Title News

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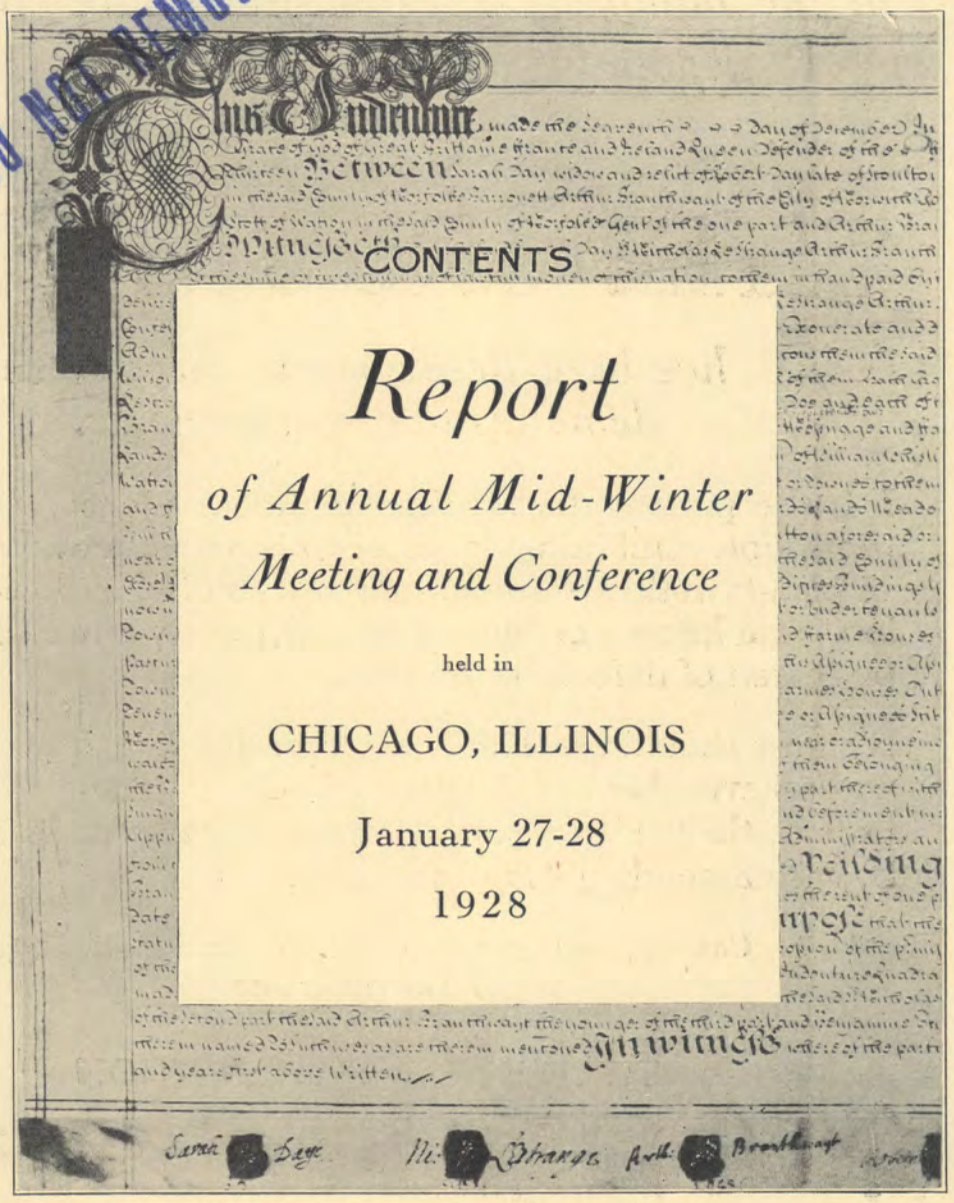

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Report

of Annual Mid-Winter Meeting and Conference

held in

CHICAGO, ILLINOIS

January 27-28

1928

Modern Business Demands

SPEED - ACCURACY - SAFETY

in the handling of land title matters and the negotiation and consummation of real estate transactions.

TITLE INSURANCE

has been developed to meet these demands and requirements.

It is the present day medium of title evidence, service and protection combining the record history, approval of title by specialists in title examinations and absolute protection from loss from known or hidden defects, or any cause whatsoever by reason of defects in the title.

Realtors should use Title Insurance because it speeds deals and relieves them of details and delays. They will likewise protect their clients and render a valuable service to them by recommending Title Insurance.

Consult your local title company about the advantages of Title Insurance

TITLE INSURANCE SECTION

The American Title Association

TITLE & TRUST BUILDING
KANSAS CITY, MISSOURI

The Insured Title Is The Marketable Title

The above is the fifth of a series of advertisements being presented by the Title Insurance Section and appearing in certain national trade publications.

COMBINE

business *with* pleasure

to SEATTLE

Wonderful program, great entertainment, the hospitality of the Pacific Northwest all will make a perfect convention atmosphere and setting.

Attending the convention of your trade association is a business necessity and venture of profitable returns. Our meeting this year affords the greatest opportunity possible for a combination business and vacation trip.

The Time and Place are Perfect!

AMERICAN TITLE ASSOCIATION

CONVENTION of SEATTLE

June 26-27-28 and 29

The Seattle Convention is right at your door

¶When you think of the Seattle Convention remember the meeting place is very near to you, no matter in what part of the United States you live. Modern transportation and accommodations have made unnecessary, consideration of distance, time and facilities for comfort. ¶Seattle is also near to you because of the railroad rates in effect at the time. The round-trip summer fares available to Western points are the lowest ever granted. The railroad ticket cost to this meeting is certainly a minimum. ¶But most attractive of all inducements are the opportunities afforded of seeing and visiting the many places and parts of the country. You can select from so many routes, different ones going and returning, and your only problem is in choosing which places you most want to visit. ¶Members have already received an announcement of a special trip enroute that is being arranged. This is the first time such a thing as a Convention Tour and special train has been attempted. It will be a wonderful and most delightful affair and warrants your consideration. The railroad fare is not any more for this route than others. The arrangements for this trip are in charge of Edwin H. Lindow of Detroit, Michigan, and you should advise him immediately if you are going to make it. ¶Many will want to go directly to the convention or visit Yellowstone and Glacier National Parks, California, the Grand Canyon, the Indian Detour, Colorado Rockies, and the many other places possible. ¶Owing to the facts that our convention dates are early, that there will be held just prior to our dates several other national meetings of importance, and that many of the National Parks and other summer season places open but a few days before our meeting convenes, the suggestion is made that you plan visits to these other points on your return trip rather than the going. ¶The Executive Secretary will be pleased to help you with your arrangements and give any information and assistance possible.

Make such efforts as you never have before to attend this year's national convention

TITLE NEWS

Issued Monthly by and as the Official Publication of

The American Title Association

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Vol. 7 MARCH, 1928 No. 3

Editor's Page

SEVERAL times since the Mid-Winter Meeting I have started to write a little bit about it but each time I get stalled. Honest, I get so enthusiastic that these two key pluggin' fingers just can't stand the pace and the production of words on paper gets so far behind their inspiration that it can't be done. I tried dictating a little story but the stenographer's pencil melted. But it has to be done, so I am using a lot of self restraint and making one more last try.

It was some meeting, just about as good a one as we could ever have hoped for. A good crowd in attendance always constitutes the first necessity for success in such an event and we certainly did have it. There was nearly a fifty per cent increase over any other Mid-Winter Meeting. Think of that. Former attendance figures were made small.

Only eight state associations failed to have an officer there. Some had two or three of theirs, and the number of state officials present was greater than any other meeting. The general attendance was greater by a much larger number. We used to wonder, too, why people would come from far distances and there would be such a small number from the states in the immediate vicinity but we can't complain this year. There were fine representations from most of the nearby states.

AND WHAT of the interest and enthusiasm? Well, here is where I have to begin using self restraint. The spirit of that crowd was wonderful. It made you realize that the title people of the country are right up on their toes and that the business is going to improve and develop. There are better days ahead.

This national association of years has had a colorful career. It has been in the formative and growing periods. There really are such things as growing pains and we have been working a long time to overcome them. The responsiveness of that crowd showed that we have and from now on it will still be a colorful existence, but so because of the progress it will have and the constructive work that it will be enabled to do.

ED WYCKOFF had arranged a most interesting and beneficial program. He conducted it in the same way. Everyone who was there acclaimed it the best meeting ever held by the association. A lot of good will result.

Many have thought a real, honest-to-goodness informal, down-to-brass tacks session would be in order and was needed. Well, this was it.

It was so much so that I could not make any kind of an index or contents sheet. Discussion, open forum sessions marked the whole proceeding. You will find a word-for-word report in this issue of TITLE NEWS. True, some of the matters were specially presented and are specifically shown by the headings. All the subjects were chosen, however, to invoke discussion, and there certainly was a lot of it.

So, instead of an index, it will have to read "Contents—Pages 1 to 48" and you better read it word for word.

We will say, though, that Marketability need never be considered again as a program subject. It certainly was given the fine tooth treatment. Every titleman, abstracter, attorney, or title insurance man is interested in this subject and should know about it. Here is the chance.

Look over the whole thing and see if you do not think it was a real session.

It was not all business either. This Mid-Winter Meeting is one where there is a real seriousness of purpose and everyone has a feeling of getting down to business.

There was as much, if not more, than the usual amount of that, but the crowd was as genial and friendly as one could be. It certainly is great for a bunch of title folk to get together. Somehow I don't think there is another crowd like it. That must account for the fact that there are so many regulars—those who never miss a meeting, national convention or the midwinter. It gives you a sure enough grand and glorious feeling to all get together as these occasions afford.

The Chicago Title & Trust Co. is something else than one of the Country's greatest business institutions, too. The gang will tell you that it's also one of the greatest hosts and friends, and especially when it speaks and acts through J. M. Dall, A. R. Marriott, and Ken Rice.

The dinner and theatre party they had on Friday night made it a gala evening and added much to the success of the whole meeting.

You all have gotten a letter from the association office telling that this meeting was an epochal event in the history of the association. It was, and I wish every member could realize just how much so, because that means it was to the title business, too.

It had simply reached the point where the organization either had to enter a period of placid existence, which would have resulted in retrogradation, or cross the border and begin a career of more active, actually constructive work.

Of course it is going ahead. The title business needs a lot done for it. It must have a strong alert national association like others have. It is going to.

So the titlemen are going to have the chance to take part in an actual, constructive program for the development of their business. It will be announced to you in the near future and you will have to both do the work and provide the finances necessary, but in return, will reap handsome rewards.

The American Title Association

OFFICE OF EXECUTIVE SECRETARY
KANSAS CITY, MO.
MIDLAND BUILDING

March 10, 1928

Fellow Titlemen:

Recently, and as a result of some special activities of the American Title Association in different parts of the country, quite a lot of interesting correspondence came into the Executive Secretary's office. There was in fact, a considerable amount of it from a number of members in certain of the states. These letters told of existing conditions, some of which were so deplorable as to be pathetic. The abstracters are just existing, the business is unprofitable because of low prices, cut-throat methods, giving of large discounts and catering to customers in many ways, even to the extent of making the kind of an abstract requested and taking whatever pay offered. Some complained that the real estate men, lawyers, bankers and loan agents simply ran their business. Others stated that county officials, real estate men and anybody who wanted to were making abstracts. On the whole they were grand state-wide wails.

Some stated they thought it a local problem and that no one could help them. Others said the state and national associations should do something, in fact criticized them severely for not, even to the extent of saying they couldn't see the use of belonging to the organizations if they did them no good. Some reported they had written their state officers about it, but got no reply or action and it seemed hopeless.

It was interesting to note however, as is usually the case, that such complaints come from people whose names are very rarely if ever found upon the registration lists of their state conventions, and never upon one of the national. Further, such conditions are found to be prevalent and of any extent only in states where the state associations exist in name only, and their sole activities and functions are the annual conventions and yearly collection of dues.

Those in a business are directly responsible for its satisfactory and profitable condition as well as the efficiency of service it renders. Only actual, organized action by the interested entire group will accomplish the desired and necessary. Such conditions as referred to above have been and can be overcome by the abstracters in these states waking up and providing the personnel and functioning organization to do it.

Sincerely yours,

Richard B. Hall

RBH:B

Executive Secretary

Proceedings Mid-Winter Meeting and Conference of State and National Officials

Held in Chicago, Illinois, Jan. 27-28, 1928

FRIDAY MORNING SESSION
January 27, 1928

The Mid-Winter Conference of the American Title Association convened at ten o'clock in the Crystal Room of the Hotel Sherman, Mr. Edward C. Wyckoff of Newark, New Jersey, Vice President and Chairman of the Executive Committee, presiding.

CHAIRMAN WYCKOFF: It is very fine to see so many of the old friends and also very nice to see new faces and potential friends, because I am sure every one will feel before he leaves that he is a friend with everybody else who is here. It is only through that friendly spirit of cooperation that arises out of those friendships that the national Association can function and cooperate with the local associations.

We are late getting started and I am not going to make a speech but will simply introduce to you our beloved President, Walter M. Daly, who will say a few words to you.

President's Address

By Walter M. Daly

Mr. Wyckoff states on his program that this is to be an address of welcome but I don't think an address of that kind would be appropriate at this time. This is essentially a business session of the Association in which we attempt as far as possible to confine our references to matters of business. The summer sessions, the annual conventions of the Association, take care of the programs of the year, at which time questions of different sections of the Association are discussed.

It is mighty fine to see so many here at this meeting. I notice that a number of the officers of the state associations have come in, so the state associations will have a good official representation.

Perhaps it might be well to give a brief summary of the happenings since the Detroit meeting. While many of these topics will be covered in Mr. Hall's report, I will touch upon them and he will give you the details.

Nine state meetings have been held —in Colorado, Ohio, Arkansas, Nebraska, Missouri, Indiana, Kansas, Washington and New Jersey. Mr. Hall attended the meetings at Colorado and Arkansas and Mr. Johns the meetings of Nebraska, Missouri, Indiana and Kansas. Reports of all of these meetings indicate that they were entirely successful, show a real development in the title field in their state, a growth in their organization and close cooperation among their members. This is the second extensive trip that Mr. Johns has taken, and word comes from the officers of each association whose meeting he attended that they were materially benefited by his presence as he had a real message to give them. Very few meetings are being held during the winter months, but we hope to have a representative of the American Association at as many meetings in the spring as is possible. In the budget for the present year the allowance for attendance at state meetings is $1,000.00, as compared with $1,500.00 last year; consequently some states will not have a representative, but the officers of several state associations have indicated that they believe this money could well be saved in their particular cases.

At the Detroit meeting several of the large title insurance companies increased their subscriptions to the sustaining fund to $750.00 for the two-year period. These companies deserve the thanks of the association as it shows a real desire upon their part to continue the activities of the association to its utmost capacity, and is an acknowledgment of the work that the association is doing in the title field. Mr. Hall will report in detail upon the subscriptions to the sustaining fund, but I think it will be found that subscriptions have been made generously and that the number of subscribers will compare favorably with past years. The finances of the association are in good shape and every effort is being made to operate the present year on a most economical basis. It is hoped that at the end of the year there will be a substantial cash balance on hand, and yet that the functions of the association will not have been impaired in any way. Our treasurer, Mr. Whitsitt, is making monthly reports to all of the members of the executive committee, showing the amount of money in each item of the budget, the amount which has been spent during the current month, the amount which has been spent since the first of September, and the balance in each item of the budget. This has kept the members of the committee thoroughly informed as to the conditions of the organization.

The office of the executive secretary has functioned exceedingly well, and as the work of the office is growing each year in volume and importance, I wish to commend Dick for the excellent and economical way in which he is handling his work. The cost of the office so far this year has been less than for the corresponding period a year ago, and will be well within the budget for the year.

At the Detroit meeting a committee was appointed to see if it were possible to devise a new method of financing the association. As we all know, the dues of the members pay only a small portion of the operating cost of the association, and while the subscriptions to the sustaining fund have been exceedingly generous, both in numbers and amounts, yet the time must come when the association will be financed upon a permanent basis rather than depend upon the voluntary subscription of its members. One thing that seems necessary is a raise in dues. At each of the state meetings which were held during the fall, they were asked to discuss whether a raise in dues by the American Association would be agreeable to the members in that particular state, and it is extremely gratifying to know that every state passed resolutions stating that it would be agreeable to them if the dues of the American Association were raised. However, a flat raise in dues will not be sufficient to completely finance the association, and we hope that the special committee will present at this meeting some solution of the problem which will be practical, and yet which will accomplish the necessary results. If such a solution is presented, it is probable that the matter will be discussed and will come up at the Seattle meeting for final determination.

As an active campaign for new members was conducted last year, it seemed advisable not to continue the campaign during the present year. Most companies which are eligible are now members of the association and it seemed that the cost of the campaign would probably be greater than the receipts from new members would warrant. In another year, I believe that another campaign should be carried on, but it is pleasing to note that the membership is holding its own and making normal gain. Mr. Bruce Caulder is chairman of the membership committee and is constantly keeping in touch with the officers of the state association, urging them to obtain ev-

ery available company which is eligible to membership in their association.

While several states are planning to hold regional meetings, and while several of them have held them, I believe that Montana has given these meetings the best test, and we have persuaded Mr. W. B. Clarke, President of the Montana Association, to attend this meeting, and we hope that Mr. Clarke will give us in detail the experiences acquired during his three weeks' journey from one end of Montana to the other. He has told us on the train that much has been accomplished, and I believe that Montana should be an example to other states to hold similar meetings.

An important matter of interest to title insurance companies was a meeting between our executive secretary and officials of Washington with reference to the government's attitude on title insurance. Mr. Hall will report in detail in connection with this matter, but he has assured me that matters are under way so that it is probable that proper legislation will be passed authorizing the various departments of the government to accept title insurance policies in lieu of abstracts of title if written in duly qualified companies. There is no competition in this matter between title insurance and abstracts, and the only purpose is to put them upon a par.

Last year a committee was appointed to meet in Detroit the day before the annual meeting and to invite to this meeting representatives of the large life insurance companies to see if it were possible to agree upon a standard title insurance policy which could be used in various parts of the country for all life insurance companies. This committee did not accomplish its full purpose and we understand now that members of the legal department of several life insurance companies are preparing a standard form policy which will be presented to the title insurance companies for adoption. It is unfortunate that this matter has taken this course as it seems it would have been preferable if the title insurance companies could have agreed upon a form of policy to be presented to the life insurance companies instead of having it come from their side, and I am of the belief that a committee representing the large title insurance companies of the country should, if possible, meet with representatives of the life insurance companies during the present year to see if a definite form cannot be agreed upon. This is a very important matter for title insurance companies and will be given the greatest consideration.

The date which has been set for the Seattle meeting is somewhat earlier than the accustomed time, but we of the Northwest hope that this will make no difference as our country is at its best at this particular season of the year and plans are being made by our Seattle friends to hold the best meeting in the history of the association, and are planning the entertainment accordingly. There are many reasons for holding the meeting the latter part of June, and this is the time that is particularly sought by conventions. The program is now taking form and it will be considered in detail by the executive committee.

When you are making your plans, it will be well, if you have the time, to go by one of the Northern routes and return by a Southern. The national parks will be open at this time of the year and if you have not visited any of them you will find the time well spent. This is the best time of the year for a trip to Alaska, but arrangements should be made as early as possible as the traffic during the early part of the summer is at its height. We are looking forward to a good meeting and hope that all of the state associations will be well represented.

The Presiding Officer

Edward C. Wyckoff

Vice President of the Association and Chairman of the Executive Committee who planned and conducted the Mid Winter Meeting and Conference.

Report of Executive Secretary

By Richard B. Hall

The report of the Executive Secretary of this or any other association must of necessity deal more or less with financial matters. As I have announced before, the position of Executive Secretary entails not only being a collector but also being a spendthrift and the office will probably always have more or less influence upon the financial situation, no matter who the incumbent is. It is therefore always interesting to the officers, particularly, and I am sure to all of you, to have an idea of the financial status of the Association.

I have always been impressed with the fact that money might not be all but it is very nearly everything. As has been said, it is the source of all evil and I think it is the basis of all accomplishment. That is true in the case of this association, any business or organization.

