

The Beginnings of Title Insurance in Minnesota

(1885-1886)

Near the end of the mile long list of reasons for the growth and development of our towns, cities, urban areas and suburbs is this item: title insurance. It was an innovation in insurance that gave builders, developers, investors and families assurance that the title to the parcel of land they bought was good. It was introduced in Philadelphia in 1879, and made its first appearance in Minnesota in September 1885, when the Minnesota Title Insurance and Abstract Company was incorporated and offered stock to the public. A year later the St. Paul Real Estate and Title Insurance Company commenced business and also sold title insurance to real estate buyers. Lawyers were among the incorporators of and initial investors in both companies.

The *Minneapolis Daily Tribune* and the *St. Paul Daily Globe* published columns educating the public about title insurance, touting its advantages and predicting profits for investors in the new companies. They are posted here.

Readers of this article may be interested in the history of the Minnesota Land Title Association, which has been in operation since the early 1900s. Professional organizations frequently publish short histories, but few are as well written and engagingly told as that by Jack R. Zachow of the MLTA. It can be found at:

http://www.mlta.org/site_page.cfm?pk_association_webpage_menu=453&pk_association_webpage=485

Insurance Against Defective Titles.

The organization of the Minnesota title insurance and abstract company is attended with more than ordinary interest upon the part of all those who have, or are likely to have, any interest whatever in titles to real estate. The company has been formed, say the members, with a view to accomplishing two things:

First—The preparation of abstracts of title whose correctness can be safely relied upon and

Second—The insurance of titles to those who feel that it is wise to be sure of their title before investing or loaning their money, or in building expensive buildings upon property which they may have already acquired.

To accomplish the above, this corporation puts itself at once upon the substantial basis of a capital of half a million dollars, of which \$200,000 is to be deposited in approved securities with the state auditor as a guaranty fund, and has identified some eighty of the most substantial citizens of the city as stockholders. Among these are many of the leading members of the bar and the management of the corporation will be largely in the hands of careful lawyers, whose ability and integrity have been proved by their long residence and practice in the city. There are identified with the company leading capitalists and investors. An examination of the names of the incorporators, published on another page of this issue will abundantly verify the foregoing conclusions.¹

¹ This refers to the Articles of Incorporation that were published in the *Tribune*, September 23, 1885, at 11, and in successive issues.

Corporations of this character first had their origin in the city of Philadelphia, where titles are insured in nearly all cases where loans of trust funds are made, or where property of any considerable value is bought and sold. Such corporations of course insure titles only after a searching examination, and after any defects which may have been found are corrected.

The first Philadelphia company was established some thirteen years ago, and the growth of its business and usefulness has been such that similar corporations have been established in New York and Boston, and are doing a safe and profitable business.

The founders of the company realized that to be absolutely sure of their work they must go back to the beginning of titles, viz: to the United States government, and having first proved by experience the correctness of the abstracts of Messrs. Bryant & Leland, of this city, concluded in advance an arrangement with these gentlemen to purchase their abstract books and business, and to secure their services in the making of abstracts, for a period of at least five years.

Mr. J. W. Manck of Chicago, who is spoken of as a genial gentleman as well as a thorough business man has been secured as the office manager of the company, and will soon come here to reside. The usefulness and success of the company are well assured.

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Minneapolis Daily Tribune

October 22, 1885

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Title Insurance.

The directors of the Minnesota Title Insurance and Abstract Company held their first annual meeting at the office of the Minnesota Loan and Trust Company on Tuesday evening.

The bylaws to govern the company were adopted and the following officers elected: President, M. B. Koon; first vice president, Charles A. Woods; second vice president, Stanley R. Kitchell; secretary and treasurer, J. W. Mauck; abstractors of title, James Bryant, C. C. Leland.²

The officers of this company are all prominent lawyers of the city and the abstractors are both gentlemen who have made a reputation in their lines of work. The only nonresident member of the company is Mr. Mauck, who is at present a resident of Chicago, but will remove to Minneapolis.

