

# A BRIEF HISTORY OF TITLE INSURANCE

In early recorded history, rights in land were established by occupancy. Wandering communities foraged the land and fought each other for control. Not until the Agricultural Revolution was land considered to have intrinsic value, due to the crops it could yield, that extended beyond a given year. In 1066 A.D., William the Conqueror introduced the Feudal System to the British Isles and established the concepts of tenancy and sub-leasing. However, no one but the King had absolute ownership of the land. In 1660, Parliament abolished the Feudal System, but many of the tenets (not tenants) remain with us today.

Skip to the American colony of what is now Pennsylvania in the 1700s. Disregarding prior claims by the Swedes and the Dutch (Henry Hudson), William Penn accepted land in lieu of cash from King Charles II. Penn systematically began conveying leasehold interests in Philadelphia and the surrounding areas by lottery, obtaining deeds of transfer from Indian tribes along the way.

Following the American Revolution, public sentiment held that since common blood was shed to preserve the new land, personal ownership should be enabled. After review of the Penn deed, Pennsylvania Chief Justice McKean disagreed and said the Penn claim held. Pennsylvanians went crazy, and the result was the Divesting Act of 1779. It transferred ownership interest away from the Penn heirs for the sum of \$130,000. As a side note, had the Penns declined to accept the offer, the state's citizens today may have found themselves living in a state of tenancy with all Pennsylvania's lands being owned by the Penn heirs!

The Divesting Act established 67 counties, directed a recorder of deeds function in each county seat, and set up a search system that is still unique to Pennsylvania. Land was purchased upon the search of records and the assurance of qualified legal counsel as to the validity of title.

In 1868, in Philadelphia, a transaction was consummated which demonstrated very forcefully the necessity of having some further type of protection than the mere examination of the records.

It was the case of Watson vs. Muirhead in which Watson (buyer) sued Muirhead (searcher) for a substantial loss resulting from the purchase of property, paid for by Watson, that was sold instead at a Sheriff's sale (undisclosed lien).

Watson lost his lawsuit and his money. But as a result of the loss incurred in this transaction, for which the attorney and the conveyance were not held liable, a group of individuals interested in the law of real estate decided that something should be done to protect innocent investors from such similar hazards.

So in 1874, the Pennsylvania Assembly enabled the creation of the Real Estate Title Insurance Company of Philadelphia. We know them today as Commonwealth Land Title -- a Fidelity National Title Group underwriter.

Pictured is the First Policy Issued on June 24, 1876 for a property formerly located at 618 North 43<sup>rd</sup> street, Philadelphia PA.