Many times in my life I have been impressed with the value of the dollar. The earliest was when I actually got the nerve, for the first time in my life, to ask my father for a whole dollar. The second time, I think, was at the Detroit convention last fall, when the Association went to that meeting at the culmination of the most active and productive year of its history. Yet the success of that year was to a certain extent minimized by the fact that we had used up our reserve and were broke. Quite naturally there was some apprehension as to the future of the organization.

We were confronted with the problem that we must refinance and it is the same with an institution or organization when it has to refinance as it is with an individual—it is not comfortable. I left the meeting a little down-hearted, feeling that the year's work and the sincere efforts on the part of everybody connected with the Association in the building up of its most successful year was enshrouded in an atmosphere of apprehension. As Mr. Daly said, however, it wasn't long until we found that a great deal of good can come from anything like that, as well as other adversities, because it was like a man having a host of friends who, when he is in trouble, they come to him with open arms. That was the way the membership of this Association did.

As a result, we were able to finance and keep going between the time of the Detroit convention and now, which

is always the lowest period and the most unproductive of financial returns, until we can at this time make you a report showing the period just ended since the Detroit convention has been the most profitable and productive of any like period, in fact, more so than any like period in the history of the Association. I recall no time in the history of the organization when we were in such good financial condition and had such a sum of money on hand as we have now.

I also got consolation on my return from the Detroit convention from being asked by some other national trade association executives for information and data upon the American Title Association, they having heard something of the work, undertakings, growth and reports of the magazine and other activities conducted by the American Title Association. I was asked to furnish them with information of certain kinds and I know it will be gratifying to every one of you to learn that in the opinion of other trade executives of other national associations, the American Title Association is a marvel that it produces what it does on the sum of money at hand and that figuring receipts and value of services rendered per capita there is no other association in the United States today that can touch it. On $19,000 a year we maintain an executive organization, issue a magazine that will compare well with any, and render a service to our members that is marveled at by other trade associations.

However, you all want to know about finances, I am sure. We have collected since the Detroit convention the sum of $11,424.75, $300 from the Examiner's Section, $776 from State Dues, $145 from Individual Dues, $10,165.50 from Sustaining Fund, and $38.25 from Miscellaneous. The Treasurer will shortly give a report detailing expenses and tell you the amount of money he has on hand and you will find that with the money he has on hand, plus the money that has come in to my office since we closed the books for this meeting, the Association has $5,503.71 cash.

The total amount of money pledged to the Sustaining Fund is $15,100, exceeding by nearly $3,000 any yearly sum yet contributed, and we are not yet through with the drive. There are $5,269.50 yet to be collected, so with the cash no hand and the money yet to come in on Sustaining Fund and State Dues, as near as I can estimate it, the Association has $15,000 with which to finish the next year.

Possibly that should make us feel good; yet on the other hand, it shouldn't. 492 people are still contributing ninety per cent of the maintenance of this organization. 492 people are subscribers to the Sustaining Fund and I have no hesitancy in saying, from the results of the Sustaining Fund campaign just ended I believe it is the last one the Association can conduct. We will have to get on a permanent basis and have some stable system of raising money. We have a committee working on the matter that will probably make a report. I think the Association must either cross the threshold and advance at this meeting, or go into retrogradation.

We have been building this Association for several years. Five and a half years ago I remember we had 672 paid members in the organization and an income of $6,000 a year. In that time we have advanced to a point where our income is approximately $20,000 and the membership around 3,000.

We have tried to get at the root of things to create interest in the state associations and in the hearts and minds of the title men and get them to realize the necessity of this organization and their supporting it. That has been fulfilled. Last year every state association held its most successful meeting. They are all in good condition morally and in an independent way but at the same time that we refinance this Association we must help the state organizations. Many of them are trying to function on about $200 a year. Hardly any of them exceeds a few hundred dollars.

Every day we are impressed more and more with the fact that the success of the title business, and especially the success of title insurance, depends on education. The public has to be educated; yet think how ridiculous it is to try to educate 120,000,000 people on $19,000 a year. We must begin to do some actual, constructive work and to get that done, it must be through the state associations, under the inspiration and sponsorship of the national.

Mr. Johns and I have compared some notes, as well as those of state secretaries, and we have virtually come to this conclusion—state associations have been floundering along for years. They are managed by men selected to do the work who want to do it the best they can. However, they have no means of doing anything and they really have no idea, except a hazy one, of what should be done.

I therefore think that before this meeting adjourns the American Title Association must undertake an actual and constructive campaign as to what it will do in the future and then start doing it. In accordance therewith we have prepared a prospectus or suggested outline of activities for state associations which is under four headings. The first is "General Affairs" and includes about twenty different things. The next is "Conventions," in which a complete outline is made, not only for the formation of a convention but preparation for it and its holding. I find that is one of the biggest problems of state officials.

The next is a Legislative Program. I want to say frankly and openly that after all my years of being in the abstract business myself and in various branches of the title business and being Executive Secretary of this Association for nearly six years, I am firmly of the opinion we have played ostrich long enough and if we are going to make this Association work and make the title business one of standing and profit, we are going to have to do some legislative work like the hairdressers and other associations have done.

The next is membership. It will have to mean something in the future to belong to this Association. It doesn't mean a thing under our present system and under a good many associations. When a curbstone starts up the first thing he wants to do is join an association and if he cannot get into his state, he tries to join the national. He probably realizes better than we do what the value of it is. I think this program should be undertaken by the chairman of the Abstracters Section—objections of James S. Johns overruled—because these things particularly concern the abstracters' business more than any other.

Title insurance, I think, is confronted with a most serious situation. Personally, I have come to the conclusion that the title insurance people have a real problem that they cannot ignore any longer. I will tell you briefly upon what that is founded.

A few months ago I made a trip East and the first thing I did was to go to Washington. I gained an audition with the entire staff of the attorney general's office in an endeavor to talk them into accepting title insurance. There was quite a little atmosphere there that was favorable to my cause. They are working on a ruling that was passed in 1850 or thereabouts. The law was passed in 1849. Those men have been in that department a long time, one of them for thirty-three years. He doesn't like to back up and change a ruling made many years ago. They suggested legislative measures. Accordingly a bill has been prepared which revises and amends three sections of the federal statutes to permit the attorney general at his discretion to accept abstracts of title, insurance certificates, or guarantee of title, or such other evidence as in his discretion may be sufficient and satisfactory.

You must remember that the government at the present time is not even using abstracts but when a piece of government land is purchased certified copies of every instrument are required and the attorney general says he cannot accept the ordinary formal abstract because of the interpretation of that law. I think sufficient ground has been prepared so that it stands a good chance of passing.

The thing I want to impress is that the men in the office told me frankly, even if the bill were passed, they would not accept title insurance generally because there was not enough back of some title insurance policies. It was certain the government would not accept a title insurance policy in any state where the title insurance companies were not under statutory reg-

ulation and those companies had a deposit of some kind or a fund set aside, a reserve from their fees, for the protection of policy holders. Further than that, they said they had never seen a title insurance policy they would accept because of its wording, form exceptions, and so forth, and until something was done to make title insurance real and adopted to especial governmental provisions, the government would not accept it.

Of course, we had a little argument on that, but it is evident unless there are statutory regulations behind title insurance policies submitted the government will not accept them.

From there I went to New York. Previous to that I had heard that at a meeting held last spring the counsels of the five leading life insurance companies, those that loan on real estate more than others, had a meeting and agreed on a uniform mortgagee's policy and that these blanks would be furnished to the title insurance people. I found that some of the men we invited to the uniform policy conference did not attend because they did not want to embarrass us or themselves. One of them told me frankly that they felt the title insurance people would never get together on any form and that was why they had gotten together, and that our meeting broke up as they had anticipated it would without anything definite being done and they figured they had saved their time. They did not want to go to the meeting and tell the title men they were going ahead and do what they had been waiting for the title men to do for five years.

One of the men told me they hoped in dispensing with abstracts they could dispense with their staff of examiners but that they now found it necessary to have attorneys examine policies just as with abstracts. He said he had fifty-eight policy forms from fifty-eight companies, no two of them alike, and that it seemed to him as though it was back to the same old problem of examining and that every title policy simply reflected the opinion of the counsel of the title company the same as when they used to examine abstracts, and that every policy seemed to have an exception that would protect the company against a loss such as it might have sustained in the past. Of course, we had some more argument on those points.

The fact still remains that the life insurance companies are drafting a uniform form. The first form they adopted was submitted to some title compannies, but it was not approved. They re-drafted the policy and I have had it described to me but have never been able to get a copy of it. They have agreed upon one and it has been accepted. The life insurance companies tell you the title companies will write this policy for their loans.

I think you can see from these things that we have some real problems. I don't think there is any harm in stating them frankly and as they are. The day before I left my office I received a letter from the counsel of the Mid-Western Life Insurance Company in which he asked me to send him various suggestions and ideas, stating that he was preparing a policy that would be used by his company for its mortgage loans—indicating that the doctrine of uniformity has spread.

I think that this Association must put into effect a program of financing that will get away entirely from the Sustaining Fund and will give it sufficient money to properly function. The day is not far off when the business of this organization cannot be conducted with a force of the Executive Secretary and one stenographer. Neither can we merely exist.

I am frankly of the opinion that the American Title Association should have some one, the Executive Secretary or an assistant, at every important national convention, the Rotary, the Kiwanis, the Real Estate, the Mortgage Bankers, the Bar Association, and others. I think the Executive Secretary of this Association or some other representative capable of handling the proposition should attend every state meeting. I think that that man should also be in a position, and not only be in a position, but actually go into every state and spend a week or a month or any other length of time among the title men there in actually accomplishing something and whipping them into line and helping them in doing something.

I think the Title Insurance Section should have sufficient funds at its disposal through a special fund or otherwise so that the President or Chairman of that section, or the Secretary of it, or some paid man, can be the voice of the title insurance interests of this country with various centers.

Title insurance has ceased to be a local proposition. It is like the abstract. It found itself a few years ago. It has gotten to the point where these insurance companies are going to require the same thing for insurance policies as abstracts, certificates, and everything else. In this country every resource and every commodity, whether it is peas, corn, cantaloupe, title insurance policies, or money, eventually finds itself or themselves thrown into the large financial and other centers of the country.

The title insurance business will have to have an active spokesman and loud speaker. He should keep in contact with things, as should also this Association. That is going to take money but it must be done. This Association occupies a place in the United States that I do not believe any of you realizes. I do not think you can know how many things come into the Association office, from the Argentine government, from the Bank of England, requests from the Department of Commerce of the United States, requests from various book concerns to review manuscripts in order that the title business may be properly presented, and requests from various authors. Through the good work of the secretary of President Daly's company, the Encyclopedia Brittanica has asked the Association to prepare the articles that will appear in the next edition on title insurance, title guarantees, and abstracts. That is recognition, ladies and gentlemen, if nothing else, that the title business has at last equipped itself with the reasonable, forceful trade associations represented in the world.

I want to say this in closing, that from now on the national Association, like the state associations, has to stop holding experience meetings at our conventions and Mid-Winter meetings. We will have to adopt a definite outline of constructive and educational work that will have to be carried to accomplishment. We will have to have the funds to do it and when any man is elected to any place in the state or national Title Association he must as never before, accept it with a knowledge that he will have to put in a lot of time and energy, that he has a big responsibility upon his shoulders that he must fulfill to the expectations of those who have placed him in charge.

I hope this meeting will not adjourn until we not only seriously consider but adopt a constructive and actual program and take some measures of putting it into force.

CHAIRMAN WYCKOFF: I think our Secretary has made a most interesting report and has given us a great deal to be thankful for in the fact that we are members behind such work as has been accomplished. I think he has been a little frightened, judging from that part of his remarks in which he suggested that title insurance has difficulties ahead. They are not difficulties; they are problems that have to be worked out and thought out but they are not rocks in the stream.

I think the work of this Association has come to the point where its executive officers have got to get down to a more detailed working out of the program for the year, outline work which is to be carried on and accomplished by the Executive Secretary, and not leave the whole burden of the administration of the Association upon his shoulders. In saying that I am making no criticism of the work of our present or past officers. It is simply that we have reached the point where we are larger than we have been. We have been able in the past to meet once or twice a year to discuss these problems and in a sort of general round table talk, let our Executive Secretary know in a general way what our work should be. But it has been sketchy and the real burden of working it out has been his.

This organization, to my mind, has grown to the point where no one man should be responsible for the working out of its problems, and as Mr. Hall says, it is going to be necessary for the officers more and more as the years go by, to dig in and do real work for the Association.

I wish at this time in all sincerity to urge upon you men representing the

state associations to be careful not to accede too readily to the demands of special interests nor to their dictation and direction in the form which our contracts of insurance shall take. I doubt very much if the legal department of any one of these life insurance companies would take kindly to a suggestion from us as its policy holders as to what their form of insurance policies should take and there is no reason why we should accept dictation at their hands or at the hands of any other special group.

Each title insurance company is working in a special field. Each title company's field has its own peculiar problems and those problems must be solved in a business like way. In the business of abstracting and examining the title company has added capital and the judgment of trained executives and I am just a little inclined to think that there is a certain timidity on the part of some of our groups, [so] that they feel that if they don't give these special interests what they ask they are going to lose something substantial in the long run.

In my small experience in the business world I have been led to believe that every business can take care of itself and of its own interests, that it knows best what it can do in the way of promising and performing, so let's not be stampeded by these demands which have apparently worried our Secretary. Neither do I believe that his information is wholly correct as to the attitude of the legal department of the United States because they have readily taken policies of eastern companies and it has been possible without very much urging to accomplish that in certain given circumstances where the values of properties being dealt with warranted something more than legal opinions to protect the government's interests.

So let us approach these questions with studious and earnest consideration of the desires of other people, keeping in mind the necessities of our own business.

I will ask Mr. Whitsett to give us the report of the Treasurer.

CHAIRMAN WYCKOFF: I thought it might be well to have a little change in the usual handling of the program this year. I thought that as the papers were read which affected the various sections of our organization that it would be well to have the chairman of that section preside over the discussion following those papers.

Before I introduce the next speaker I want to thank those members of our organization who responded so freely and so well to my requests as to the needs of their various sections. They say circulars don't get answers but here are the answers that I received. (Displaying a sheaf of letters.) It is gratifying to find that spirit of cooperation existing. It is from the suggestions in those letters that the program was made up.

STATEMENT OF J. M. WHITSITT, TREASURER, AMERICAN TITLE ASSOCIATION, SHOWING RECEIPTS AND DISBURSEMENTS UP TO AND INCLUDING JANUARY 23, 1928.

Receipts.

Miscellaneous	$ 1,606.36
State Dues	776.00
Sustaining Fund	10,165.50
Individual Dues	145.00
Petty Cash Fund (Received from R. B. Hall)	529.10
Title Examiners Section	300.00
Total	$13,521.96

Disbursements.

Executive Secretary's Salary	$ 3,000.00
Office Rent	450.00
Postage	237.10
Stenographers	721.00
Stationery and Printing	459.75
Supplies and Miscellaneous	1,013.99
Telegrams	96.59
Title News	1,786.82
Expense of Sections	300.00
Office Equipment	96.25
Traveling Expenses, State Meetings	594.35
Total	$ 8,755.85
Cash on hand	4,766.11
	$13,521.96

I am also proud, Mr. Daly, to think I have had so little difficulty in making up my program. Every speaker accepted the request which went out. Mr. O'Melveny said, "I have no choice; you have ordered it," and I had practically the same result with the others who are on the program. That is cooperation; that is the way the machine should work and I am glad we are getting into that spirit.

Now, Mr. Lindow, I would like to have you come forward because it is going to be your duty to preside over the following discussion. (Applause)

(Chairman Wyckoff retired and Mr. Lindow, Chairman of the Title Insurance Section assumed the chair.)

CHAIRMAN EDWIN H. LINDOW (Detroit, Michigan): I think Ed Wyckoff has selected one of the most interesting subjects for the Title Insurance Section that we could have at this Mid-Winter meeting or any other meeting. At least, it appears so to me. After the Detroit meeting, I felt I would like to hear two men carry on the discussion of why some guarantee a title to be marketable with others do not.

It gives me a great deal of pleasure to introduce to you Mr. Stewart O'Melveny, Executive Vice President of the Title Insurance & Trust Co., Los Angeles, who will carry on the subject of why title insurance companies should guarantee marketability.

(Mr. O'Melveny's paper begins on page 10.)

Aeroplane View of Seattle—1928 Convention City

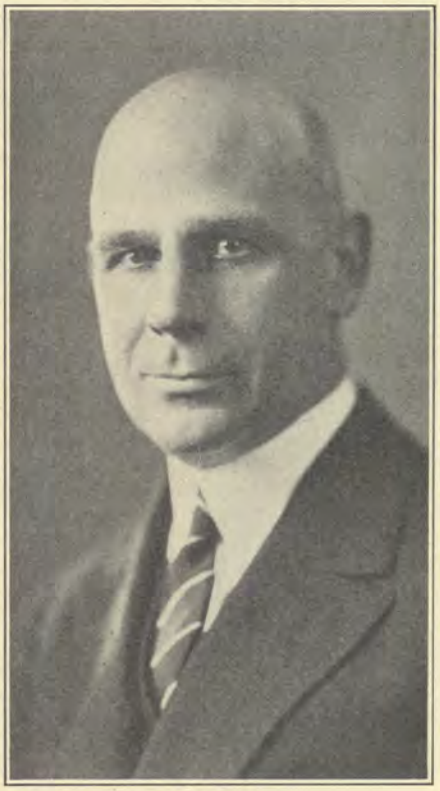
Insuring Marketability

By Stuart O'Melveny, Los Angeles, Calif.

Just prior to the holidays, I received Mr. Wyckoff's command to prepare a paper to be read on this occasion advocating the insurance by title companies of marketability of title. I gave my assent thinking that I would have some spare time for writing during the holidays. As, however, these vacation days approached, my father and my wife thought to make use of them in following the trails across the Santa Monica hills, the summits of which overlook our coast line. So I spent the time granted as a respite from daily routine in tasting the tang of the Pacific sea breeze and getting long views of the Channel Islands. In this perhaps you were the loser and I the gainer. If, however, you are a lover of the hills, you will excuse me for spending my time in this cross country ramble, and, if you are not, pray pardon me on the plea that undue influence was brought to bear upon me.

This is indeed a topsy-turvy world. Last summer at the annual convention in Detroit Mr. Dall and I attended a meeting of the committee on uniformity, ably presided over by Mr. Harry Bare. Mr. Bare was anxious to further the consideration of the adoption of a uniform policy of title insurance and in this respect brought forward a form of policy which had been recently adopted as the standard form in Pennsylvania. This form insured marketability of title. It so happened that the Chicago Title and Trust Company, which Mr. Dall represents, and my own company had never insured marketability. The two of us banded together against Mr. Bare and capsized and totally wrecked the meeting by a recital of our practices and experiences. The advocates of the practice of the insurance of marketability were utterly sunk by our able arguments. Now Mr. Wyckoff desires that I advocate a practice which I so recently and effectively argued against and you might think that I am, from what I told you, unqualified to do so. But since last summer I have examined somewhat extensively into the advisability of the practice of insuring marketability of title and have come to the conclusion that it is best to do so. In California we have been working on some forms of policies which we hope will be adopted as the standard forms for use in California, and we have included the insurance of marketability. I can think of no better way of stating my reasons for believing in the practice of insuring marketability than to take up one by one the points which were examined and inquired into during the investigation of the subject.

It is impossible at this time to discuss more than a very few cases considering the meaning of the phrase "marketable title." A review of the cases considering the question indicates a marketable title to be a title free from liens or encumbrances and dependent for its validity upon no doubtful questions of law or fact; and if dependent upon facts extrinsic to the record, dependent only upon facts sure to be easily accessible at all times in the future to a purchaser, should his title at any time be attacked. The title must also be such as to make it reasonably certain that it will not be called in question in the future so as to subject the purchaser to the hazard of litigation with reference thereto. It



Stuart O'Melveny

has frequently been asserted that a marketable title is a title free from reasonable doubt as to any question of fact or law necessary to sustain its validity.