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A year later, the St. Paul Real Estate Title Insurance Company was founded, and it too offered stock to the public. Four articles in the *St. Paul Daily Globe* in early September 1886, culminating in a lengthy article on September 12, introduced its readers to this insurance innovation. They described the purpose of title insurance, its benefits, a brief history and disclosed that leading citizens of the city were investors in the new company. The articles are so positive that it is hard not to conclude that the company itself wrote them.

St. Paul Daily Globe

September 4, 1886

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To Protect Real Estate Owners.

Articles incorporating the St. Paul Real Estate Title Insurance company were filed with the secretary of state yesterday. The business of the corporation is to

² The insurance company's President was former Judge Martin B. Koon (1841-1912), who served on the Hennepin County District Court from 1883 to 1886. For a bar memorial to the company's First Vice President, see "Judge Charles H. Woods (1836-1899)" (MLHP, 2018).

protect real estate owners from losses by reason of defective titles, liens and encumbrances. Capital stock is fixed at \$500,000. The incorporators are F. B. Clarke, Fred Driscoll, A. G. Posthewaite, Fred D. Hager. P. R. L. Hardenberg, W. R. Merriam, William Lindeke, E. W. Peet, Gustave Willius, D. R. Noyes, D. W. Ingersoll. J. H. Weed, Arnold Kalman, J. H. Davidson, Alex Sternburg, L. K. Stone. C. P. Coleman, P. H. Kelly, Thomas Cochran, W. B. Dean, E. S. Norton, E. W. Winter, George L. Farwell, L. H. Maxfield, J. J. Watson, George C. Squires. Henry B. Wenzell, D. H. Moon, William Constans, Henry H. Sibley, F. Knauft, J. W. White, F. Willius, Edmund Rice, Jr., F. F. Oakes, all of St. Paul.

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St. Paul Daily Globe

September 5, 1886

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TO PROTECT TITLES.

Objects of the Real Estate Title and Insurance Company.

Mention was made in yesterday's *Globe* of the St. Paul Real Estate Title and Insurance company, with a capital stock of \$500,000. A talk with one of the directors yesterday brought out the object and benefits aimed at by the company.

A policy of insurance is issued on the titles upon the payment of a single premium by the company. This affords absolute protection to the purchasers and their heirs and to lenders upon land and mortgages against all loss from defective titles. The company, for its own protection, examines the titles it insures in a thorough manner by experts in its employ, and then guarantees

its work. It defends all actions brought against holders of its policies, by reasons of defects in the title insured at its own expense, and will pay all losses to the extent of the policy issued. If after an examination of the title the company refuses to issue a policy no fee is charged for examination. A solid foundation for business is insured under the law which requires that before it issues a policy the company shall set apart a sum not less than two-thirds of its capital stock as a guarantee fund, to be applied only for the security and payment of losses incurred by guarantees issued. The system affords absolute protection against defective titles, it saves time and also saves money, the purpose being to guarantee the title for a less sum than must now be paid to have the same title searched by a competent attorney. After the title has been searched and guaranteed, the property may be transferred or a mortgage upon it assigned and a similar guarantee obtained by the purchaser for one-third of the sum paid for the first guarantee.

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St. Paul Daily Globe

September 12, 1886

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TO INSURE LAND TITLES.

**A New System of Perfecting the Titles
to Real Estate.**

**A Title Insurance Company That
Saves Time and Money.**

If the same success and general favor on the part of the property holders meets the St. Paul Real Estate and Title Insurance company that has met similar com-

panies in other cities there will be a general change in the methods of perfecting and examining titles to real estate in this city. The company, recently organised, has fixed its capital stock at \$500,000 to be issued in shares of \$100 each, and the books have been opened for subscriptions. While the business of the company has already been given in a general way, as to guarantee against loss by reason of defective titles, liens or encumbrances, there are many facts of the business of interest to property holders which might be given more in detail. As the name implies, it is an insurance company, issuing policies, and indemnifying holders when losses are incurred under the terms of these policies. The policy of the company takes the place of the abstract and the attorney's opinion usually required in making a loan, or in the sale of property, and does away with the tedious processes of examinations and other steps, frequently necessary in the removal of defects and supplying of omissions. The company will have in its employ

A SET OF EXPERTS

in the examination of titles and all matters connected with the transfer of property.

