia

April 26-28

Arkansas Land Title Association
Inn of the Ozarks
Eureka Springs, Arkansas

April 29-May 1

Iowa Land Title Association
New Hotel Savory
Des Moines, Iowa

May 10-13

Oklahoma Land Title Association
Skirvin Plaza Hotel
Oklahoma City, Oklahoma

May 16-18

California Land Title Association
Hyatt Del Monte
Monterey, California

May 17-19

New Mexico Land Title Association
Marriott Hotel
Albuquerque, New Mexico

May 17-20

Texas Land Title Association
Registry Hotel
Dallas, Texas

May 24-27

North Carolina Land Title Association
Mills House
Charleston, South Carolina

May 29-31

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

June 3-5

Pennsylvania Land Title Association
Toftrees
State College, Pennsylvania

June 7-9

Tennessee Land Title Association
Ramada Inn
Gatlinburg, Tennessee

June 14-15

South Dakota Land Title Association
King's Inn Convention Center
Pierre, South Dakota

June 21-23

Colorado Land Title Association
Keystone Resort
Keystone, Colorado

June 21-23

Oregon Land Title Association
Pendleton, Oregon

June 21-24

New England Land Title Association
Dunfey's Hyannis Hotel
Hyannis, Massachusetts

June 22-24

Illinois Land Title Association
Clarion Hotel
St. Louis, Missouri

June 28-30

Utah Land Title Association
Yarro Holiday Inn
Park City, Utah

July 8-10

Michigan Land Title Association
Grand Hotel
Mackinac Island, Michigan

August 16-18

Idaho Land Title Association, Montana Land
Title Association, Wyoming Land Title
Association
Virginian Motel
Jackson, Wyoming

August 16-18

Minnesota Land Title Association
Grandview Lodge
Brainerd, Minnesota

August 23-25

Kansas Land Title Association
Hilton Hotel
Garden City, Kansas

September 8-11

Indiana Land Title Association
Radisson Plaza Hotel
Indianapolis, Indiana

September 9-11

Ohio Land Title Association
Netherlands Plaza
Cincinnati, Ohio

September 12-14

Nebraska Land Title Association
Regency West
Omaha, Nebraska

September 13-15

North Dakota Land Title Association
Holiday Inn
Dickinson, North Dakota

September 14-16

Dixie Land Title Association
Gulf State Park
Gulf Shores, Alabama

September 14-16

Palmetto Land title Association
Marriott Hilton Head
Hilton Head, South Carolina

September 16-19

New York State Land Title Association
Skytop Lodge
Skytop, Pennsylvania

September 19-22

Washington Land Title Association
Sheraton Tacoma Hotel
Tacoma, Washington

September 20-23

Missouri Land Title Association
Hyatt Regency
Kansas City, Missouri

September 20-21

Wisconsin Land Title Association
Racine, Wisconsin

October 14-17

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