A title is marketable if it is a title which a reasonable purchaser, well informed as to the facts and their legal bearings, willing and anxious to perform his contract, would, in the exercise of that prudence which business men ordinarily bring to bear upon such transactions, be willing to accept and ought to accept. 39 Cyc. 1456.

If a title has no defects in it there can be no objection to insuring its marketability. There are, however, I suppose few titles to which some exception could not be taken and in which some defects do not exist.

In the examination of titles we often find defects which are of sufficient importance to render the title uninsurable unless such defects are especially excepted in the policy of title insurance. Such defects would also make the title unmarketable. With such matters we are not here concerned for the title insurance company would either refuse to issue its policy of title insurance without excepting such matters from its terms or else the insured would have to accept the policy with the objections noted as exceptions. It is universally the practice where marketability is insured to except from the insurance of marketability the same objections or defects in the title which are not insured against by the standard title insurance clauses.

Illustrating this particular point, it has been held that a title is unmarketable if the title of the vendor depends upon the death of a person in the chain of title, and the only evidence of his death is the fact that twenty-four years before the trial he was a young unmarried man, whose health was feeble and whose habits were dissipated and left home for unknown causes and since the time of his departure has not been seen or heard of and his age, if still living, would be only forty-seven. Vought v. Williams 120 N. Y. 253. A title subject to the condition that no mill, factory, brewery or distillery shall be erected on the land is not marketable. Batley v. Foerderer, 162 Pa. 460. A title is not marketable where it is subject to an easement. McPherson v. Schade 149 N. Y. 16. Nor is a title marketable where a right of dower is outstanding although it may be inchoate. An owner of a good and indefeasible title to land should be able to exercise absolute control against all others, hence, if the land is encumbered with the right of a railroad company to pass over and across it for the purpose of prosecting and mining minerals, other than coal, such title is not marketable. Adams v. Henderson, 168 U. S. 573. A title will not be held to be marketable so as to require a purchaser to accept it where the land to be conveyed is subject to a provision in a deed from a land association that houses on the entire tract, of which the land sold is a part, shall be placed a certain distance from the street and that plans of the houses shall be approved by the directors of the association, where the purchaser was ignorant of the restriction. Peabody Heights Co. vs. Willson, 82 Md. 186. In all such cases the titles are also uninsurable without making exceptions of such defects so we will dismiss them from further consideration.

There is another class of defects in a title or objections to a title with which we are not at this time con-

cerned. There may be matters arising in connection with a title which would not render the title uninsurable nor would it make it unmarketable. When I say that we are not concerned with it at this time, I am assuming that there can be no valid objection to insuring a title as marketable when it is such in fact. The following decisions illustrate the kind of defects or objections which do not make a title uninsurable or unmarketable.

A conveyance from a person who never appeared to have any connection with the chain of title will not constitute a cloud nor will a mortgage executed by strangers to the title. Such conveyances do not render the title unmarketable. In jurisdictions which hold that titles by adverse possession may be marketable, such titles may be both insurable and marketable and still are not good titles of record. It has also been held that a misnomer in the name of the grantor in the record title would not render such a title unmarketable. In Hellreigel v. Manning, 97 N. Y. 56 it appeared by the records that an owner of land had executed a deed to Electa "Wilds" and that Electa "Wilder" had subsequently executed a deed for the same land to one Snashell. It was argued that it could not be inferred from the records that Electa Wilds and Electa Wilder were the same person. The deed to Snashell had been destroyed after he had conveyed the title. Parole evidence was introduced to show that the true name of Electa was Wilder. The court held the title marketable. So also when land was described as beginning a certain distance from the southeasterly corner of certain streets and the grantor had title to property which would be included in the description if the word "southeasterly" would be changed to "southwesterly," and, the vendor having contracted to sell the land, the purchaser refused to accept the deed on the ground of a defect in the title, the court held that the description contained abundant evidence of the words which the draftsman intended to use and the title was marketable. Brookman v. Kingman, 94 N. Y. 72. It is evident from considering these cases that there are defects which may neither render the title uninsurable or unmarketable.

We, however, run into our difficulties when we consider those defects or objections to a title which would not render a title uninsurable but which do make such a title unmarketable. It is perfectly true that a title which is good may be unmarketable. There are many expressions in text books and cases which say that a title to be marketable must be good of record, and that no matter how good a title may be if it is not good of record it is not marketable. This rule is strictly followed, however, in only a few states and in most states it is not literally followed. The distinction which once prevailed as to marketable title between courts of law and equity no longer exists. An action at law by a vendee to recover back purchase money paid must now be based on grounds which would justify a court of equity to refuse to compel him to accept the title.

Let us suppose then a case arising between a vendor and purchaser of land in which either the purchaser brings suit to recover his deposit on the grounds that the vendor's title is not marketable or in which the purchaser refuses to accept the title of the vendor on the same grounds. Let us further suppose that in such litigation the purchaser in stating his objection to the title describes such objection or defect as an outstanding right or interest owned by or in favor of a third party. Now such third person is not a party to the suit and whatever his rights may be they will not be foreclosed or affected by the litigation. It may be that the vendor has good title as against such third person and could prove it in litigation to which such third person was a party but the law will not compel the purchaser to take the vendor's title if by any reasonable probability or possibility such third person could establish his rights in and to the title. Maupin in speaking of marketable titles says: "Where the probability of litigation ensuing against the purchaser in respect of the matter in doubt is considerable; or, where there is a reasonably decent probability of litigation, the court to use a favored expression will not compel the purchaser to buy a law suit. If there be any reasonable chance that some third person may raise a question against the owner of the estate after the completion of the contract, the title will be deemed unmarketable."

Not only matters of fact can render a good title unmarketable but also questions of law may do so. In litigation between a vendor and a purchaser with reference to the marketability of title to land, the rule is that if a question of law is involved without any questions of fact, then if the general laws and decisions are settled on the point in favor of the title, the court will hold it marketable but if the point is not settled, the court must hold the title unmarketable. If a question of law is presented as to the sufficiency of the title upon which different courts might entertain different opinions, sufficient doubt is raised to render the title unmarketable. Lippincott v. Wikoff, 54 N. J. Equity 103. Thus a title which in litigation in which all persons interested are parties upon final appeal to the supreme court may be held good yet may be unmarketable in litigation between the vendor and the purchaser. In Sugden on Vendors (chapter 10, section 13) it is said: "A court of equity is anxious to protect a purchaser and give to him reasonable security for his title, not compelling him to take a title without knowing whether it is good or bad. The inclination of the court is in favor of the vendee, and a vendor claiming to be exempt from the general rule is required clearly to establish a case of exception. To enable equity to enforce the specific performance against a purchaser, the title to the estate ought, like Caesar's wife, to be free even from suspicion; for it would be an extraordinary proceeding for a court of equity to compel a purchaser to take an estate which it could not warrant to him. It has therefore become a settled and invariable rule that a purchaser shall not be compelled to accept a doubtful title; and the court will not have regard to its own opinion only, but will take into account what the opinion of other competent persons may be.

In using the term "marketable title" more than a title valid in fact is meant, or one which can be established in an action at law or in equity, hence, in determining whether or not a title is marketable, the actual validity of the title is not usually the subject of inquiry. Indeed the court may be of the opinion that a title is in fact a valid one, and yet hold it not to be a marketable title. (The note to Justice v. Button, 38 L. R. A. New Series, page 3.)

Examples of cases where the title would be insurable but not marketable are presented to each of us frequently. In states like California and Washington, where a marketable title cannot be founded on adverse possession, such a title may be good and still not marketable. Wilson v. Boyle, 104 Pac. 146; McCrisky v. Ladd, 28 Pac. 216. In most states the possibility of issue is always supposed to exist in law even though a woman be a hundred years old and any conjecture based on age is, in the contemplation of law, too doubtful and uncertain to result in any reliable conclusion. Title based upon knowledge of particular cases depending upon the advanced age of women may be insurable but still not marketable. List v Rodney, 83 Pa. State 492. In some states a title is not marketable where it appears by the record that a mortgage in all probability barred by the statute of limitations has not been discharged. Whittier V. Gormley, 3 Cal. App. 489. Austin v. Barnham, 52 Minn. 136. Where a chain of title depends upon proof of heirship the title is defective, although there is in the chain of title a deed of conveyance reciting that grantors are the heirs of the deceased owner of the land, who was the grantee in the preceding deed in the chain of title. (Foster vs. Eoff, 19 Tex. Civil App. 405) and yet such a title might under certain circumstances be insurable.

It is deemed useless to increase the illustrations of cases in which titles are insurable but still not marketable. If an improvement on a lot extends beyond the boundaries of the lot, the title of the lot is unmarketable (Devlin on Real Estate, Vol. 3, Page 2733).

Unless a survey is made in each case it would be difficult for a title company to know whether or not the improvements overlapped on to the adjoining property and the only way a title company can protect itself is to make an exception of such matters as a survey would show. Such titles while insurable are not marketable.

There is therefore an additional risk or hazard in insuring the marketability of title.

A review of the cases which deal with insurance of a marketable title shows that they are very few. In Broadway Realty Co. v. Lawyers Title Insurance and Trust Company, 23 N. E. (N. Y.) 754, a contract insuring the marketability of title described the insured property by metes and bounds and "also the building erected thereon," the land to be insured being that on which "such building now stands, as shown by the survey of F." It was held that an encroachment of the building on a public street was insured against, notwithstanding the survey showed the building within the lot lines.

In Glyn v. Title Guarantee and Trust Company, 117 N. Y. S. 424, a policy insured against "any defect or defects of title affecting said premises or affecting the interest of the insured therein, or by reason of the unmarketability of the title." The insurance company was held liable for the damage to the plaintiff by reason of the existence of certain encroachments which, with the right of continued support, constituted an encumbrance on the property.

Neither these nor any of the other cases examined are particularly illuminating upon this subject.

What is the measure of loss which a title company may be called on to pay for a claim under the coverage of marketability?

In State v. Minnesota Title and Trust Company, 116 N. W. 944, in considering the measure of damages under a policy of title insurance, which insured against defects, the court pointed out that the loss insured against is a loss which may be suffered by the subsequent asserton of a defect in the title at a later date than the date of the policy. The court says:

"In the case of fire, hail, storm, or other like insurance, the indemnity against loss which may occur at some time in the future during the life of the policy and the contract serves as a protection to the policy holder during that time. In the title insurance the situation is the same *save loss suffered must arise from some defect in the title existing at the time of or before the policy was issued, and is subsequently successfully asserted to the damage of the policy holder.* So that, substantially, the indemnity in either case is against future loss or damage; the loss arising in the one case from the happening of a future event, and in the other from a loss subsequent to the date of the policy by reason of the successful assertion of an adverse title or interest in the land insured which existed at the time or before the contract was made."

Moreover, it has been held as a result of the construction by the courts of the particular covenants and terms of the contracts of insurance which were involved, in the cases before them, that in determining the measure of damages to which the insured party was entitled by reason of a loss suffered by him, the value of the property at the time the loss was actually sustained by reason of an assertion of title by some person other than the person insured was controlling.

Thus in Flockhart Foundry Co. v. Fidelity Union Trust Co., (N. J.) 132 Atl. 493, the following holding was made:

"Under the terms of the particular contract of title guaranty here involved, for breach of which, because of an outstanding interest or title in a portion of the lands, existing prior to the issuance of such guaranty, an action is brought, the measure of the loss or damage is the value of the portion affected by said outstanding interest or title as of the date of a bona fide contract of sale of such lands by the party guaranteed, and is not to be measured by the value of the lands affected as of the time of making such guaranty."

Similarly in Kentucky Title Co. v. Hail (Ky.) 292 S. W. 817, it was held that the plaintiff in an action on a title insurance policy was entitled to recover the proportionate part of the present value of land which was not actually included in the description, rather than the proportionate part of the price which has been paid for the land.

With reference to breach of the covenant of marketability contained in a title insurance policy, the court would be inclined to apply the same measure of damages which is applied in an action between a vendor and a vendee against a breach of a covenant of seisin or a covenant against encumbrances. In no event is the profit lost by the owner as a result of inability to complete actual sale considered, although sometimes such sales price is found to be equivalent to the actual market value of the land at that time.

The rules properly applicable to such a case seem to have been correctly applied in Murphy v. United States Title Guaranty Co., 104 Misc. Rep. 607; 172 N. Y. Sup. 243, where the court held that the insured party under a title insurance policy whose contract of sale had been rejected by the proposed purchaser because of a defect in the title would be entitled to recover only for actual loss suffered through the existence of the encumbrance, which at the most would be the difference between the value of the property as encumbered and its unencumbered value and not the sum which the purchaser agreed to pay for the property. In its opinion, the court says:

"The covenant against incumbrances, ordinarily contained in deeds, is essentially more nearly like the agreement of a title insurance company. That covenant is also a covenant of indemnity, and the measure of damages for its breach is such sum as will indemnify the grantee for the loss actually sustained. See Utica, Chenango & S. V. R. Co. v. Gates, 8 App. Div. 181; 40 N. Y. S. 316. Under the authority of that case it would appear that, if the plaintiff had been compelled to purchase the amount of the judgment which was a lien against her premises, she might have recovered the amount so paid as the proper measure of damages for the existence of the incumbrance. Inasmuch, however, as the plaintiffs do not claim to have incurred any such expense, the highest possible measure of damages, in the absence of some clause in the policy fixing a different measure, would be the difference between the value of the premises unincumbered, as shown by the actual sale, and their value incumbered by the lien of the judgment. In no event, in the absence of such a clause, can the plaintiffs recover as indemnity the agreed price upon the contract of sale which they have lost."

As a general principle then, it may be concluded that in the case of a loss occurring under a marketability clause in a title insurance policy the measure of damages consists of the amount actually expended by the insured party in removing the incumbrance with interest, or if that has not been done, the difference between the market value of the property with the encumbrance and without it, and in the latter case it is the value of the property at the time the adverse claim is advanced, rather than the value of the property at the date of the issuance of the insurance policy which is considered.

In New York it is the practice to insure marketability. The Title Guarantee and Trust Company and the Lawyers' Title and Guaranty Company and the New York Title and Mortgage Company in their New York forms insure against loss or damage by reason of unmarketability of the title insured to or in said premises. The new Pennsylvania standard form used by the leading companies in Philadelphia, Pittsburgh and elsewhere in Pennsylvania insures that the title of the insured is good and marketable. The Union Title and Guaranty Company of Detroit insures against loss by reason of the failure or unmarketability of the title; and so also does the Guarantee Title and Trust Company of Cleveland, Ohio. The companies in and around San Francisco insure a marketable title such as a court of competent jurisdiction would uphold in an action for specific performance. It has always seemed to me that where a policy, such as some of those we have mentioned, insures against loss or damage by reason of unmarketability of the title of the insured and such expressions is used in a mortgagee's policy, that there is some ambiguity of meaning. Do such policies mean that the mortgagee has a good title to the mortgage or that the mortgagor has a title which is marketable? This is one of the difficulties

which arise by trying to make one form of policy do to cover an owner's or a mortgagee's interest in land.

Certain other companies in the country do not insure marketability.

The Kansas City Title and Trust Company insures against loss or damage which the party guaranteed shall sustain by reason of defects in the title. In Southern California we have always insured against loss or damage by reason of any defect in or lien or encumbrance on the title of the insured to said land except as shown. The Seattle Title and Trust Company protects against loss which the insured may sustain by reason of any defect in the title and the policies of this company carry a statement in the conditions and stipulations to the effect that no liability is assumed for any loss or damage resulting from the refusal of any party to enter into or carry out any contract respecting the estate or interest insured. The Chicago Title and Trust Company insures against loss or damage by reason of defects in the title of the party guaranteed and this company also carries a statement in its conditions and stipulations that it will not be liable in any event for any loss or damage arising from the refusal of any party to carry out any contract to purchase, lease or loan money on the estate or interest guaranteed.

The title insurance companies therefore are more or less equally divided as to practices in respect to insuring marketability.

The problem is this: Shall title insurance companies insure against loss on account of unmarketability wherever they can do so with reasonable safety. There will of course arise many titles in which there are defects and in such instances the title may be insurable and yet not marketable and a title company may well hesitate to issue a policy insuring marketability. The title insurance company in such case can offer to insure without covering marketability or, if such insurance is not acceptable, it can decline to issue a policy including protection against unmarketability. The problem is however complicated by the interior arrangements of our own offices. If a title company is handling a good many orders each day and wants to adopt a uniform form, if such a form includes a clause insuring marketability then, if all insurable titles are passed, some which are not marketable will be covered. Customers of course want their title policies issued in the usual forms issued by companies and are loath to accept anything short of the usual coverage. If a company adopts a form with a marketable coverage then the customers will not desire to accept anything short of such coverage. We should, however, not let our forms control us. The question whether or not marketability will be insured in any particular case must in the last instance depend upon what risks the title insurance company is willing to accept. The problem then narrows itself down to the question as to whether or not a title company will issue a policy including the insurance of marketability wherever it can, conceding that there will some cases arise where such insurance company cannot feel safe in giving marketability coverage.

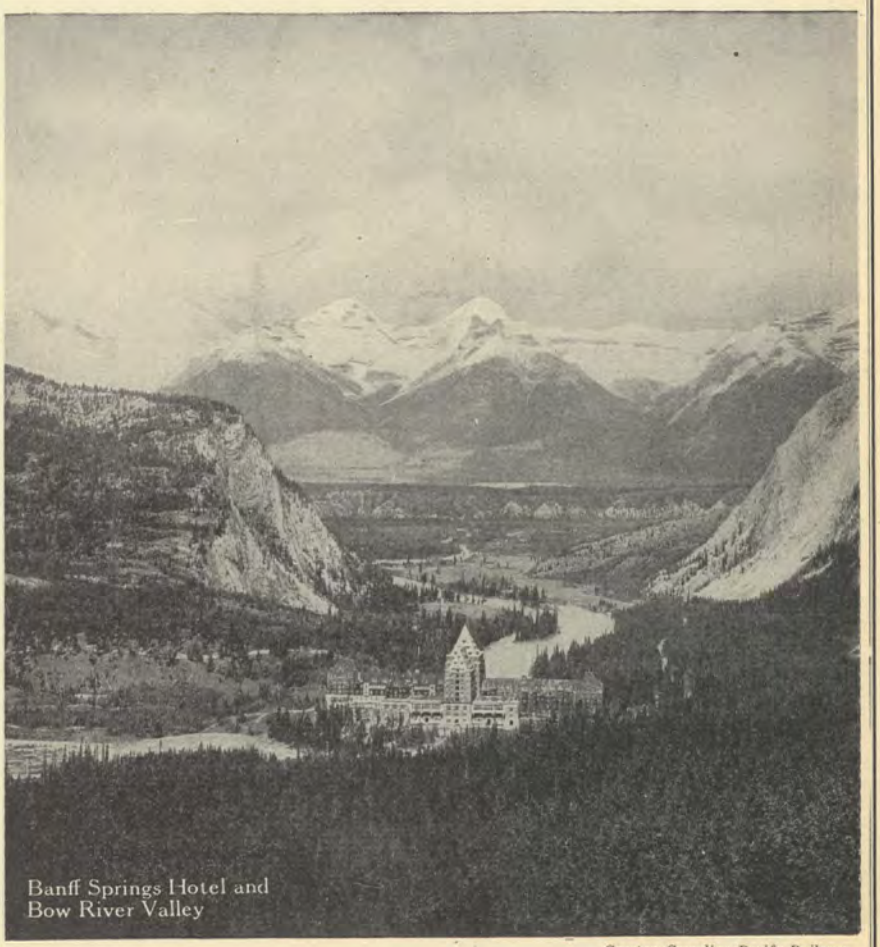
I understand that in Pennsylvania where marketability is insured, the losses from such coverage are comparatively slight and I have been told that such insurance causes more loss in New York than any other kind of insurance. I believe that the reason for this is probably that the New York companies issue policies covering certain titles and insuring their marketability when the Pennsylvania companies may stop and go back and have the title fixed up or else refuse to issue at all.