It is the company's business to make abstracts, examine titles, and straighten out all the crooked technicalities in which titles may be involved. A complete set of abstract books will be kept as a part of the business, these books containing a complete abstract of every piece of real estate in Ramsey county. Title policies issued by the company will be absolute guarantees, backed by a wealthy corporation, and any loss afterward resulting from any defect in the insured title is paid by the company. The borrower or purchaser takes from the company its policy, which guarantees the title in the amount and for the time of the loan, or for the value of the property for all time, and pays therefor

a certain fixed premium, which, in most cases, is less than the cost of an abstract and the opinion of an attorney, while the excess of cost, if any, is more than offset by the saving of time and annoyance. The cost of such a policy is fixed and known when the application is made. The purchaser of a piece of real estate, for instance, instead of paying for a big roll of papers forming an abstract and then paying an attorney to examine it and give an opinion as to its correctness and the perfection of title, simply obtains a title of policy of insurance, while the seller instead of having to furnish an abstract or wait for the examination of title by the purchaser, is saved much time and annoyance. Both parties are therefore enabled to consummate the bargain immediately. The present system of examining titles is not only tedious and unsatisfactory because of possible clerical errors in indexes and lurking errors in conveyances, but there is

GREAT DANGER OF FRAUD.

Heavy losses have often resulted from these frauds which may be by reason of a forged conveyance, a false personification, a concealed dower right, incorrect information as to heirs, intestacy or any other material fact and neither official or attorney may be responsible for failure to detect a flaw arising from any such cause, and after the most careful examination there are still many loopholes. This little (sic) insurance company, at the head of which are such men of solid financial standing, completely wipes out all danger from any of these defects. Instead of the simple opinion of an attorney the purchaser or lender has an absolute guarantee, and if the title is thereafter questioned the company is the party to stand the loss if any result. Of course, titles are examined by the company in as careful, exhaustive and skillful a manner as professional experts can do it, as this is of vital importance to the company, and the policy then issued binds the

company, in case of loss, to pay the loss up to the amount of the policy. A title once guaranteed, there will be reissues of the policy to subsequent purchasers or mortgagees, at a less rate. The saving of time, as well as the saving of money, is a great recommendation to any man who has been annoyed with the delays necessary to complete transfers or loans on real estate. There are also special features of the company's work requiring special deposits, such as insuring against possible mechanics' liens, the risk of decedent's debts, or the satisfaction of an old mortgage. The company will also,

FOR A SPECIAL FEE,

guarantee against any delinquent taxes, tax titles, etc., which will be of special value to non-residents owning property here. The company will also bring suits to quiet title or reissue policies to the amount of increased values of property.

The advantages of title insurance have been thoroughly demonstrated in nearly all the large cities of the East, where the system has been in operation for several years, having originated in Philadelphia in 1879. There the public has come to prefer a guarantee policy which it can understand to a huge abstract of title which it cannot understand. The companies are an established and complete success and equally satisfactory to the public and the stockholders. They have for years done a profitable and constantly increasing business. Wherever organized they are not only popular and of great public advantage, but the stock is considered a first class investment, many of the companies paying large dividends and the capital stock selling at a large premium, which makes the business profitable both to insured and to insurer. In cities where title insurance companies exist, loan and trust companies, insurance companies, safe deposit companies and capitalists

have come to rely on them require a title policy before making a loan, and they regard the policy as absolute security, far more so than the abstract of title under the old plan. In fact, in Philadelphia, New York, Brooklyn, Boston, Baltimore and other cities, so great is the confidence in these guarantees that scarcely any property will be purchased or mortgage taken without this title insurance. A good slice of the stock of the St Paul company has been taken. Messrs. Ferdinand Willius, Daniel R. Noyes and E. W. Peet are a committee in charge of the preliminaries of the business.

