

the History of Title Insurance

Insurance of land titles did not originate in California, although it attained its greatest purchase as an industry in this state. The story of title insurance in California begins with the State's early attempts to fashion a title registration system.

California first met legislature in San Jose in 1850, a few months before statehood, and there adopted the recording system for land titles. Under the Mexican regime, California had only the crudest land title registration. (There were, after all, only some 700 valid private land titles in the State, together with a smattering of mission and pueblo lands.) The recording system gave the soon-to-be State of California the benefits of an American device that had proven to be useful in searching land titles and making land transfers simpler.

However simple such a system might have seemed to that first legislature of a new American possession (California, before it became a state, never attained the status of an official "territory"), it was not simple enough. The world had rushed into California with the Gold Rush of 1849. The population of San Francisco grew more than a hundredfold in that year. The average person uneducated in the niceties of common-law conveyancing, perpetuities, and the like, could not make efficient use of the recorder's office. Thus grew up whole industries—conveyancers, abstractors, attorneys and experts who would furnish "certificates of title" and in due course, companies that insured land titles.

It is, if not enlightening, at least entertaining to get some sense of those early days in California in terms of land titles. In 1852, the San Francisco City Directory carried this advertisement for Theodore Payne & C.: "Real Estate Business in all its branches, for the conducting of which they esteem themselves peculiarly qualified by having given it their especial attention for over two years past, and made themselves familiar with all questions affecting titles, etc., etc." The San Francisco City Directory for 1856 lists four "Searchers of recorders and conveyancers." They were Joseph Clement, C.V. Gillespie, Gunnison & Parker, and G.W.

Waugh. Gunnison & Parker, who identified themselves as "attorneys and counselors at law" asserted, "We have prepared books containing a chain of title to every lot of land in the City and County of San Francisco, with maps of each subdivision and owners. We will give Abstracts of Title at the Shortest Notice." Waugh claimed to be a "Searcher of Records and Examiner of Titles," asserting that he had "compiled more information and is better equipped than any man in the City in reference to the Validity of Titles in the City and County of San Francisco."

With the explosion in volume of public land records, in real-estate transfers and hence of the business of conveyancing, the conveyancer or title lawyer often delegated the job of researching and assembling information regarding title to others. These persons became skilled as "abstractors" and in time established their own offices, and submitted the result of their searching to attorneys for written opinions before advising customers. The "abstract of title" thus came into use. The abstract was simply a written history of the recorded transactions affecting a particular parcel of land. The abstract did not originate in California, however. It had been used in the first part of the 19th century in other states.

The abstract of title is almost never used in California today, but at least until a few years ago it was still in some use in other parts of the United States, especially in the Midwest. In California, the abstract in time gave way to the "certificate of title," which proved a shortcut for persons buying and selling land. The abstract of title was often as ponderous as a San Francisco or Los Angeles directory of the time. An abstract comprising the whole of Rancho San Jose in Pomona Valley, Los Angeles County, required 37 large volumes, and yet the only part that was of importance to the parties to the transaction was the attorney's opinion attached. In the fullness of time, the attorney's opinion was all that the purchaser was interested in seeing, and the abstractors retained the voluminous fruits of their labor in their own offices.

Source: California Land Title Association www.clta.org

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