The controlling reason in favor of including marketability in the coverage of title insurance policies is the duty of the title company to give a customer what he thinks he is receiving and what he is entitled to receive. Most people obtaining policies of title insurance when buying property would be surprised to learn that they would not be protected against loss from defects which might exist with reference to their title and which would prevent them from selling it to good advantage. I believe that if a person buys a piece of property and goes to a title insurance company for a policy of title insurance he desires and expects to be protected against all loss and to receive an assurance from the company that if he sells the property he can enforce the bargain.

That there are defects which would make a title unmarketable while such title is still insurable is a fact not known to many people outside of the business of title insurance. In fact I am inclined to believe that there are a good many persons in the business who do not appreciate the significance of this fact. Simple faith with customers demands that a title company give him full protection. If a title company follows any other course it is placing its own convenience and ease of doing business at too great a premium, and is following a policy which will ultimately prove unwise.

If a title insurance company customarily issues a policy insuring a marketable title and is called on to pass a

Banff, Stop-over on Special Tour to Convention



Banff Springs Hotel and Bow River Valley

Courtesy Canadian Pacific Railway

title which is insurable but not marketable and offers a prospective purchaser of a lot an insurance policy which insures him against loss but does not insure with respect to marketability, explaining the position of the company to him, I am inclined to think that he would not proceed with much alacrity. If this be true and the public generally knew the difference between insurable and marketable titles, I believe that each purchaser of a lot would demand insurance as to marketability. It is only a question of time until these distinctions are known and would it not be policy on our part to do now what we must ultimately do? It seems to me that this is only wisdom.

There are of course some reasons against insuring marketability. There is much ease and comfort in not insuring marketability because hard problems are thus avoided. The examiners of the titles do not have to be quite so particular and there are some questions involving the consideration of defects which may make the title unmarketable, which can be easily avoided. The mill can grind smoother and the produce can be larger if this monkey wrench of marketability is not thrown into the machinery. A title insurance company which does not cover marketability need only consider whether or not the insured will ultimately lose any portion of the title after a final appeal to the court of last resort has decided the question. A purchaser of title insurance is entitled to more than indemnity protecting against ultimate loss and is entitled to know that if he contracts to sell the property he may do so without fear of losing the bargain. While, of course, the purchaser is only as a matter of law entitled to such rights against the title company as he gets under the policy, yet I believe that, if the public were fully informed, it would insist upon this coverage and that we should forestall the demand by supplying the need.

Another reason used by opponents of the practice of insuring marketability is that there are many titles on which a title company can issue its policy protecting itself by indemnity from defects, which can not be covered if marketability is insured. So far as I have been able to find out by inquiry, however, this is not as true as it might seem and I am informed by the officers of some companies which insure against loss by reason of the unmarketability of title that it is their policy wherever possible to issue the insurance even though the title might be unmarketable if they can secure indemnity to protect against defects which would in fact render the title uninsurable. That is to say, that if a company were issuing a mortgagee's policy and there was a judgment or mechanic's lien on the property, the policy would be issued insuring marketability and the same indemnity would be accepted as would have been accepted to render the title insurable. I am inclined to think that if marketability is insured the practice of accepting indemnity should be a little more strict and indemnity agreements should be drawn in a more exacting form so that the indemnifying person would agree that the title would be made marketable if necessary or that the securities and money deposited could be used to place the title in a marketable condition. After examining into the matter somewhat thoroughly, I am convinced that a title insurance company can issue its policy including marketability in practically all cases where the title is insurable and that it should use such means as are necessary to protect itself against such coverage.

The argument has been made of course that if a marketable title is insured when in fact it is unmarketable, a false statement is made and that making false statements is wrong morally. Yet the same people who make this argument are insuring against liens or defects which exist but are not shown in the policy and accepting indemnity to protect themselves against such a practice. This is done on the theory that the title policy is not a representation as to the record condition of the title but a policy of insurance whereby the financial resources of the issuing company are pledged to make good any loss which the insured may sustain by a defect insured against. The same reasons could with equal propriety be applied to the insurance of marketability of titles.

The argument has sometimes been made that a property may be subject to a mortgage or bonded indebtedness and it is desired to sell the same or place thereon another mortgage or bond issue; that a title company can accept the amount of the principal and interest to date of the maturity of the existing mortgage or bonded indebtedness and then issue its policy omitting to show the lien of the said mortgage or bonded indebtedness relying upon the fact that it holds sufficient money to pay the indebtedness at maturity to give it protection against loss under its policy. There is no reason in the nature of things why a company which makes a practice of insuring marketability should not issue a special form of policy in such an instance and insure the purchaser or the holder of the second encumbrance against loss by reason of the priority of any lien existing thereon. It would seem to me reasonable that an insurance company which desired to issue such a special form of policy could explain the conditions to the parties in the transaction and would readily gain their assent to the issuing of such a form of policy. As soon as the old mortgage or bonded indebtedness was paid it could issue its regular form of policy including marketability coverage.

As the practice of obtaining title insurance becomes popular with the public, the question of insuring marketability becomes more or less obsolete. Where contracts for the sale of lands are drawn by attorneys and they no longer provide that the seller shall furnish a marketable title but provide for furnishing by the vendor of a policy of title insurance, then the coverage afforded by a policy including marketability of title become obsolete. I think I can say that this is true of Southern California at this time. We make no more abstracts for examination by attorneys. All transactions are handled by guarantees or policies of title insurance and the usual form of contract for the sale and purchase of land provides for the vendor to furnish a policy of title insurance which is acceptable to the purchaser.

Of course insuring of marketability involves some risk and it is probably true that a title insurance company lays itself open to some fraudulent claims by insuring marketability. If the owner of the land, who holds a policy of title insurance giving marketability coverage, discovers some latent defect in the title, and if the real estate market is falling, it is possible for such an owner to trump up a fictitious sale at a substantial price, which sale is apparently lost to him on account of the latent effect and then make claim against the title insurance company. We have been more or less annoyed by such claims although we have not insured marketability and we have thought it best to settle and pay such claims, even though not covered by our policy. This may afford an additional reason for insuring marketability for if a title insurance company settles claims based on defects which render a title unmarketable, then it would seem it ought at least to have the credit for such coverage.

Summing up the arguments for and against the insuring of marketability, it seems to me that the disadvantages are outweighed by the obvious advantage of putting out a broader and better title insurance policy. The public believes it is now receiving such coverage everywhere and would demand it if it were properly enlightened. In California in drawing our new forms we have included insuring marketability but, as I stated, these forms have not yet been adopted. I believe that it is at this particular time in the trend of progress, although if title insurance becomes universal, the coverage will become obsolete. I have come to the conclusion after considerable trepidation. In fact I feel like Bassanio in the Merchant of Venice when describing his choice of the leaden casket he referred to it as

"But thou, thou meagre lead
Which rather threatenest than dost promise aught."

But in the end he did choose it and in the end was abundantly satisfied with his choice.

CHAIRMAN LINDOW: If it is the pleasure of the audience, we will go ahead with Mr. Dall's paper, which I understand to some extent opposes the guaranteeing of marketability in a policy of title insurance. We will then have discussion on both papers when he has finished.

I take great pleasure in introducing Mr. J. M. Dall, Vice President of the Chicago Title and Trust Company, one of the deans of the title profession.

Comments on Covering Marketability

By J. M. Dall, Chicago, Ill.

First, I desire to compliment our good friend, Mr. O'Melveny, not only on his splendid arguments in favor of guaranteeing marketability, but also on the very able presentation of facts against guaranteeing marketability. He has appropriated my thunder and has called your attention to many cases that I had intended to use in my remarks against guaranteeing marketability. I shall not take the time to repeat them.

I believe that it all depends upon the custom and demands of the community and is a matter of local practice.

At the time of the great fire in October, 1871, all of the County records were destroyed. One set of tract indices was saved and is owned by our Company. We have the only set of complete indexes from Government to date. The destruction of the records made it impossible to furnish full particulars of instruments and proceedings prior to October 8, 1871.

We have never guaranteed marketability of titles, nor has there been any demand for it. The fact that our Company issues its policy makes the title in this community marketable. Our policies are accepted by every one as final and conclusive.

We examine the title from Government to date. In some communities it is customary to go back from twenty to forty years only. All titles are examined by our own attorneys, who are trained to make each examination as carefully as though we were guaranteeing marketability. The objections are submitted to the proper officers before the policy is issued.

We do not know of a case where title has been refused by a purchaser of property or mortgage investor, which has been guaranteed by us. In nearly forty years, since the first policy

J. M. Dall

was issued in Chicago, we have issued approximately one and one-half million policies, during which time no case has ever gone to our Supreme Court involving marketability of a title which we have guaranteed.

We do not guarantee limitation titles and have declined to guarantee titles that are merely insurable.

We have never failed to pay legitimate loss promptly, nor have we declined to defend a title which we have guaranteed.

It frequently happens that after examination has been made, and before the transaction is closed, that the purchaser intends to re-finance existing encumbrances which have not matured, or there may be judgments or other liens which the parties wish to settle for less than the face amount, or there may be pending estates in which the time for filing claims has not elapsed. In such cases, if we are satisfactorily indemnified against the loss by the deposit of sufficient money, satisfactory securities or surety bonds, we have found it safe to issue our policies and make possible the closing of deals that could not have been handled under any other system. Obviously, such titles are not marketable.

In the new form of real estate contract which has been adopted by the Chicago Real Estate Board, the seller agrees to furnish a good title. No reference is made to a merchantable title.

In view of the custom in our community and our long experience in the title business, we can see no reason why we should guarantee marketability as our policies are uniformly accepted, not only by local purchasers and mortgage investors, but also by non-residents, who purchase valuable property and loan large sums of money.

CHAIRMAN LINDOW: I would like to ask Mr. Dall one question. I understand the proposed uniform policy the life insurance companies are proceeding with at this time, (I have not seen a draft of it), will force the issue on their mortgage policies if they will insist upon the title company guaranteeing marketable titles. I would like to have the opinions of all title companies that do not insure marketable titles as to what the solution will be when they have this demand.

MR. DALL: We have not seen a copy of the proposed form; therefore cannot express an opinion as to what we will do.

CHAIRMAN LINDOW: Mr. Condit, have you anything to add to the discussion?

MR. FRED P. CONDIT, NEW YORK CITY: Our practice has always been to insure marketability. We do have some losses under it. There was one case of the Lawyers Title which was an encroachment upon the street. At that time the Company was insuring the land and the building thereon. After this loss, which cost them about $35,000, they don't write policies that way any more.

We haven't had any sad experiences with it and we do think it is giving the insured what he thinks he is getting instead of giving him something where he will come back later on and say, "You fooled me; you haven't given me what I thought I was paying for."

We believe it would be better for all concerned if the marketability question was seriously considered by all companies with a view ultimately to insuring the question of marketability.

CHAIRMAN LINDOW: Mr. Smith, have you anything to contribute?

MR. JOHN HENRY SMITH (Kansas City, Missouri): Mr. Chairman, I think it is confusing to raise the question of marketability of title. In our community we have exactly the same experience Mr. Dall has spoken about in Chicago. I think it gives a very great and wide open chance for a man who is buying a piece of real estate to get what is known as "cold feet." If there is any defect in the title, we have made it a rule ever since our company was organized to advise our client about it. That is, if we are examining a title today for John Jones and there are any defects in our preliminary opinion, defects that cannot be removed by the courts or any one else, we put our client in possession of those facts and plainly tell him that we are not willing to write our policy

guaranteeing against those defects, or rather, we will except them in our policy. At the same time we tell him that, just because we do not except those defects in our policy does not mean if he should make a resale of that property in six months or a year or any other stated time and that abstract is put in the possession of the purchaser's lawyer at that time that the lawyer cannot raise those objections and perhaps stop his sale.

When those things have been thoroughly explained to a client it is all right but we will not write a policy, notwithstanding the fact we are taking no chances on that defect in our opinion, without putting the client in possession of that fact and telling him what might happen.

Of course, I can see where O'Melveny has a wonderful chance in California to write marketability of title because the distribution of abstracts is a thing that has gone by. When you are distributing abstracts, evidences of title, all over a community or a city such as Chicago, or even as small a city as Kansas City, you are giving a great opportunity to the lawyer, the fellow who wants to find something to place the title company in an embarrassing position, to do so.

We have never had requests, except from insurance companies, to guarantee the marketability when we are writing mortgage policies and I believe it is a subject that can well be taken care of locally. There may be a demand in New York for marketability. I am perfectly willing that others should write marketability if they so choose. If we could go on a title insurance basis tomorrow morning I would be perfectly willing to write marketability but not as the situation is today with these evidences of title passing all around a community. Even if you are passing a title today for a client, either for a mortgage or a loan, you never know whether he has placed that abstract in the hands of his own counsel to check you up. If he didn't have any evidence of title to check you up you would run much less chance of having suit or litigation over marketability of title.

Therefore, I think it is confusing. Yet I believe more or less in marketability if it can be done. I doubt if the American Association can lay down the rule that we must write a uniform policy that guarantees the marketability of the title.

CHAIRMAN LINDOW: Mr. Bare, have you anything to say?

MR. HARRY C. BARE (Ardmore, Pennsylvania): If as Mr. Smith and Mr. Dall remarked it were purely a question of each locality meeting the problem according to the needs of its particular community, I don't see that there would be any particular point in carrying the discussion any further, but is it not true that the entire purpose of bringing out the discussion as to marketability is for the purpose of securing information which may be used, not in that particular locality, but in order to meet the needs and demands of the insured, which is rapidly every day becoming wider a field?

I mean by that, the large life insurance companies have awakened to the realization that for years they have been paying for something they are not getting. When they pay their premiums, or whatever the consideration may be termed, to secure the title policy, they assure me they have understood they were getting a policy which guarantees that title and does include marketability. Instantly you say, "Don't they read the policy?" Probably they do but as Mr. O'Melveny very wisely stated, outside of those who are entirely familiar with title insurance the question of marketability is not understood, and frankly, I question whether it is entirely understood even by title men.

I don't quite see why, if a company carries to its analysis of the title the treatment, the considerations which include the questions of marketability, it should not be honest and put down on the policy exactly what it means.

This is only repeating what O'Melveny has so very splendidly stated, but I want to emphasize this thought—when you consider an analysis of your title you must disclose those questions which are the objections to the ownership, I don't care whether it is an owner or a mortgage policy—I can't quite see any distinction there. The evidences of title which are of record or may be ascertained, by descent or otherwise, have one basic principle, that is, to show whether or not the owner has title, meaning title in the sense of ownership vested in him.

As has been said, there are many questions which may not go so far as to be a definite objection, a defect which may cause actual, ascertainable dollars and cents loss, but they may be questions which lay the ownership open to controversy, or as Mr. O'Melveny says, to a lawsuit. For illustration—you have in your own community many questions which I may summarize, probably, as the question of mechanic's liens. When you meet that question of mechanic's liens, no matter whether it is your marketability or not, you state that objection among the exceptions on your policy. If you are insuring marketability, how easy it is to modify that exception and remove the question, insuring actual loss but excepting the question of marketability.

You have to meet that in every defect that you consider in the line of title and if you except your liability as to marketability only, you insure your policy and give your purchaser exactly what he thinks he is getting, a marketable title, and you save your liability with the exception on the schedule which explains what your exceptions really are.

I am hopeful that in this meeting there will be enough thought that the question of uniformity may be worked out as the result of the expressions that are given here and I hope this meeting will not close without each one giving that expression as to what his thought is as to whether it can be carried not only to our local needs but if we follow what Dick Hall says, to reach out and get it as a solution and meet the needs of a wider and growing field, the needs of title insurance, giving to the buyer exactly what he thinks he is getting—and they all think they are getting insurance of marketability.

CHAIRMAN LINDOW: Walter Daly, have you suggestions on the question of marketability?

PRESIDENT DALY: Prior to the Denver meeting our company did not insure marketability. So far as I know, that was the first meeting where marketability was discussed at any length. I think Mr. Bare read a paper at that time, as I recall it, and we had a great deal of discussion as to the marketability of title. On the train going home from Pueblo to Salt Lake there were a number of California people, particularly, and the discussion was rather keen on the question of marketability. As soon as I got home I took it up with the proper officers of our company and our old policies were thrown in the wastebasket and new policies instituted.

We felt that the principal thing a man wants to know when he buys a piece of property is not whether his title is good or whether he is going to be able to occupy that property unmolested, but some day he is going to want to sell it and when he wants to sell it, he wants to sell it badly. We were criticized under our former form of policy. We were asked as to what we really insured. We had an exception there that we were not liable for refusal of purchaser to accept title. They said we simply insured against an ouster and we had no come-back because while we told them morally we would protect the title legally we were not obliged to.

We feel we have strengthened our policy by putting marketability into it, and since that time we have had only one question come up and that was on a small property where a purchaser had refused to accept, having learned we had insured against a judgment which was unappealed. In our state judgments unappealed are a lien upon the property and in this case we had an additional bond running to us from an insurance company. There was no question as to the judgment, which was only $4,500, but the purchaser refused to take it. We made a settlement and have had no further trouble since then.

CHAIRMAN LINDOW: Mr. Stoney, what have you to say about this?

MR. DONZEL STONEY (San Francisco): This question seems to me to be one that ought not arouse a real discussion. Eliminating your operators and people who speculate in real estate, the bulk of your clients don't buy more than one or two pieces of property in a life time. They go to

a title insurance company because they think they are there to see that they get a good title. They are interested in two things—one, that they can maintain possession of their property, and the other, that they can sell it. One is just as important to them as the other.

I was in the title insurance business in 1902 and we were issuing policies of title insurance and issuing abstracts and any form of title evidence the public required. We did encounter lawyers who were looking for a chance to wreck the title companies and lawyers who objected to titles being marketable where we insured as to their marketability. We have never had a loss on that account. In one case we purchased a piece of property and made several hundred dollars on it when we resold it.

Ordinarily speaking, a title insurance company has standing enough so that it can say to a layman in spite of his lawyer, that the title is marketable if it will guarantee to insure him a marketable title.

CHAIRMAN LINDOW: Mr. Bouslog?

MR. M. P. BOUSLOG (Gulfport, Mississippi): My experience in title insurance first began in the rural sections of Mississippi and afterwards it was in the urban communities of New Orleans. In Mississippi we had no commercial abstract system. In New Orleans we faced a situation of having no examinations in the way of abstracts of title, each attorney examining the title for his client in his own way. There were no commercial companies started.

We started out with the usual form existing at this time, about 1913, in most of the larger cities, which did not insure marketability. I think at that time the New York companies were probably the only companies that insured marketability. We started out not insuring marketability. As a matter of business policy, however, our actions were entirely in contradiction to the wording of our policy. We did stand behind our policies and defend any suits which were brought to enforce specific performance on the part of the surety. Having followed that course in six particular actions we amended and changed our policy form so as to provide for insurance against marketability. In other words, we absolutely insure the title against all defects and assure the guaranteed or insured that we will defend that title and further, prosecute or defend any action in court for specific performance of title.

In that community, of course, we have had to meet also the objections and the requests which have come from the large insurance companies and a number of large mortgage companies foreign to Louisiana that were making loans upon properties in New Orleans and Louisiana. We have been confronted with their particular requests for changes and modifications in our form. In many cases, particularly in the case of two of the largest insurance companies, as some of you probably have experienced, it was a matter either of maintaining our present or existing policy form and losing a considerable sum of money in the way of new business or there was the other alternative of meeting the objection or request and giving them what they wanted. We took the latter alternative and gave them what they wanted.

In most cases the division was small and we were able to protect ourselves, generally, in the way of objections which were patent by including in Schedule "B" the material points which we did not insure so that parties did know, if a reservation was made, just what we were not insuring against.

CHAIRMAN LINDOW: Has any one else any discussion to offer?

MR. E. B. SOUTHWICK (Cleveland, Ohio): I imagine every one here has an automobile and carries liability insurance if he is wise. Having an automobile liability policy I am concerned not only that the company will pay me the damage or loss but will save me from all the bother of arguing with some one who may think I damaged him. In Cleveland we issue certificates of title, also title insurance. Often from the record we cannot certify but we think we can insure. I think locally we have probably as difficult a situation as can be faced in the question of marketability but we do insure marketability in our policies.