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Two weeks later the *Globe* published its final piece touting the new company:

St. Paul Daily Globe

September 23, 1886

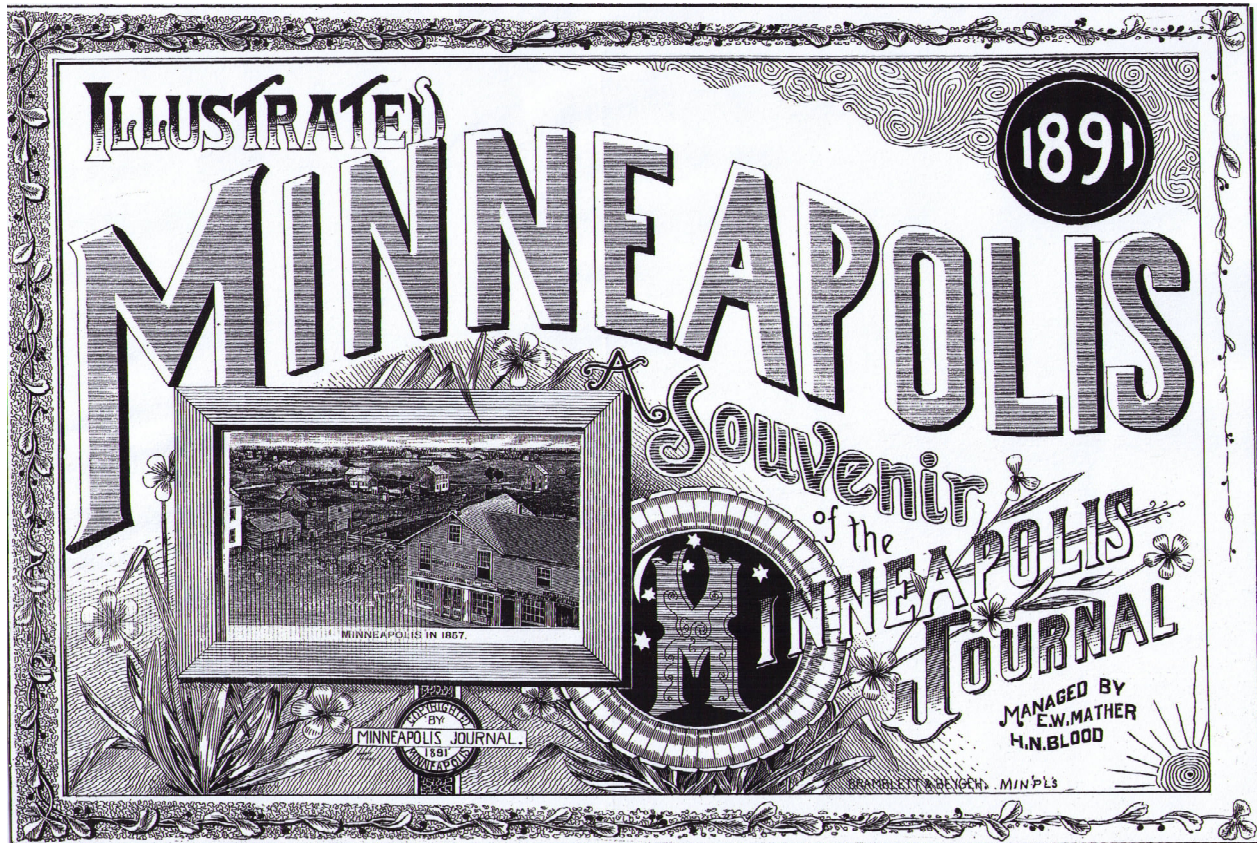
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It is a Fact

Real estate title insurance is no longer an experiment. In the East it has proved an unquestionable success. Wherever companies have been organized they have sprung into immediate popularity and have proved of great public advantage, and the stock is considered a first-class investment. The subscription books of the Real Estate Title Insurance company are now open for inspection at the National German-American bank.