We are hopeful we will have nothing but title insurance in Cleveland soon as I think one of the greatest sales talks for title insurance is the thing I first mentioned, that the home owner, looking at his policy, can feel that is his protection not only for paying out money but from being bothered proving his rights.

MR. S. H. McKEE (Pittsburgh, Pennsylvania): In Pennsylvania we have a situation that practically requires us to issue policies guaranteeing marketability. On the other hand, the legislature has passed a number

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of statutes by which the question of marketability can easily be settled. In fact, after a suit is brought to enforce a contract we can proceed at once to have the title cured by the statutory method, so that we don't feel we are running any great risk insuring marketability. The only risk we have is from the fact that our competitors are principally lawyers. We don't have a monopoly of the title insurance business like they do in Chicago and probably not more than half of the titles go through the title companies' offices so that when they find a defect in the title they either run to us to get us to insure it or else they turn it down and we have to make good.

However, the fact that we have to make good has not cost us very much money and has helped our reputation considerably. We had this experience —we not only insured the title to the land but the buildings thereon, as they did in New York. When the party sold the property at a profit of $6,000 and the lawyer who examined the title refused to take it, the question came up whether we should try to enforce that contract. We went into the situation and found we could safely buy the property under the contract and we made about $500 in sixty days by taking it over and passing it. That has been our experience in issuing policies of title where we insure marketability.

Another thing I might say is this— if you will examine the history of the inception of title insurance you will find that this situation arose as it arises everywhere. No one can determine positively the character or the quality of the title. In other words, there are secret defects in the title that may come up at any time. We have cases in which there has been possession for over sixty years and there has been recovery, and those things may happen at any time. The possibility of the marketability of the title is the thing that is more likely to happen than anything else. It is the thing that we feel title companies should insure against.

The fact that you insure often makes it marketable. In other words, when we discover that the party will not take the title we say we have insured it and they say it is all right and tell us to issue another policy. That ends the matter, so that our troubles are not very great from that source.

MR. JAMES M. ROHAN (St. Louis, Missouri): It has been my observation that anything that will tend to increase the demand for title insurance ought to be given great heed. I believe that if our buying public wants title insurance that will cover every possible need we will have to incorporate marketability in our title policies. In our particular locality we are very seldom called on to insure against marketability on account of the fact that in about ninety per cent of our owners' policies we are asked only whether the title is perfect where some outstanding lien can't be removed.

I think any tendency that will increase the demand for title insurance ought to be met with a great deal of consideration and favor.

CHAIRMAN LINDOW: I want to say this—in new communities where title insurance is not widely known I think the situation resolves itself to the very point as to whether you guarantee marketability or not. In 1921 when we went into the title insurance business the first slap in the face we received was, "What are you giving us?" We have had one ejectment proceeding in thirty years that was successful.

If you are merely guaranteeing failure of title the chance is so remote that there is hardly need for title insurance when you have an abstract system or any other system of evidencing title which might be cheaper. We have found since our change of a few years ago if you can go out to your home owner, your realtor, your banker, and say that you are giving him a product that the next fellow has to take when he is mortgaging or selling his property, then you are performing a service that title insurance, I believe, is meant to perform.

In our own business in Detroit we thought we were "ducking" certain responsibilities, but let me tell you, every time we thought we were going to "duck" something, when the cry began to come across, we had to step in and defend and take care of it. We knew in a particular case this past summer that we were not responsible for some certain action legally. The Realtor took it to the real estate board, which is very strong in Detroit, and before we got through a very nice investigation of what title insurance is and what it is not was had and the discussion went even further than the local conditions of Detroit. It went to what title insurance means nationally.

We had to turn right about face, step in and defend this particular case which legally we weren't responsible for, but I believe morally we were. I think the question of marketability, where it comes up in any community, is a problem that you might as well face and advertise to the world that you do guarantee it because eventually if there is a suit you will have to stop in to safeguard your business.

Do any other members wish to enter into the discussion this afternoon?

MR. CHARLTON L. HALL (Seattle, Washington): I want to say our law in Washington is the same as it is in California. We have not been insuring marketability. I personally want to thank Mr. O'Melveny for that fine paper and I would like to get a copy of it to take home to our lawyers because they tell us we must not insure marketability.

Under the decisions of our courts a marketable title must be one where the title itself is deducible from the record. They tell us there is practically no marketable title in the state of Washington. However, we have been insuring the marketability of titles for the large insurance companies on their demands but we have not been insuring title as to marketability on purchaser's or owner's policies.

This discussion was profitable to me in that it showed the experience of the others, what their losses had been in issuing such policies. I rather think that when I go back to Seattle I shall recommend to our board that we change our policy form so that we insure marketability notwithstanding the advice of our attorneys. Title insurance is a business and you have to look at it from a business standpoint. The attorneys try to keep us out of trouble and the business men on the board get us in, but I think that our customers are entitled to a policy with complete protection and when they come to us they think they are getting it. If they are not, we ought to give it to them.

MR. BENJ. J. HENLEY (San Francisco, California): Mr. Chairman, I think there is one phase of the situation that may have been overlooked to some extent. I think the position of Mr. Dall and Mr. Smith is just a little inconsistent. First they suggested that there is no demand for insurance as to marketability, then as an objection to insuring marketability the question of the hazard involved is urged. It seems to me that if there is any great risk in insuring marketability of title then there must be a demand for that type of insurance.

I think the discussion here has indicated quite clearly that in the minds of most of us the public demands complete insurance and thinks it is getting it. Starting with that as a premise, it seems to me that then we should insure marketability even though there be considerable hazard involved. I think we should consider it from the standpoint of whether we are securing sufficient revenue to take on the additional risk. If the customer thinks he is obtaining insurance which insures him a marketable title we should give him that insurance but charge a sufficient premium to set up the necessary reserve to pay any losses that might result.

My experience has been—and nothing that has been said here today indicates the contrary—that the losses are not very extensive. I gather from the discussion that the loss which was suffered by Mr. Condit's company was not due to the fact that marketability was insured but due to the fact that the company was insuring title to the improvement whether it was a marketable title or merely a title which was insured against ejectment. Therefore, whether that company had been insuring marketability or not, it probably would have paid the loss because it had insured the title of the owner of the property to the improvements.

I think there is undoubtedly a demand, notwithstanding the suggestions of Mr. Dall and Mr. Smith, because I think the customer thinks he is getting insurance of marketability. The reason he hasn't made a positive demand is that he doesn't know he isn't getting it. Therefore, it seems to me the case in favor of insuring marketability is quite clear, in spite of the statement of the two gentlemen who have so effectively opposed it.

MR. J. R. MORGAN (Kokomo, Indiana): I wonder if I might say a word from the standpoint of a man on the outside looking in instead of inside looking out. In Indiana title insurance is just beginning. It is going to be a hard matter to sell title insurance because of the local attorney. He is the man you have to sell first. He is the man who draws the contract for the sale and provides in that contract there shall be a merchantable title. He is the man you have to convince that the policy guarantees merchantable title or you can't sell it to his client.

I want to emphasize the point the Chairman made as to the moral obligation standing for what the legal obligation doesn't stand for. Our office has had fifty years experience in the abstract business and I have had about forty years of it myself and we have stood on the proposition that the moral obligation of our office was far superior to the financial obligation. Nobody can lose anything by our act and it is the best advertisement we ever had.

If you will write your policies of insurance guaranteeing merchantable or marketable title they can be sold and if you don't you will never get by the local attorney.

MR. B. W. SEABRING (Canton, Ohio): I am another man from the outside looking in. I am in the abstract division, exclusively, but the two addresses given this morning by Mr. O'Melveny and Mr. Dall were not very far apart, that I could see. As I understood it, Mr. O'Melveny said they did insure titles that were not marketable and also those that were. From Mr. Dall's remarks I thought they merely insured titles that are marketable. One has chosen to insure both kinds; that is the only difference I can see.

The present trend in business, no matter what the line, is that the dealer must fully insure his line. That is understood by the modern public. If you go to the grocery and buy food and it isn't good you expect the merchant to refund your money or replace the goods. I suppose from what I have heard here and have been thinking that the ideal way for the insurer of title to operate would be to put the soft pedal on the matter of marketability of title and let people think they are being insured.

The chances of running afowl are very small—I think that would be agreed—but if in the course of eventualities somebody had a policy approximating some hundreds of thousands of dollars, then it might be advantageous if the policy didn't say anything about the marketability. It is possible it might be a good profitable move for the concern simply to go out of business and not pay the damage but it is so generally known we can't cover up those things.

It is known now; the matter has been called to the attention of the public and the attorneys and will have to be dealt with. From the standpoint of an outsider—although I don't want to be an outsider always—it seems to me the title insurance people will have to take their clients into their confidence and tell them exactly what they are getting. The time has come when the public demands to know what it is getting. The public is wiser than it used to be. I believe that is the situation and I believe it is going to result in insuring marketability of title.

VICE-PRESIDENT WYCKOFF: The matter of marketability is the only justification for title insurance.

CHAIRMAN LINDOW: If there is no further discussion we will turn the meeting over to Mr. Wyckoff.

CHAIRMAN WYCKOFF: We are fortunate in having as Chairman of the Abstracters Section, in which the next paper will obtain, Mr. James S. Johns, whom we all know. I will ask Mr. Johns to come up and take charge of the meeting now.

MR. JAMES S. JOHNS (Pendleton, Oregon): First I am to introduce Ed Dougherty of the Federal Land Bank of Omaha. Before I let Ed talk to you I want to tell you that I attended the Nebraska Title Association meeting last fall as a representative of The American Title Association and they gave me a very warm reception. Ed was President of the Nebraska Association. In fact, the reception I received there cost me about $17 in telegraph tolls. The first thing I knew about it was when I got to St. Louis. I received a telegram from the worthy President of this Association saying, "Associated Press gives unfavorable publicity to Omaha talk; better soft pedal; they will follow you and make further comments."

I didn't say anything that I don't always say and I didn't understand what they were talking about. I wired Daly and asked him what it all meant. He wired back—this was an Associated Press dispatch—"James Johns, Pendleton, Oregon, abstracter, scheduled to speak before Nebraska Title Association, created a sensation when he came to the platform, roasted the abstracters, tore up his program, and left the stage without delivering the address for which he came all the way from Oregon. 'You have an inferiority complex,' he told the members. 'You have an asinine fear of your competitors. You are not awake to the possibilities of your business. You itemize your bills like grocers. This is what I think of your program.' He thereupon tore the program to pieces and threw the bits to the delegates. 'You have but one good speech on the program. You make resolutions and then go out and cut each other's throats. I don't care what you think of me; I am going to leave town in

Enroute to the Seattle Convention

Wahkeenah Falls, Seen from Columbia River Highway

Mt. Hood Across Columbia River At Hood River, Oregon

Courtesy Union Pacific Railroad

Multnomah Falls and Lodge

a half hour.' Amidst laughter and applause Johns left the platform and took a train to Pendleton without delivering the address."

That is the reception Ed Dougherty gave me in Omaha. Any of you who have heard me before know that the newspaper quoted me correctly. I did absolutely everything that it says there except one thing—I did insist on talking for two hours and finally they threw me out and I did take the train but I didn't go home. (Laughter.)

Ed is an Irishman and I am a slow thinking son of England so I am not able to match wits with him. Ed is going to make a speech but I just want to let you know that I feel like Daniel did in the lions' den. The next morning when the king opened the top of the cage and asked Daniel how he was he said, "I am all right yet but I am very prayerful." (Laughter)

Ed is going to talk about his impressions of abstracters and title people. He is attorney for the Federal Land Bank of Omaha.

Observations on Abstracters and State Title Associations

By Edward F. Dougherty, Omaha, Neb.

I should say, "Heaven protect me from traducers and introducers." The trouble with the newspaper men who were present at the Nebraska Title Association meeting was that they didn't know that Johns was actually making his speech. Jim and I arranged between ourselves that little program tearing episode. At least, Jim told me he was going to do it, and he did, and it had a very good effect, too.

You have been very good in applauding the announcement of my appearance on this program. It has been said that applause at the beginning of an address is a demonstration of faith; that if there is any applause during the address that is a demonstration of hope; if there is applause at the end, that is charity, and the greatest of all these is charity.

Your Chairman designated my subject as it appears upon the program. In doing so, he commented: "This topic gives you all the *latitude* you need." I might say it gives plenty of longitude also.

Because, at some Association meetings, I have been obliged occasionally to listen to some well-intentioned abstracters as they roundly berated the legal profession as a whole, and perticularly those who examine and criticise abstracts of title, I might consider this a glorious opportunity to "get even."

But I cannot believe that there is in reality anything serious to say in that spirit. It would only result in further misunderstandings.

Personally, I am firmly convinced that our profession will be benefited if all abstractors and all title examining attorneys are loyal, courteous and helpful to each other. We are, or should be, all members of the one national organization. We must develop a wholesome get-together and stay-together spirit or get a divorce. There is no benefit to be gained by one branch of the title profession assailing the other. I do not mean that we should not criticise each other in a helpful sort of way. I have in mind a term that may explain what I mean. We should preserve a *critical loyalty* to each other. That will be better than critical superiority.

Without the abstracter, the examining attorney would be practically helpless and, without the examining attorney, the abstracter would not be in demand. It is a fact of general recognition that the abstracter came into being because the attorney demanded for his client a convenient and reliable history of the title that was being bought or sold or upon the security of which he was to lend his money.

I know that there are some lawyers who examine, and write opinions upon, abstracts without having the experience or special knowledge of real estate law that is required. With these, the abstracter should be tolerant and helpful. The attorney is sometimes required to help the abstracter. It must be admitted that there are some poor abstracters and some poor lawyers—poor in more ways than one.

Ed. F. Dougherty

There is one thing that I always say to examining attorneys—it is, that whatever particular criticism may be made of a particular title, the attorney should specifically designate one or more methods whereby the criticism may be eliminated or the defect corrected. Of course there are some defects that cannot be cured. In my opinion, an attorney who merely points out the defects has done less than half of his job. When an abstracter receives an abstract with an attorney's opinion which points out certain defects, the abstracter is justified in referring the case back to the attorney for his specific requirements for curing the defects, if the manner in which the defects are to be cured is not already contained in the attorney's opinion.

For business reasons, as well as sentimental reasons, abstracters and attorneys should be congenial. The business of the abstracter, as well as that of the attorney, is largely local in character. Each may contribute to the welfare of the other. Local esteem cannot be cultivated by damning one another.

Titlemen should invite public goodwill and confidence. The public as a whole knows too little about the titleman. The individual purchasers of property, those who lend money upon the security of property, and others dealing with property, seldom if ever meet the abstracter. Ordinarily, the abstracter furnishes the abstract for the real estate man, the loan company, or the lawyer. The man who pays the bill may not even know the abstracter, except as one who lives in the community and in some mysterious and perhaps questionable manner is gaining a livelihood.

When we had our state convention in Nebraska, we arranged for plenty of publicity in the local newspapers. A Publicity Committee was appointed, in order that matters of interest about titles and titlemen may be published in the papers throughout the State from time to time. The public who is paying for the service should know the character of service that is rendered. The ordinary client looks upon the ab-

stract as a nuisance and, of course, it follows that the one who makes the abstract is an even greater nuisance. To be compelled to have it examined by an attorney is another source of irritation. But let this client know what he would be obliged to do, in the absence of an abstracter and examining attorney. He will then appreciate the true, indispensable character of the service that is being rendered.

It seemed to me that now is the time for abstracters and lawyers generally to prepare themselves for that which is probably inevitable—title insurance. In many localities throughout the United States, scarcely a title passes from one to another without title insurance. The abstracter should, therefore, prepare himself to adjust his business to title insurance when the proper time comes, and title insurance companies should cultivate the good will of the legal profession.

As I have said, the business of the titleman is local. I believe, therefore, that titlemen should take an active part in local civic affairs. An unselfish contribution to the development of one's community pays good dividends. Not only that—it adds to your prestige and personal satisfaction. Is it not true that every man recalls with deepest joy the unselfish things he has done.

Another thing—in every State in the Union, a legislature meets at least every two years. Each title association should have a legislative committee to watch legislation that may affect the title business or affect titles. The legislative committee should be instrumental in proposing measures that will establish uniformity in the real estate and conveyancing laws in the several states. Our national association has proposed certain uniform laws which need not be mentioned in detail at this time. The desirability of uniform laws is obvious. The national association can do more effective work with the co-operation of an active legislative committee in each state.

Speaking of legislation, did you ever stop to consider how easy it is, in most states, for anyone to get a commission to act as notary public? Yet, the notary public performs the most frequent and the most important functions and official acts that affect titles. Upon the certificate of the notary depends the validity of the deeds, mortgages or other instruments affecting the title to real estate. The laws governing the issuance of commissions to notaries public should be more strict and there should be higher bond requirements: I would say a minimum of ten thousand dollars.

At this time, I cannot refrain from saying something about the desirability of having the abstracter placed upon a higher professional basis. Our secretary was kind enough to publish in TITLE NEWS a brief article that I wrote on the subject of statutory regulation of the title business. I am firmly convinced that the abstracter's problems will never be more than half solved so long as anyone, regardless of his qualifications, may enter into the business of preparing abstracts of title.

In the case of every other profession, that of law, medicine, dentistry, and others, society has enacted regulatory laws and protected itself against quacks and incompetents. Why should not the abstracters themselves propose proper legislation to this end? The national association and state associations should take the lead in proposing statutory regulations of the business of furnishing abstracts of title. This can be done. Some states already have taken this forward step with good results. This is notably true of North Dakota.

One special criticism that I may properly make of state associations is that the members thereof do not get together often enough. Ordinarily, a state association has its annual convention and the members go home and forget all about it. They may get the benefit of some entertainment and perhaps some are favorably impressed with some of the ideas that are presented, but the ideas are not followed up. They are merely announced again the following year, and year after year with the same result.

The present chairman of the abstracters section of the association is advocating a plan that should get results in state association activities. He has caused this plan to be put in practical operation in several of the states. The plan contemplates the formation of groups within each state and frequent meetings of the members of each group. Wherever the group system is put into operation, the state association may formulate a program for the betterment of the business and then each group may proceed to put the policies and program into practical operation. We have made a start along this line in Nebraska by naming six groups, one in each of the Congressional Districts. It is planned to have group meetings at least quarterly.

Another thing—the officers of each association should plan ways and means of placing more individual responsibility upon, and requiring more individual activity by, each member of the association. By participating in association affairs each member will naturally become a more interested and better member and he will feel that he is getting more good out of the association.

Everyone who is in this business has, as his principal object, that of gaining a livelihood in the best possible manner. Sincere co-operation is the best means to this end. There have been and, no doubt will be, failures in the abstract business, just as in every other business. One man succeeds, another fails. Why? Surely, it is the difference between men. Therefore, you have nothing to lose and everything to gain by working with your competitors to establish uniform practices and uniform and fair charges. If there are too many abstracters in a community, or even if not, the national economic processes will eliminate the unfit and the superfluous.

Perhaps every man who has ever had anything to do with abstracts of title or examination thereof has had this experience: An abstract is examined by one lawyer, who writes an opinion in which he considers the title defective in certain respects. Another lawyer examines the same abstract and disagrees with the first examining attorney. Ordinarily, there is a deadlock. Dissatisfaction and irritation are the result. Perhaps there is no way of eliminating this entirely. In Nebraska, however, we have made a step toward a solution of the difficulty.

The association now has an official legal advisory committee. I appointed the first one last year on my own initiative as an experiment. The committee holds itself in readiness to be a sort of umpire whenever there is a difference of opinion concerning a title. The committee is composed of lawyers of recognized ability, who have specialized in title examining and in real estate law. The committee has functioned in just a few cases up to date, but where it has functioned, it has accomplished the desired result. I do not hesitate to recommend that a similar committee be appointed in each state association for the purpose of settling differences about specific title questions. We have seven lawyers in the Federal Land Bank of Omaha who do not find it difficult to agree. This proves to me that this idea is practical.