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Five years later, the *Minneapolis Journal* published a large oversized book titled *Illustrated Minneapolis – A Souvenir of the Minneapolis Journal*. It was composed of sections on various industries, professions, etcetera. Advertisements complemented the text. A section on “Land Title Insurance” and an advertisement for Minnesota Title Insurance and Trust Company follow.



LAND TITLE INSURANCE.

The "Philadelphia idea," of applying the insurance principle to real estate titles has made signal progress since its introduction in the Quaker City in 1879. Most large American cities and many smaller ones now have their title insurance companies. The ultimate basis of the bulk of investments is land securities, whose value is measured by the validity of title. The investor of necessity commits this final question of title wholly to the professional

examiner, always with that vexatious sense of uneasiness which attaches to whatever one cannot himself comprehend. He knows that, in spite of the improved methods in title searches, innocent investors often find their interests to be inferior to claims which have eluded the examiner or led his judgment astray in his search of perplexing records; that the public records afford no protection against forgery, misrepresentation and other forms of fraud, but rather contribute to them by giving the appearance of completeness to a faulty or void title; that it is impossible to arrive at certainty of title, and that every investment is attended with more or less risk, notwithstanding the most skillful title searches. It may be said of any one of his investments that it will probably not be attended with loss of title, just as a given house will probably not burn; but it can never be known on which the loss will occur, though certain it will fall on some. He takes this into account, and accordingly fixes the price he will pay if purchasing, and the rate of interest if taking land collateral for money advances. What percentage is scaled off realty values in the markets by reason of this element of risk, as compared with what the values would be without it, and what increase in interest rates arises from this source, it is perhaps impossible to calculate; but it is obvious from the stern laws of business that it cannot be inconsiderable. In the immense aggregate of investments in lands direct and in lands collaterals, this "bear" tendency on values and "bull" influence on interest impose an enormous burden on the business world

To distribute risks so that a loss will be borne by a large number instead of a single individual, precisely as in all other phases of insurance, is the object of title insurance companies. That they exert a wide influence in enhancing real values and equalizing interest, by eliminating the sense of insecurity, would be readily inferred and is easily demonstrated. In eastern cities their advantages are very generally appropriated by capitalists who invest in properties which they personally inspect, and who are commonly acquainted with the vendor or borrower. In the West, such companies are of special value, because the various industries of the newer countries are largely maintained by eastern capital, whose possessors generally see neither property, vendor nor borrower, and are proverbially cautious about western titles in general. That their caution is often exaggerated is true, but they are slow to trust to any assurances short of absolute certainty.

The sense of security in land titles which these guaranty companies beget is of the highest economic importance, effecting an increase in the volume of ready money, low rates of interest and ease of land transfers. Such companies elaborately digest public records, preserve all determinations on titles/and indemnify the assured for fixed and moderate charges. They quickly, search a title, with greater fullness and accuracy than the private examiner, defend an insured title, if assailed, without charge to the assured and with little expense to themselves, and out of their ample funds readily meet losses which would ruin the individual investors.