After having listened to these remarks, perhaps some of you may feel something like a certain little boy who was lost in one of our metropolitan cities. A Hebrew gentleman, noticing that the boy was wandering about aimlessly, asked the boy: "My son, are you lost?" The boy answered: "Yes, sir." He was then asked: "Well, is there a reward offered for finding you?" The little boy answered: "No." The Hebrew gentleman then responded: "Well, you are still lost." I heard this story over the radio some time ago. Being of a modest disposition, I feel that some of you may feel that, so far as getting any benefit out of what I have said is concerned, you are still lost.

Some of the suggestions that I have made may be of a controversial nature. Discussion may be provoked thereby. So much the better. A frank, friendly and sincere discussion is desired. The suggestions that I have made are my own. I do not pretend to voice the sentiment of the national association or of the Nebraska Title Association.

Certainly, it is desirable to dispel internal friction, to establish harmony, and to develop loyalty to the national

association, to the state association and to each other. The value of good will cannot be over-estimated. It can be developed through publicity and by active participation in civic affairs. We can raise the standards of the profession of titleman and deliver it from collective mediocrity.

We can get together more frequently in each state by the adoption of the group meeting plan.

By more frequent association with each other and by uniting our efforts for the common good, we shall get more out of life than a mere selfish existence. To me, it seems to be perfectly natural for men who are engaged in the same character of work—those indeed who are in direct competition with each other, to meet with each other frequently. I am glad that we have the national and state associations that make it possible to do so. The fellow who goes through life alone with his work is an object of pity, as suggested in this poem, with which I conclude:

If your nose is close
To the grindstone rough,
And you hold it down
There long enough,
In time you'll say
There's no such thing
As brooks that babble
And birds that sing;
These three will all
Your world compose—
Just YOU, the STONE, and
Your darned old NOSE.

CHAIRMAN JOHNS: Does any one want to take issue on the subject?

MR. SEABRING: I would like to ask Mr. Dougherty if he has any idea along the line of licensing or regulating the abstracter as he said all other professions had done. The doctors and lawyers have scholastic requirements. You could hardly manage that with abstracters.

MR. DOUGHERTY: That has been worked out quite satisfactorily in North Dakota and I recommend the North Dakota plan with a little more severe requirements. If you will refer to the North Dakota statutes you will find a measure that is quite practical.

CHAIRMAN JOHNS: I have a copy in my brief case if you want to discuss that tomorrow.

MR. McKEE: As a matter of publicity we get a little column notice every week in the daily paper something like this—"C. C. Stotler, Secretary of the Title Guarantee Company, says there are so many mortgages amounting to so much money filed in the recorder's office this week. So many are corporation mortgages of such and such amount, and so many are building and loan association mortgages, so many are purchase money mortgages." This makes eight or ten lines we get in the daily papers once a week.

MR. MORGAN: I would like to say that personally we have solved the differences between the abstracter and the examiner. We used to swear at him and now we swear by him. We found we couldn't get him to come our way and we have gone his way. For thirty-five years I have compiled the different exceptions of various examiners and we build our abstracts with the full specifications and we have them up a tree because they can take no exceptions.

I thought we were bomb-proof until the other day I got an abstract back with a letter from the man who had examined the title and he said, "I have gone over the title three times and can't find a darned thing the matter but I am suspicious that some darned thing has been covered up." (Laughter)

MR. SMITH: I have been interested in Mr. Dougherty's remarks regarding the notary public. I really believe this Association should take that matter up most seriously. We have too many notaries public. I also have to refer to California when I am on my feet. Out there they have very few notaries. As Mr. Dougherty said, it is just a matter of making an application with a nominal bond. We recovered from a surety company's bond on a $5,000 notary bond and made them pay and now all they ask is that we go into court. A bonding company will not pay until there is a judgment rendered. They will let the judgment go almost by default; they want either to hold the principal or the modus operandi.

I think this Association should do something about this notary business. We have too many notaries. If there were fewer notaries those who do have a commission could make good remuneration out of it. I don't know about other states but in Missouri every corporation will have a notary public in its midst to facilitate business. We are bombarded with notaries. I was much pleased with what Mr. Dougherty said and I wish the Association could give this serious consideration.

MR. HENLEY: A native Californian always accepts a compliment to the state. Being an adopted son of rather short habitation there, I feel I can in fairness to the state and in fairness to Mr. Smith say that San Francisco is the only county in the state in which the number of notaries public is limited. The condition throughout the state, with the exception of San Francisco, is identical to that prevailing in other parts of the country.

In the city of San Francisco the number of notaries was for a long time limited, I think, to about one hundred. The legislature has increased it each year, I think, and now by an act adopted by the last legislature the number of notaries who can be commissioned for the city of San Francisco is 108. As far as the functions being performed more satisfactorily under that condition I can't say a great deal for it. I think we have as much trouble in holding the notaries to a proper performance of their duties where the number is limited as we do in any other place. Many of them are appointed purely through political influence and we don't get a very much higher type of notary than we do in Alameda County, for instance, where the number is unlimited.

We have considered the matter seriously because of forgeries. We have had quite a few forgeries within the last year. Some of them are fairly large; most of them are very small, however. As a result of having a good many forgeries to pay the lax methods of the notaries public have been rather clearly brought to our attention. We have considered various means of meeting the situation. We have even considered going so far as to notify the notaries public that if we were advised that it was their practice to take acknowledgments without having the person acknowledging the document actually appear before the notary as is required, we would refuse to pass documents acknowledged by those particular notaries.

After the consideration of the various means which appeared to be open to us to bring the various notaries to a proper recognition of their duties and proper dispatch of them we concluded we couldn't do a great deal about it. If we were to call upon notaries to pursue strictly the statutory methods in taking the acknowledgments it would so clog the movement of real estate that we would have the real estate association upon us and probably would accomplish nothing by it.

We consider it a very serious problem out there, as is indicated by the speaker, and we have found it very difficult to know what to do about it. We have considered increasing the bond and find there is so much opposition to that in the legislature that we have been able to do little.

MR. STONEY: What do you consider a nominal bond?

MR. SMITH: $15,000. It is $5,000 in Missouri—$2,000 or $3,000 in the smaller places and $5,000 in the city. That is not enough. This Association ought to do something to make the standard in cities at least $15,000. I am not sure but what I am in favor of making it $25,000. It really ought to be $50,000.

MR. MORGAN: It is $1,000 in Indiana.

CHAIRMAN JOHNS: Mr. Dougherty spoke with considerable interest on the subject of professional standards, which reminds me of another part of my experience at Omaha at his meeting. I dwell on professional standards quite a bit when I am ad-

dressing state meetings and I always point out that there is no profession which gives a rebate or a discount or commission except that of title men, with one exception—the physicians. But the physicians do have professional ethics enough that they don't give the commission outside of their own profession, while we give it to everybody.

In Omaha when I said that a fellow got up in the back of the room and said, "You are all wrong. In my town the undertakers give the doctors twenty-five per cent for their business." (Laughter.) That is the only time I have had that statement challenged.

In my reading of Roman history I recently ran on to an explanation of Cato about the activities in the Roman coliseum, of how the gladiators, by a superhuman amount of strength, were able to toss the "taurus" clear over their shoulders and it would light on its back. Now, Bruce Caulder is going to continue throwing a few "tauri" on "Improving the Abstract Business Through Association Membership requirements." Perhaps I I should explain that "taurus" is the Latin word for "bull." (Laughter.)

Improving the Business Through Association Membership Requirements

By Bruce B. Caulder, Lonoke, Arkansas

The subject which has been assigned me by the chairman of this meeting is one that you are all no doubt more familiar with than I, and is one that is capable of bringing about an argument as to what constitutes the necessary requirements for membership. It is a very important question as to whether or not an abstracter should be qualified before he can be admitted to membership. Conditions are different in every state, and the various state associations must determine what the qualifications of its members should be. I am quite sure that every member of the association would have a different definition or different views as to the requirements necessary to improve membership qualifications, and in presenting my views on this subject, I sincerely trust that you will be liberal in your criticisms of the suggestions contained in this paper.

Any person seeking membership in our association should possess a few of the fundamental elements which are required in any business, all of them being elementary in principle but as old as the rock of ages. These are: Honesty, Good Moral Character, Energy, Industry and Ability.

By Honesty, I mean a man who believes in dealing fairly with his fellow men, one who will not take advantage of any defect or flaw found in the title of his client when an abstract is entrusted to his care, and one who after accepting an order and compiling an abstract will make his certificate exact and definite. One who is willing to certify exactly what he has done and make himself liable to the man for whom the work is done as to its accuracy. If he is willing to do this, he raises his profession, his professional character, and that of his work, and establishes himself as a professional man. The abstracter who is not willing to do this and instead, writes his certificate in such a way as to evade responsibility for the work for which he is being paid, is not being honest with his fellowmen.

Mark B. Brewer, whom most of you know, in an address made to the Arkansas Land Title Association in 1918, made the following statement:

"If I were making an abstract of title, I would not care how strong or how binding the certificate, because I know that I would throw all of my heart, conscience and skill into the compilation thereof, and when I turned it out, it would be the product of all the intelligence that I could command and I would just as quickly stand by that abstract as I would stand by my home, my country, or my family."

The truth is what the buyer or lender is seeking, and the abstracter, in accepting an order, impliedly agrees that the work turned out by him will speak the truth fully and completely, and that this work will be so certified without fear or favor. It is this form of honesty that will build up an abstract business in the end.

Like any other business, the abstract business as a profession requires men of good moral character, and we should make it our duty to keep out those persons who are not worthy of entering the profession if possible.

Bruce B. Caulder

There is no profession that requires more energy and industry than that of the abstracter. Nothing but plodding, hustling and ceaseless toil will maintain the standard now required by modern business methods. There is no end to the work of the abstracter, and he must of necessity possess a great deal of energy and industry to meet the ever present volume of work which confronts him. Abstracting is no lazy man's job. There was a time when the opinion prevailed that almost anyone could make an abstracts, but that day is past.

Quite frequently titles appear bad as a result of incompetent effort on the part of abstracters and in many instances law suits could be avoided, and titles that appear defective fully explained by the application of energy and industry on the part of the abstracter. So, it behooves the abstracter to be on the alert and they should bear in mind that a title never suffers by the over exercise of energy.

The last but not least of these elementary requirements is that of ability. This ability of course is varied. The old established idea or belief that anyone could buy a set of abstract books and engage in the abstract business has long since passed. Business methods and business principles are changing so rapidly and the importance of abstracting has increased to such an extent that it requires the highest degree of ability—even the highest degree of skill—to ferret out the essential matters to be inserted in an abstract. The abstracter must, of necessity have the ability which will enable him to distinguish between the part that is necessary and the superfluous. He should also understand fully every branch of the law that can possibly affect real estate as it is all important that he know what is and what is not a lien upon real estate, and to use sufficient diligence

to find all such encumbrances when properly entered of record.

Having touched upon a few of the details as to qualifications which should be possessed by members of the association, I shall next go to the more practical side of obstracting. To meet the demands made upon the abstracter to-day, it is necessary that he have a modern title plant, modern filing systems, and all equipment that will tend to expediate the transaction of business. Sales and loans usually have a limited time in which to be closed, and he must be properly equipped to furnish a complete accurate and neat abstract upon short notice. Another matter of utmost importance is that of promptness. The abstracter who expects to stay in the game and get the business, is going to make every effort to give the best service possible in the shortest length of time, he will not, however, slight details nor impair the reliability of his abstract by throwing his abstract together in a shabby manner for the sake of time. Business methods require that the man who makes abstracts must keep pace with the times, as we are living in an age of steady progress and advancement in every line of business, and we can not isolate ourselves and be content with the methods of past decades and expect to keep in touch with that progress.

There is no better way to do this than by keeping up our membership in the state and national associations; by attending the meetings of our associations, and by entering into the spirit of co-operation and service which are the dominating features of our work. We meet and discuss the various problems confronting us and this leads to better work, more standardized forms, more uniform rates, and have placed the abstract business on a much higher plane.

We have entered a new era in our profession and we should strive to render more efficient service, stand responsible for any loss we may occasion and deal fairly and justly with our competitors.

The question of determining membership requirements in the state associations is an important matter for each state association to consider. Conditions are different in each state, and for the time being it will be necessary for each state association to set its standards for membership, but they should set these standards so high that only those who possess the foregoing qualifications could be members.

I feel that the work of raising the standards for membership has only commenced. The task is a hard one and much work will have to be done. Upon this membership devolves that duty and it will require the hearty co-operation of this organization and the various state associations.

The standards of the association can be raised and one of the best ways in my opinion is by legislation. Other organizations and professions have found it necessary to obtain the enactment of laws by which they can eliminate from ranks the undesirables, or, better still, keep them from coming in in the first place. It would not be practical to deprive those now engaged in the abstract business of their profession regardless of their lack of training or qualifications. The inefficient and incompetent will naturally be eliminated especially where competition is keen and modern business methods press forward.

It is practical to provide that those who engage in the business hereafter, meet certain requirements to be fixed by law and while the idea is not a new one, membership in abstract associations may be regulated by statute. To this end we should work for the creation of a state board of examiners, to be created under a uniform system of laws applying to the several respective states, similar to the uniform negotiable instruments law or other like measures, and the standard for membership shall be increased from time to time, until only the skilled and qualified are able to stay in the business. By providing for state examination after the applicant has served an apprenticeship to be fixed by the board and by making reasonable rules and regulations governing the manner of preparing and certifying abstracts, the standard for membership would soon be raised and the inferior weeded out. In the event such statutes are enacted it might be will to provide penalities for fixed liability upon the abstracter who carelessly or negligently certifies an abstract which does not reflect the truth or true status of the title and when this is done, those who engage in the business will use more care and precaution in their work. It will ultimately reach the point where the public must have some relief from those who are not qualified to serve as abstracters, and it is the duty of our association to strive to protect the public as much as possible from those who are incompetent.

The Constitution of the Arkansas Land Title Association reads as follows:

"Any Abstracter, Abstract Firm, or Corporation, of established business reputation and approved integrity, who is regularly engaged in the business of abstracting or insuring titles in the State of Arkansas, and owning, leasing or controlling an adequate set of abstract books, also any lawyer who specializes in the examination of titles, is eligible to membership in this association, upon the sanction of the membership committee."

In my opinion, the requirements for membership in any of the state associations, should be:

(a) A complete Title Plant.
(b) Education and training.
(c) Experience.
(d) Must be ethical.
(e) Must make abstracting his profession.
(f) Must be reliable and trustworthy.
(g) Must render a complete service.
(h) Must not give excessive rebates or discounts.
(i) Must not allow discounts of more than 10% for prompt payment.

When the various states have adopted these requirements, and only those who are qualified are permitted to become members, then the qualifications of its members should be made known to the public, and especially to those interested in title matters.

There is a great moral weight in letting the public know that you belong to your trade association, and I know one is certainly branded if it is known that he can not comply with the rules and regulations imposed by his fellowmen.

When all reliable abstracters of the states have become members of their state associations and the undesirables eliminated, and when they realize fully that theirs is a business second to none, requiring adequate equipment, trained minds and a standardized service, the purpose of that small but determined group that met at the Palmer House in this City in 1907 will have been achieved. When this has been done, the abstracter will enter upon a period of prosperity that will put him in a class with other professional men, those who, by the nature of their professions, are enabled to demand, and exact, an adequate fee for a service rendered. Let us elevate our work, make it one of the most honorable professions that man could hope to pursue and love that work, for no man who is not in love with his work, has any business in the ranks of the profession.

CHAIRMAN JOHNS: It says on the program that somebody from Missouri is going to challenge what Bruce Caulder has said. Mr. Smith, do you take exception to his speech?

MR. SMITH: I have no exceptions.

. . . Mr. Johns retired and Vice-President Wykoff resumed the chair. . . .

CHAIRMAN WYCKOFF: Unfortunately, John Scott is ill and cannot be here, so I will introduce to you the substitute for R. Allan Stephens of Springfield, Illinois, who is also unavoidably detained and cannot be here. His associate in the law practice, as I understand it, and Secretary of the Title Examiners Section of the Illinois Abstracters Association, will present to you the subject of "Desirability and Advantages of Active Title Examiners Sections in State Associations." Mr. Stephens originated this because I understand he was the only chairman of an Examiners Section in a local association. Mr. Paul Gordon will present Mr. Stephens' paper.

Title Examiners Section for State Associations

By R. Allan Stephens, Springfield, Illinois

MR. PAUL GORDON (Springfield, Illinois): This is a paper Mr. Stephens prepared and he fully expected to be here until yesterday afternoon, when he found it would be impossible for him to come, and he has asked me to read the paper.

Before I start—I see there are a number of representatives here from title guarantee companies. I was interested in one statement a speaker made, that the first thing you have to do is to sell the lawyers. About a year ago I happened to represent a seller who was proposing to contract to sell a piece of real estate. Upon examination of the title it was found defective and unmerchantable. There was no question about it but it was such a defect as the Chicago Title and Trust Company would be willing to waive for the purpose of guaranteeing the title.

I suggested to the lawyers representing the purchaser that we proposed to have the Chicago Title and Trust Company guarantee the title and asked if that would be all right. They said, "No, we couldn't accept that. It wouldn't do at all."

I said, "Why not?"

They said, "The Chicago Title and Trust Company might go broke." (Laughter.)

So you are going to have to sell the lawyers all right.

(Mr. Gordon then read the following paper prepared by Mr. Stephens.)

The Background of my movement is always an interesting place to begin a discussion of that movement and practically all of our machinery of modern civilization can be traced to a corresponding element in the primitive life of our country.

When the head of the family started out in early days to establish a home for his family he had to carry on as an independent unit. With a team of oxen, a few household goods and no further help than that of members of his own family he struck out and established a home in a wilderness where he had to rely absolutely upon himself, None of what we now deem the necessaries of life were avaliable by purchase and he was compelled to obtain them himself. His wife did the spinning and innumerable domestic chores which today are done by others or machinery. He had to provide for the family larder by raising his own vegetables and killing the game for his meat, his entire unit was operating without the purchase of any of the usual necessaries of life.

As time went by neighbors moved near our pioneer until they made a community. In the community one family was able to make better moccasins than the other, another preferred to raise grain while others were able to provide an excess of meat for their own use and the idea of exchange of products came into the lives of our people. From this original idea of exchange ere long standards of currency were developed to facilitate such exchanges. The country became more thickly populated, villages and towns grew up, and a more complex situation of barter and trade became necessary. Men began to specialize, and what was once the hunter became the butcher, and with the development of cold storage transportation, the packer. What was the old lady baking bread became the bakery, and the exchange of other foods became the grocery store. Professions grew up. The surveyor displaced the blazing of landmarks and the lawyer came to advise on legal rights and remedies.

With the diversifying of occupations came the development of the history of titles, and finally the business of passing upon the title to such real estate.

The development of this movement which we call civilization was more rapid in America than in any other country. I dictate these ideas in a room heated from a city central heating plant, over a pressed steel desk, with office facilities which were not even imagined fifty years ago, upon a spot where one hundred years ago a little old tavern stood in which complaint was made that the landlord fed his guests too much venison, to which he replied that he could kill a deer any day within a half mile of the Inn, but only once in a while did anyone in the community kill a steer.

R. Allan Stephens

One of the outstanding reasons for this rapid development of American life is its organizations. Only recently the British Government sent a commission here to study conditions and to explain why the American industrial system was so far ahead of the European. They reported that to their minds the principal reason was that American business men and tradesmen move together in a community. "Pooling their resources, exchanging information upon the principle that if a community or trade is prosperous, each of its members are sharing in that prosperity."

Again, a noted Italian economist visiting America last fall, stated that only until Europeans learned to pull together like Americans do can they ever expect to compete with us.

We Americans begin to learn organization just as soon as we are able to toddle around the backyard as kids and get the neighborhood gang lined up for drill as soldiers. We then put a boy into Boy Scout Troop or similar organization and show him that under the guidance of a patrol leader eight fellows can accomplish a whole lot more together than they can separated. Through the high school societies, college fraternities, literary organizations and associations touching almost every feature of life an American reaches manhood thoroughly imbued with the spirit that if he expects to get anywhere in this country he must join forces with similarly situated persons.