Minneapolis was the first city west of Philadelphia to put into practice this form of insurance. The Minnesota Title Insurance and Trust Company, organized in 1885, is conducted upon substantially the same plan as the eastern companies, and its policies are accepted by investors, as final evidence of title. Among its constant customers are many of the great fire and life insurance companies, savings and other banks, trust companies, colleges and universities, mortgage and debenture corporations and private capitalists. Of the \$2,000,000 authorized capital, \$500,000 is subscribed, \$100,000 paid in, \$200,000 being permanently deposited with the State Auditor as a guaranty fund. Stockholders being liable for twice their subscription, a liability of around \$1,000,000 is afforded by the present subscribed capital. Among the 125 stockholders are many well known local and eastern capitalists. The company also issues abstracts or briefs of title in the form common in this city. In another department distinct from these, it receives deposits and transacts a mortgage loan business, confined to this city and three other choice sections of Minnesota, a title insurance policy being supplied with each mortgage sold. Stocks and bonds are negotiated through this department. The trust branch, also distinct from the others, does a general trust business, though making a specialty of estates chiefly composed of lands.

ABSTRACTS OF TITLES.

William S. Jenkins, in the Oneida Block, has devoted many years exclusively to abstracts of title and by his natural aptitude steadily advanced from first principles to a large private business. The Minnesota Title Insurance Company selected him as the best qualified abstracter in the County to superintend the issuance for

it of the usual form of abstracts, and in its corporate capacity vouches for the correctness of his work.

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<p><u>TITLE INSURANCE.</u></p> <p><i>The Oldest Title Insurance Company West of Philadelphia.</i></p> <p>Land Titles Insured. Mortgagees, Owners and Purchasers of Real Estate indemnified against loss from defect, mistake and fraud. Free defense if title be contested. One Premium for twenty-five year policy.</p> <p>Trust Department. Executor of Wills, Administrator of Estates, Guardian for minors and others under legal disability. Assignee and Receiver in insolvency. Trustee for bonded indebtedness. Register of Stocks and Bonds, General Powers of Trustee, Agent and Attorney. Depository of Court Funds, Fourth Judicial District.</p> <p>Directors. M. B. Koon, C. M. Loring, J. M. Shaw, A. F. Kelley, E. A. Merrill, F. D. McMillan, C. H. Woods, E. J. Phelps, S. R. Kitchel, F. W. Forman, George Huhn, Daniel Fish, C. C. Leland, A. M. Keith, F. A. Chamberlain, J. U. Barnes, J. W. Mauck.</p>	<div style="border: 2px solid black; padding: 20px;"> <p>MINNESOTA</p> <p>TITLE INSURANCE</p> <p>AND</p> <p>TRUST COMPANY.</p> </div>	<p><u>MORTGAGES.</u></p> <p>City and Farm Mortgages Ranging from \$500 and upward. Netting the purchaser 6.654 and 7 per cent. This insurance Policy with every mortgage—paid for by borrower. Fire Insurance and Taxes attended to by the company. Principal and interest collected and remitted without cost to the purchaser.</p> <p>Interest on Deposits. Funds sent for investment draw four per cent. until placed. Other deposits as follows: 2 per cent. on Open Accounts; 3 per cent. on Demand Certificates; 4 per cent. on three-month Certificates; 5 per cent. on six month Certificates.</p> <p>Officers. JOSEPH U. BARNES, President. F. D. McMILLAN, 1st Vice Pres. AUSTIN F. KELLEY, 2d Vice Pres. DAN'L FISH, Counsel & Trust Officer. HENRY A. BARNES, Treasurer JOSEPH W. MAUCK, Secretary</p>
<p>***** ABSTRACTS OF TITLE ISSUED *****</p>		
<p>Capital and State Supervision.</p> <p>CAPITAL: Subscribed, \$500,000; Paid up, \$400,000. Stockholders are liable for twice their stock, \$1,000,000. The State Auditor holds \$200,000 in First Mortgages as a permanent Guaranty Fund. The Bank Examiner and Insurance Commissioner of Minnesota require stated reports from the Company, and the former makes personal examination of its condition.</p>		
<p><u>TRUSTS.</u></p>	<p><u>DEPOSITS.</u></p>	

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Related Article

For a biographical sketch of an expert at “abstracting titles,” see

“John H. Niles (1857-1913)” (MLHP, 2013).

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