Of course there are always mavericks running around, but nobody ever heard of a maverick winning a blue ribbon at any fair. And there is always the iconoclast who says the American people are over-organized, but nine times out of ten, if you look into the background of that man's life, you will find that most of his success is due to organizations he was associated with.

This is becoming more and more recognized in business and commercial life. Only recently a New York banker said, "The time is coming when a bank committee will ask the applicant for a loan whether he is a mem-

ber of his trade association. In other words, whether he is going it alone, trying to meet this intensive age without the help of his partner's industry, or whether he is adding the knowledge and resources of other men in his line."

No matter how strong an individual is, he is weak without the strength of his group in American life, and as a prominent writer has recently said, "The beauty of the American organization is that individuals are stimulated rather than suppressed." If you doubt this, just get up in a meeting of automobile dealers and announce that you are in the market to buy a new car.

The background, which I have outlined as the reasons for organization in the various business and professional men, has at last reached the Title Examiners. When the first pioneer went out in the wilderness and for the first time blazed the corners of his property, the manner of examining the title was a very simple thing, and he did not even need an ordinary lawyer to trace the chain of the same. Even if he had transferred the property and there had been re-sales until a record of the history of the same would show six or eight transfers, the matter of passing upon the legality of these transfers was a comparatively simple one, and the ordinary county seat lawyer could, in a few minutes, run through the transfers and tell the purchaser the condition of the title he was purchasing.

The development of methods of examing abstracts in Illinois now covers a period of 100 years, and about the only difference between this history and that of other states is that in some the period was much longer. In the earlier days, when horses were the usual means of transportation, the Judge traveled from county seat to county seat, and in his train were usually the leading lawyers of the Circuit. These lawyers maintained partnership relations with some local attorney in each town, and the session of Court was the time of the year when the people of that community in a way cleaned up on their legal problems. If a local attorney was embarrassed with a question of title he would consult with his distinguished partner when he came to attend Court. This was the practice of Lincoln's earlier days. His latter days saw the development of the railroads, and with this more rapid means of transportation the Judge and attorneys no longer spent a day riding thirty miles to get to court, but would possibly leave home in the morning, attend court and be back that night. Incidentally, this led in a way to an isolation of communities as far as legal business was concerned. With more and abler lawyers coming into the profession, riding the Circuit ceased to be a part of a lawyer's life, and he settled down to a law practice with but very few clients beyond the confines of his own county. His practice, however, was a general one. One hour he would be trying a case in a Justice of the Peace court, the next possibly examining an abstract of title, then an hour in the Circuit or County Court, and probably the rest of the day running down debtors on small collections.

The coming of the automobile and the hard roads has made another remarkable change in the practice of examination of titles. The lawyers are congregating in the larger towns, and the profession is dividing itself into specialists. With the rapid means of communication the field for clients is extending so that today, if a member of the profession is a specialist upon real estate law, he will find his clients coming from distances which were considered foreign territory to his father.

The examination of an abstract of title is likewise becoming so complex that only a lawyer especially grounded in extensive studies and experience in real estate titles is qualified to render first-class service. It is a peculiarly legal service, and one which a layman, no matter how skilled he may be in the technicalities of titles, should not attempt to pass upon unless he is likewise thoroughly grounded in the fundamental principles of our laws.

With the development of this branch of law as a specialty, comes the insistent demand for organization among those members of the profession who are engaged in practice in this field. Lawyers in Illinois engaged in prosecution of criminals are organized in a States' Attorneys' Association; those who have specialized upon the judicial side and are Judges of the various courts of record have an organization known as the Judicial Section of the Illinois State Bar Association; the lawyers specializing in patents belong to the Patent Law Association. Even the lady members of the profession have a Woman's Bar Association, the Italian lawyers belong to the Justinian Society of Advocates, and the colored brethren of the bar also have their Bar Association.

With this situation in mind the lawyers specializing in title examination work of Illinois, at the invitation of the Abstracters' Association of Illinois, organized in 1926 the Title Examiners' Section. We still have a great variety of methods of preparation and examination of abstracts in Illinois. Over in the Military Tract each county maintains a plat record of transfers, and from this has grown up the practice of law offices making abstracts. However, in most of the counties of the State abstracts are made by highly trained and experienced abstract men, most of them backed by organizations which have incorporated. The State Abstracters' Association includes a number of members who are members of the bar residing in those counties where plat books are kept up by the county. These members of the bar are both abstracters and title examiners, and a number of them belong to the Title Examiners' Section. The remaining members of this Section are principally lawyers who specialize in the examination of real estate titles. While our membership is not large, we have been very careful in the selection of the personnel, so that we believe the Title Men's Section of our State Association contains the cream of title examiners in Illinois. There are only about 100 members of the Abstracters' Association, and we have therefore limited our membership to a like number, and hope before long to have a waiting list. Since we only want live active title examiners on our rolls we have established the rule that failure to attend two annual meetings of the association automatically terminates membership in our association.

As in every other profession or business, membership in a Title Examiners' Section brings to the holder returns in the exact proportion to the amount he gives the Section. If he merely puts his name upon the rolls of membership, never attends the annual meetings, or meets with his brethren in the Association, his returns will be nothing, but if, on the other hand, he is willing to attend the meetings, serve on its committees and give of his time, he will find that he has been amply repaid in increased knowledge and efficiency as a title examiner. I do not believe any member of the legal profession of my age has attended more professional and Trade Association meetings than I have, and as I look back over hundreds of trips I have taken, frequently at an immediate sacrifice to my business, I fail to recall any meeting at which I did not pick up new ideas or business connections which quickly overcame the loss incident to the trip, and paid big returns upon the investment of time and money. My only regret is that the exigencies of private affairs has prevented me from attending more of such meetings.

General statements, when analyzed, are most always wrong, and one of the most erroneous of such statements in the law is that "The law is an exact science." It is not an exact science. Rather it is a growing, living organism, developing like a tree, always along the same general lines of justice, but affected by surrounding circumstances, just as the tree is affected by drough, excess water, winds, sunshine and shadow. To keep up with the latest developments of the law of real estate titles is more than any one man can do. An Association of Title Examiners, meeting occasionally to talk over the developments of the law, to assist as best they can in the ever changing rules necessary in our changing methods of living, and contributing to each other their best thoughts on the methods of improving the art of real estate title examination, is as necessary as city government to a

community or a national government to our commonwealth. To the lawyer who only occasionally examines an abstract and is but superficially familiar with real estate titles, membership in a Title Examiners' Section may not be desirable, but to that lawyer who is specializing in the subject and who wants to give his clients the very best service, such a membership is as necessary as an office and other equipment.

Mr. Stephens asked me to add anything I wanted to this paper. I think of only two small items that might have been added to the paper. The first of those is this—bearing in mind the title of the paper, "The Desirability of Title Examiners Sections," there is carried the idea that coordination between examiners and attorneys will be a part of the organization. We have reached that coordination in Springfield. I think we work as well together as any abstracters and examiners in any community. We try to be fair with the abstracters and they are more than fair in meeting our requirements.

Another thing that occurs to me is what was done in the city of Bloomington a few years ago. One lawyer would raise a question on one thing; another lawyer would raise another objection, a condition that obtains in nearly every community. The title examiners in that community got together and made out a code of uniform requirements, that is, on certain of these standard objections that had been raised. They made a code of standard requirements.

That is a work our Section hopes to take up and it will be necessary for us to work with the abstracters in doing that and we believe if we can work out a state wide code, not to be enacted into a law but merely for our own members to follow, making uniform our requirements so far as they can be made uniform, it will be big service. (Applause.)

CHAIRMAN WYCKOFF: Mr. Gordon, the audience has expressed its appreciation of that paper as well as those of the other speakers of the day, so I can add nothing except my own appreciation of the time and effort these men have put upon their papers. They have been well conceived, they have been interesting, historical, and have made suggestions which we might well think of. We might, perhaps, have had a little more discussion.

In that batch of letters I received are numerous criticisms of the presiding officers of your conferences and one of the criticisms is that your officers have failed to lead in the discussion on the subjects which they have caused to be presented. With that as an excuse I am going to say it seems to me that so far as possible under local conditions the organization of local or state associations should follow along the lines of the national association. Each local association should have the same disions, where possible, that the national association has. Yet I realize that there are sections of the country where the three divisions would be useless.

In my state, for instance, an abstracters section would be a joke because we haven't what you call an abstracter in our state. It is a matter either of the attorney doing the work of an abstracter and examiner together or the title companies. There are two choices.

Both in New Jersey and in Pennsylvania, the title companies, for some strange reason, are jealous of letting the attorneys into their association. I seem to be a minority in my own state in that I believe if we would let those attorneys who engage in title examinations join our association we would be educating them into title insurance.

I believe the time is coming when title insurance will prevail in all sections and that is why abstracters and title examiners associations should be in one national body. We are all considering one subject, title to real estate. I should like to urge a trial of the examiners sections in all associations. I was amazed to find there was only one state in which there was such a section.

I think the bars have been partially let down in my own state to the advantage of the association in that those attorneys representing life insurance companies' mortgage loan departments are entitled to membership in our association. There is no more excuse for them in the association than there is for the attorney. The occasion for both is the matter of acquainting them with the advantages of insurance and proper title examination. I think in the abstracters states the association of examining attorneys with the abstracters would bring about a better feeling, a feeling of good fellowship, if nothing else.

Is there anybody who would like to talk on Mr. Stephens' paper and to the question of divisions in local and state associations?

MR. HALL: He said something about the county maintaining indexes or plat books. Do they have county tract indexes in Illinois?

MR. JOS. P. DURKIN (Peoria, Illinois): There are what are known as military tracts. Certain sections of land were allotted to the soldiers in the war of 1812 and in some ten or twelve counties in Illinois where the county keeps up public tract indexes anybody interested in the title can make an examination. Peoria is the only county in a military tract that has a private set of indexes.

In Glacier Park—A Convention Trip Stop-over Point

Courtesy Great Northern Railway

Trick Falls in Blue Medicine River, Glacier National Park

Open Forum Discussion on Regional Meetings, Business Practices

CHAIRMAN WYCKOFF: We would like to hear from the presidents or secretaries of any of the state associations. Is there any president or secretary who would like to present the problems of his association?

MR. DALY: Mr. Clarke of the Montant Association recently made a three weeks' trip over the state in the interests of regional meetings and I think that would be interesting to those who are here today.

MR. W. B. CLARKE (Miles City, Montana): Last July we had our regular annual meeting in Great Falls, where we always have it, and we had Jim Johns with us. I think Jim was practicing for this speech he made in Omaha. We didn't let it get in the paper because we knew it was a practice speech. He jumped all over us, just as he did the abstracters in Omaha. He made quite an extended talk the first afternoon of our meeting and then left his talk open for discussion.

Among the questions that were asked him with relation to charges was, "If you run over on the second sheet with but one line, how much do you charge?" He told them one dollar.

We had another session of the meeting that evening at the home of our Secretary. About the time they began to sing, "Sweet Adeline," some one suggested that it ought to be sung, "Don't add a line, for if you do Jim Johns will get you for a dollar or two."

By the time of the contest that we held last year we had had time to give consideration to the thought of raising prices for abstract work. A committee was appointed and made a report recommending a certain schedule which advanced our fees considerably. There were several abstract companies in the state charging as high as fifty cents an entry and as low as two dollars and a half for their certificate. The proposed schedule raised the prices to a dollar per entry or sheet based on an eight and a half by eleven sheet and a dollar per sheet for probate proceedings, with a minimum charge of $10 for any court work. They went a step further; they recommended a graduated scale of charges for the certificate with a minimum charge of $5 for certificate when the valuation of the property abstracted was $5,000 or less. From $5,000 to $50,000, one dollar per thousand; over $50,000, 50 cents per thousand.

We then decided that we would hold regional meetings to secure the adoption of this schedule of fees by as many of the abstract companies in Montana as we could. An official of the state association—who happened to be me—was delegated to arrange for these meetings and attend them all. We arranged for the meetings, starting on the 5th of December, first having divided the state into seven districts. The largest number of counties in one district was eleven and the smallest four. The grouping was made according to problems encountered in the different localities.

The first meeting was held in my own home town and was in the largest district in the state. We had a wonderful attendance. Every one at that meeting signed up to adopt this schedule.

The manner of procedure in all these meetings was this—we had only two purposes in holding these meetings, the first being the adoption of this schedule and the second the elimination of discounts, rebates, or commissions—in dividing the state into districts each district was given a sponsor and there was a regional director. The state director sent out a letter to every abstracter telling him of the regional meeting and telling him who was in the district and where the meeting would be held. This was followed by a letter from the sponsor in each district to the members in his district. This gave him an opportunity of stating the purpose of the meeting.

We attempted to have the Secretary get from the members what their present charges were and then opened the matter for discussion. Usually we had quite a discussion as to the charges that were then in practice but in every instance we wound up by passing a resolution adopting this schedule.

The next thing we did was to take up the matter of discounts, rebates, and commissions. We found several in the state that were still giving them. We opened that for discussion and embodied that in resolution that we would give no more discounts, rebates, or commissions except in instances where there were a number of abstracts ordered covering the same title, the abstracts to be ordered at the same time and prepared at the same time.

Just to show you how successful we were in these meetings, our schedule and our recommendation as to the elimination of discounts were adopted and the agreement signed by every one that was present at those meetings with the exception of two. These two exceptions were where there were two or more companies in a county and only one county was represented at the meeting. In each of those instances the abstracter who was present went home and endeavored to get his competitor to sign. However, neither of them did.

At the close of the meeting we elected a permanent regional director for that district. It was to be the duty of the director to take a copy of the minutes of the meeting, together with a copy of the agreement, and send it to each abstracter in the district who had not attended the meeting in an effort to have this agreement signed by every one. This was practically a failure. Those who did not attend the meeting and get into the argument did not sign, as a rule. A few of them did but the majority did not.

I think that the regional meetings in Montana have done more to clear up different situations and promote harmony amongst our members than any other thing we have ever done. At four different meetings we had competitors present from different counties who were giving rebates and commissions and doing everything ethical or unethical to get business. We virtually had them in each other's arms before they went home and they went home determined to get together and make more money.

I don't know what more to say to you ladies and gentlemen but if there are any questions you want to ask as to anything I have mentioned or as to how the meetings were conducted or what we have done I would be very glad to answer them.

MR. J. K. PAYTON (Springfield, Illinois): Where a continuation is probably going to run a year, do you maintain that schedule?

MR. CLARKE: In a case where a continuation is made for the sale or for the purpose of negotiating the loan we do. If it is made for the purpose of clearing up the title or showing that the title has been cleared up we do not. The minimum charge is $5.

MR. MORGAN: If you have title today and the title goes down and tomorrow they file a mortgage, do you show that mortgage and charge the same fee?

MR. CLARKE: Yes.

MR. MORGAN: If it is a $250,000 property would you charge a $50 fee?

MR. CLARKE: Let me get this straight—the abstract is brought down today for the purpose of seeing whether the title is all right for this mortgage and the mortgage is not filed until tomorrow, is that it? We would not. That is closing up the same transaction. However, we insist on the $5 certificate charge.

MR. MORGAN: Do you think you earn the $5?

MR. CLARKE: I know it.

MR. N. P. ANDERSON (Birmingham, Alabama): How do you arrive at the value of the property in making charge for additional liability?

MR. CLARKE: It is taken from the assessor's records.

MR. ANDERSON: We have had that under consideration but have never agreed on it. We have a gentlemen's agreement as to rates. The only competition we have is service. Several years ago the question came up of incorporating in our abstract certificate a limit of liability and let the purchaser of the abstract fix that.

For instance, we make an abstract on a scale of prices, so much for the certificate and so much for each item shown in the abstract. One abstract may be on a thousand dollar lot and another may be on a hundred thousand dollar lot. Manifestly the liability of the abstract company is much more on the hundred thousand dollar transaction. Consequently, the fee should be larger but we have had no way of determining that exactly, except as a matter of a guess or by assessment.

MR. CLARKE: You can always take the assessor's records and if you agree on that you will all be the same.

MR. ANDERSON: Suppose the man didn't want that and you put in your certificate the limit of liability under this certificate was fifty or a hundred dollars and if he wanted to purchase additional liability, make it somewhat like the rate for title insurance?

MR. CLARKE: We had that brought up at two different meetings and it was agreed among those present they would do that. We didn't advocate it as a general thing throughout the state.

MR. HUGH C. RICKETTS (Muskogee, Oklahoma): Are the majority of the abstract companies operating in your state corporations?

MR. CLARKE: I think so.

MR. RICKETTS: Do you think it is the general practice of those corporations to create a reserve for the protection of loss on abstracts?

MR. CLARKE: It hadn't been until July. Mr. Johns advocated such a thing in July and in these regional meetings a great many of them said they had been setting aside a certain amount of earnings as a reserve.

MR. RICKETTS: Before you adopted that scale based on value of property did you get information about the amount of losses abstract companies had suffered?

MR. CLARKE: We thrashed that out at the regional meetings and the state meetings.

MR. RICKETTS: Is it a fair way to base abstract fee scales on value of the property like insurance?

MR. CLARKE: We charge all we think is right for making an abstract. If an abstract has forty entries it costs $45 for $500 valuation. Under the old valuation it would cost $45 under $10,000 valuation but there is unquestionably more liability on a $10,000 valuation than there is on a $500 valuation. Suppose the abstracter left off a $2,000 judgment. He couldn't be liable for any more than the value of the property, which in one instance would be $500 and in the other would be the whole amount of the judgment.

MR. RICKETTS: I recognize all those matters. I have made abstracts for about twenty-five years and am still in the business. I realize the abstracters are not paid for the work they do. What I am trying to get at is this—isn't the whole abstract fee scale based on something we don't know about? Have you information to base that scale yet?

MR. CLARKE: A great deal of the fee scale should be based on the amount of production. You have to get a fair compensation for your labor and must get a fair return on your investment, or should get it.

MR. RICKETTS: Isn't it a fact you first have to know about costs and also the valuation of your plant must be known before you can know what return you should have and what is a fair reserve for an abstract plant?

MR. CLARKE: I have never heard of any plan.

MR. RICKETTS: I was bringing that out for this reason—I believe if we had discussion of that nature we would perhaps know what to base it on. I realize that I have made abstracts on hundred dollar lots that cost the customer more than on a hundred thousand dollar building, which didn't seem right.

MR. SEABRING: Would you charge $10 to show court work on a judgment on a continuation? I supposed you meant suits or judgments.

MR. CLARKE: I meant probate proceedings, foreclosures, partition or something along that line, not just an ordinary satisfaction or instrument. In our abstracts we simply make a judgment statement setting forth the title, the dates, and the amounts.

MR. SEABRING: You have a nominal fee on that?

MR. CLARKE: If there are no judgments there is no charge. It is one dollar per judgment.

MR. MORGAN: What would be your charge on divorce proceedings?

MR. CLARKE: Unless there was adjudication of property rights we wouldn't show it.

MR. SMITH: I understand there is no charge for judgment search unless there is a judgment.

MR. CLARKE: No, that is included in the charge for certificate, which is $5.

CHAIRMAN WYCKOFF: I would like to hear from Mr. Crosby, President of the Nebraska Association, if he is present.

MR. LEO CROSBY (Omaha, Nebraska): Mr. Chairman, I haven't anything particular that I can say at this time. In Nebraska we are trying to work out our salvation a little. Ever since I was elected president I have been writing letters to the Vice-Chairmen trying to get regional meetings started. We have one meeting scheduled for next Tuesday, which I concede to be an accomplishment considering the number of letters it took to get that one started.

Our local situation makes me jealous of the Montana arrangement. I don't know whether I will be able to do anything during my term in office to correct the situation but I am going to try it, and I appreciate very much hearing the matters that have been brought up here. I have always kept in close touch with the national association largely through the magazine, however, and I don't think that conveys a correct impression of what takes place at these meetings. I think a lot can be accomplished by contact and I hope very much to carry that idea into effect in Nebraska.

CHAIRMAN WYCKOFF: Is there any assistance the national officers can give in connection with your Nebraska Association?

MR. CROSBY: I think our first problem is to get started working together ourselves. I don't think that idea has ever been even broached. We have a few abstracters in the association. Based on my own observation during the time I have been president there is very little cooperation. It hasn't been possible so far for me to go about the state. I am going to this meeting next Tuesday but I am not yet in a position to ask for any assistance because I don't know just what to ask for. As soon as I get a working knowledge of this situation I will be glad to avail myself of your kind offices.

CHAIRMAN WYCKOFF: Any officer of the National Association desires to aid any of the state associations in any way he can at any time, perhaps by way of personal attendance or by way of suggestion as to who can come to you to help you.

Our secretary has prepared a memorandum as to how to establish regional meetings.

We haven't had the opportunity of hearing from the ladies. Mrs. Jeffreys is secretary of the Kansas Title Association. I would like to know if she has anything to say to us this afternoon.

MRS. PEARL KOONTZ JEFFREYS (Columbus, Kansas): We have quite an organization in Kansas. I don't know that we can say we have made the strides in the way of rates our friends in Montana have. We have the state divided into ten districts; there are really eight with one district divided into halves. We have ten Chairmen of the districts—last year we called them Vice-Presidents. The state officers work through those chairmen of the regional meetings.

We had a few very successful regional meetings last year, meetings that built up good fellowship, and there was much cooperation and discontinuing of discounts and cut rates. We haven't advanced so much in raising our rates as we hope to in the future but we have an organization that reaches all over the state. We are publishing a bulletin each month that we send to all members and near-

ly always to the non-members also.

CHAIRMAN WYCKOFF: I believe Kansas is one of the states where regional meetings have been used to advantage and that was why I wanted Mrs. Jeffreys to tell us about them.

Mr. Ricketts, how about the Oklahoma Association?

MR. RICKETTS: I am Vice-President of our association and want to say, one thing our association has done that I would like to see every association do—they sent me here. I think every state association would do well to make it a part of their work to send a delegate to the Mid-Winter Meeting. There are always delegates ready to go to the conventions in the summer because of vacations and nearly all the state associations are represented then. We have our convention in about two weeks and they wanted me to come here and report as to what was done and try to keep in touch.

The main thing we have done, we think, is to get a uniform certificate. We are getting the uniform certificate very well under way in our state and feel we are reaching the place where we are giving our members some real value.

Our association has certain requirements for membership. No abstracter can belong to the association unless the corporation owns an independent set of indexes. Curb-stoners cannot belong. Of course, non-members cannot use this uniform certificate. The certificate is protected by a copyrighted insignia. Every certificate adopted by a member has to be submitted to our Uniform Certificate Committee which approves its uniformity or rejects it. If the Committee approves, the member has a right to use the certificate with that insignia on it. A great many of the loan companies use our certificate, or the Oklahoma uniform certificate. That is what we want. We believe that eventually our uniform certificate will be used everywhere by every one. That is really of monetary value.

As to what the national association can do for us—we find more and more in our state abstracters who want to know how to write title insurance, that is, want to know if it is possible to get an agency connection. Our president called me by telephone last year and said one member of the association in the northeast county of Oklahoma wanted to bring a gentleman who had talked to this Association on that very thing to our convention this year. Our program is already made up and he wanted the sanction of the association to give him a place on the program. He said he would arrange for the gentleman's expenses to be paid. A man in the extreme northwestern part of the state was helping him do that and a half dozen people were going to pay the gentleman's expenses from California. We may not be able to work it out. They want to know about that matter.

That is the situation and I am sure the American Title Association can give us much information along that line.

CHAIRMAN WYCKOFF: Mr. Lindow is not in the room at this time but I will remind him of that work which can be done in his line.

I would like to hear from Mr. Rickert, President of the South Dakota Title Association.

MR. PAUL RICKERT (Sisseston, South Dakota): In South Dakota we have been suffering for the last few years from a financial slump and that has affected the abstracters and for that reason we are not flourishing. I was talking with an abstracter in an adjoining county not long ago and asked him the usual question. He said, "I think I am going to be able to keep the wolf away from the door. About a year ago times were so bad I was afraid I wouldn't be able to get the wolf out of the office before it had pups." (Laughter)

Something has been said here this afternoon about the attorneys and the abstracters battling with each other. I can't understand that. Out there when a lawyer writes a long opinion requiring this, that and the other to be done, we are pleased. We do it and charge all we can for everything we do. The more foolish the requirement the better we like it. Of course, very few of them are like that.

Something has been said about rebates. We don't know anything about that, at least, I don't think so. I haven't heard anything about it. We are one of the states where the charges are fixed by law so we have no rebates that I know of. Some of the companies are stepping over the line a little and charging a little more than the legal fee. The company I represent does that occasionally.

CHAIRMAN WYCKOFF: Is there any way in which the national association can be of assistance?

MR. RICKETTS: I can't think of anything just now but every once in a while I write Dick Hall.

MR. W. S. BECK (Chattanooga, Tennessee): We haven't done anything in our state this year since I was elected president for the reason the secretary took the records with him when he left the state. When I found he wasn't coming back with the records we got a new secretary and Mr. Hall, Mr. Adams and I will get a lively association started now.

CHAIRMAN WYCKOFF: That is encouraging and we hope you can take something back from this meeting to assist you in your work.

MR. E. C. SMITH (Newburgh, New York): The New York State Title Association needs no considerable amount of assistance. Owing to the fact that a gentleman by the name of Henry J. Davenport held the office of president for the two years preceding and was ably assisted by S. H. Evans, the work of the New York Association has been done in excellent manner. The chief activity of the New York Title Association, as I see it, is in connection with an attempt to procure legislation to do away with the court right of dower and to make real estate and personal property practically on a par.

The association, very ably aided and perhaps led by Judge Foley, one of the surrogates of New York County, succeeded in getting a commission appointed by an act of the state legislature. That commission is functioning at the present time and we have great hopes that the result of that will be

Yellowstone, a Stop-over on the Convention Trip

Great Fall, Yellowstone National Park © *Haynes St. Paul*

Great Fall, from Artist Point, Yellowstone National Park © *Haynes St. Paul*

Courtesy Union Pacific Railroad
Giant Geyser © *Haynes St. Paul*

that they will report bills which will be enacted doing away with the court right of dower and will make real and personal property practically on a par. At the present time, as I understand it, there will be a provision in the statute that every surviving wife or husband is entitled to take a certain definite part of the deceased wife's or husband's property, by election, against the will.

CHAIRMAN WYCKOFF: That is a very fine report, Mr. Smith. Such perfection in organization would be a fine thing for all the associations.

How about the Arkansas situation?

MR. CAULDER: Arkansas has a very good association. I worked rather hard and went to Detroit and got the loving cup. I felt I was well repaid for all of the work I did. Dick Hall was with us at our last convention. I think we are getting along fairly well.

CHAIRMAN WYCKOFF: Earl Jackson, President of the Indiana Association, is with us. May we have a word from him?

MR. EARL W. JACKSON (South Bend, Indiana): I would like to get some advice on a little problem we have in Indiana that has bothered us somewhat. We have a membership of about sixty and of course, want to increase our membership. The method of going at that has created quite a bit of argument among the members because we don't know what to make the requirement. Some of us are of the opinion we should require a set of abstract books or at least, a set of indexes.

We have a peculiar situation in that any one in the counties that have no abstract companies or abstracters at all can make an abstract. The Federal Land Bank and the loaning institutions have a list of abstracters whose abstracts they accept and they have abstracts from each of those counties that have no abstract books or indexes and they accept them and make loans on them the same as they would abstracts made by the most reliable company.

I wrote to the county recorders and got a list of three hundred and some odd abstracters in our state. In some little counties that had just a few thousand population there were fifteen or twenty abstracters. I don't know how to go about getting a list of eligible abstracters.

We haven't tried the district meetings yet but I think we will do that this year.

I think our standard of membership should be so high that it should be the requirement of every loaning institution that they would not make a loan on any property except where the abstract was made by a member of this association. I think that is something we ought to work for. Under present conditions in Indiana we can't do that because these counties that have no abstract companies at all make it impossible. I don't know how we will work that out but the district meetings will help that.

CHAIRMAN WYCKOFF: Undoubtedly the district meetings will help and I suggest you get Dick Hall to cooperate with you in the district meetings. That is where you get closest to the roundtable talk and discuss your problems. District meetings accomplish more along that line than the state meetings. I am sure the Chairman of the Membership Committee will be glad to render assistance and Ed Lindow might be able to give you some help from his experience in intensive membership activity.

MR. RAY A. TRUCKS (Baldwin, Michigan): We have an entirely different situation as to the membership in Michigan than they have in Indiana. We seldom have over two competing abstract companies in the county and in quite a number of our counties the registers of deeds are abstracters. During the last two years we have experienced quite an increased interest in the Michigan Association so that at the present time we feel we have about as many in the organization as are eligible.

Our difficulty is the same as other associations, that of sustaining the interest of the members during the year and at our last convention, which was held the day prior to the national convention at Detroit, my message contained the recommendation that we plan to have regional meetings in Michigan and that the succeeding officers carry out that plan, which as it happens will be the same set of officers who were reelected for the coming year.

We plan to have two regional meetings, one next month and another later in the year so that a year from now possibly we can come to the meeting with a report of the success we have had with regional meetings. It is our idea to have these meetings devoted to the personal problems of the abstracter during the afternoon or day session and have the dinner or evening meeting thrown open to the banker and lawyer and Realtor, making that meeting a sort of educational meeting to inform them that the abstracter and title man have a real place in the community.

CHAIRMAN WYCKOFF: I think you have certainly cut out a job for yourself and the only thing to do with those regional meetings is to go to it and put them over. They can be put over, as you have seen, and I know Mr. Johns will help you if you will call upon him. There are others nearer home who can also be of assistance to you.

MR. E. W. FAWLEY (Waterville, Washington): I didn't expect to have anything to say but I feel I ought to try to say something because, like the gentleman from Oklahoma, my association has sent me here. This is my first trip to the national meeting.

I have felt that we should be represented here at this time because, as mentioned by the President of the national association, we expect to entertain you in Seattle next June.

I might say I come from the country. I gave an address a few years ago when we had a meeting with Oregon and that was my subject, "The Country Abstracter." I have been in the business some twenty years and have been closely connected with the work of the association and now am Vice-President of the Association. I don't think of any good reason for that, but I am.

I came through on the train with the President and Past-President, Mr. Woodford, Bill Clark and Jim Johns. I asked the fellows whether we should mention the Seattle meeting. I was given a hint it was taken care of and well advertised. I am a good deal like the fellow from Los Angeles who was traveling in the middle west. He went to a funeral. The preacher did not know the deceased very well and what he did know was nothing very good. He asked if there was anybody in the audience who wanted to say anything about the deceased. Nobody had anything to say.

This fellow walked up in front and said, "I don't know anything to say about this fellow but if nobody ob-

jects, I would like to say something about Los Angeles." (Laughter)

That is the way I feel about our meeting. I believe you will have a good time. We think the Northwest is a country worth seeing.

Coming to a town of three million I feel a little timid. We have only about 800 in Waterville. So far as our work is concerned we have been pretty well organized for a number of years. I feel that some of us, at least, have been getting about what our work was worth. Before the war we raised our price from 75 cents to a dollar. That is the general price. We haven't stabilized the price and equalized all over the state but that is the one point I have gotten out of this meeting, that we want to have regional meetings. Some fellows aren't getting what they should and it will do a lot of the boys in the abstract business a lot of good. We have never had any trouble getting what I think is a fair price and yet not what we think our work is worth when compared with the work that is done by those connected with real estate firms. It is seldom an abstracter can get a fee of a hundred dollars, whereas a man who handles a real estate deal on a percentage basis makes fees of $800 to $1,000—that is no uncommon thing.

I have never had experience at the national meetings. Two or three years ago we had a meeting at Spokane. We called it a round table discussion. I had charge of that and have put it on every year since. At these round table discussions everybody tells his troubles and gets a great deal of benefit from the discussion from which he may get a solution of his problem from some one who has worked a similar one out.

I feel our association is in good condition except that we have some who are doing good work who ought to get more money for it. When we meet this fall I am going to stress the money part of it as Mr. Johns has been stressing it for years. I take it for granted there is no man doing abstract work but who is conscientious and is putting out real good work, something that protects his clients and gives them what they want in the way of information. If that is done, there is no reason why he shouldn't get a good price.

I think this thing of district meetings is the biggest idea from the abstracter's standpoint that has been brought up here.

CHAIRMAN WYCKOFF: Mr. McPhail of Illinois.

MR. W. A. McPHAIL (Rockford, Illinois): Calling on me reminds me of a story of the Scotchman who landed in New York City on his way to Chicago. He had a heavy suitcase but being a real Scotchman, he thought he would walk to the depot in New York. About half way there a taxi drove up and the driver said, "Yellow?" He said, "No, I will walk."

He finally reached the station and took the train to Chicago. Upon arriving there he proceeded with the same idea, to walk to the hotel. He had not gone very far when a taxi drove up and the driver said, "Yellow?" He put his suitcase down on the sidewalk and said, "You darned fool! Didn't I tell you in New York I was going to walk?" (Laughter)

I will say I am glad to be here and glad to be president of the Illinois Abstracters Association. I believe we have one of the best associations there is in any state in the Union. We may not have the largest association but we have as many members as our constitution and by-laws will permit. We have the same rules and regulations in our by-laws that the gentleman from Oklahoma spoke about. No individual or corporation can belong to our association unless he or it has its own individual set of indexes. A man making abstracts from public records or tract indexes in the court house is not allowed to join our association.

A great deal has been said about regional meetings. Our association had regional meetings about 1909. We had four or five different meetings, divided them over the state and it was through the aid of these meetings that we succeeded in getting a member from almost every county in our state. There are a few counties in which we have no members for the reason they are not qualified or have no books suitable to allow them to join.

This is the first meeting of The American Title Association I have ever attended. I have attended all of our state conventions every since I have been in the business, about twenty years. I get a great deal of good out of those and I want to say that I have gotten a great deal of good out of being here today listening to what the fellows from the different parts of the country have to say. I can see from the conversation most of the men here are from the larger centers and I feel I should sit back and listen. I would like to know how many members from Illinois are here. (Seven gentlemen stood)

CHAIRMAN WYCKOFF: We are very glad to have heard from you. Your remarks remind me of a George Potter who had a gravel pit and had to build a siding down our way. It was about two miles long but he gave it a fancy name and he had passes to distribute and sent to all the railroads and asked for exchange of passes. When Chauncey Depew sent down the pass for his railroad he said, "I send you herewith an exchange of passes but I am unable to find your railway listed in the railway guide. How long is it?" Potter wrote back and said, "My road is not as long as yours but I'll be darned if it isn't just as wide!" (Laughter)

We would like to hear from the Iowa Association. Mr. Smith, President of Iowa Association.

MR. RALPH B. SMITH (Keokuk, Iowa): The Iowa Association, I think, is in pretty good shape. I would say we have about ninety per cent of the available timber in the state in the association. We are having some trouble with the rebate proposition. That isn't general all over the state but we have one particularly bad case, and without mentioning names I will tell you about what happened.

There was an abstracter who made an extremely fine abstract. He had a couple of assistants who believed in having everything right. He discovered that the rates he was charging, which were by no means high, were not enabling him to break even. He had a rebate of 25 per cent. He decided the only thing to do was to raise the rates or cut off the rebate. He decided to do the latter. Promptly every attorney in the town blackballed him. He hasn't had a bit of business from an attorney in the town since, unless it is lately.

I got into this personally and the Rotary Club took it up. They decided it was not a square proposition. They held a meeting and we got quite a lot of publicity as to what was necessary in order to maintain an abstract plant and what a person should get for an abstract. That is the way the fight has been going on in that town. About two weeks ago he said he was beginning to get business from people other than the attorneys. The attorneys were still not coming to him. I have an idea he is going to win out.

We have several other places where the rebate proposition is just as bad but the fellows haven't gotten up enough nerve to say they won't give rebates, and start fighting.

About the regional meetings—there was a tentative plan to take this up in the executive committee next month and there will probably be twelve or fourteen meetings just prior to the state meetings when the roads get so they can travel. Iowa has not come out of the mud yet. The plan for those meetings was to have them close enough so a man could leave home in the morning and get back that night. We are going to try to get every abstracter in the state to those meetings and make it a hundred per cent proposition. In those meetings we expect to discover the fellows who don't belong to the state association who should be members and try to get them all in.

As to what the national association can do for us—we are in the same situation as many of the rest of you with the federal lien proposition. We are liable to have a special session of the legislature next month. If we do we are going to try to get unanimous consent to get the federal lien matter straightened out. I have asked the national Association for some help in drafting an act. If we can go to the legislature with an act and say the national association says it is all right it will have a little weight, I think. It is a psychological situation. If you say the act has the approval of the

national Association you can get further than to tell them some local attorney in the country approves of it.

CHAIRMAN WYCKOFF: If you will drop me a line I will be glad to give you the benefit of the studies we have made, together with attorneys for various associations, for the purpose of legislation as to the federal lien situation in our own state. The problem is serious.

MR. RALPH SMITH: We are handling the federal lien proposition in Iowa. Earl, you tell them how you are handling that.

MR. S. E. GILLILAND (Sioux City, Iowa): The matter of federal liens came up primarily through Mr. Dougherty of Omaha. There was a suit in the United States Supreme Court in May with respect to the Missouri law and it seems the Iowa law is worse, perhaps, than the Missouri law. With this in mind and with the suggestion or requirement, you might say, of some of the attorneys for the insurance companies for certificates in some instances covering the whole state and in other states covering the respective district some of us conceived the plan of getting together in our northern district. The result was that one firm from each of the points where the United States court sits got together and under mutual arrangement we have furnished each other with a complete list of all unsatisfied judgments, bankruptcies and suits pending for ten years back, together with an agreement for the continual upkeeping. That has been done and we are now to the point of making our reports.

In our northern district we have adopted the system of numbering our reports and only making reports where there are not two reports. Hence we are not taking chances of loss of reports in the mail or otherwise. If a man misses a number he calls for it and a duplicate is sent to him. The system has worked out so far very satisfactorily and we are quite freely called on for these certificates. In our particular county we serve the abstract firms from probably eight or ten different counties. It makes a more satisfactory system than that of calling upon the clerk for his certificate covering the whole district. Those certificates cover only judgments whereas we cover the suits pending and bankruptcies.

CHAIRMAN WYCKOFF: I am sure that information will be of use to some other state.

If there are any presidents or secretaries of state associations who have not been called upon this afternoon we will hear from them in the morning.

SATURDAY MORNING SESSION

January 28, 1928

CHAIRMAN WYCKOFF: Yesterday we did not have time to hear from all of the presidents and secretaries of the state associations and we would be glad to hear from any of them now who were not called on, or from any one else who cares to contribute to the discussion.

MR. O'MELVENY: There is one piece of work that the California Land Title Association is carrying on that might be of some interest. We thought it would be a good thing to have a course of lessons or lectures given on title insurance and we were successful in interesting the University of California, which has an extension division, to prepare and give a series of lessons. They will be given by correspondence and the University is attempting to prepare the courses in such a way that they will be of national interest. They hope ultimately to be able to market this series of courses or lessons anywhere in the United States. They have assigned a man to prepare these lessons and are working out a series of five courses with fifteen lessons each on title insurance.

The first series of lectures has been drafted and is being submitted to the economic department and legal department of the University of California and will later be submitted to a committee from the California Title Association so that they will meet with the approval of the officers of the association. When they are finally prepared and drafted they will be a part of the extension division lectures at the University. We have also had a drafting of uniform forms in an effort to get as much uniformity as possible.

We have meetings every two months. They are rather largely attended by any number of representatives from any number of title companies. Questions are asked and answered and discussion had. The meetings are in the evening and after dinner a good deal of time is spent talking about title insurance problems.

MR. RALPH C. BECKER (St. Louis, Missouri): I don't know whether you heard from Missouri or not yesterday. Neither our president or secretary is here.

We brought up something at our last state meeting which I think is a step in a forward direction and of interest to you gentlemen and ladies. We felt we wanted to raise as high as possible the standard of abstracters and title examiners in Missouri. With that in view a committee was appointed to look into the possibility of securing a blanket bond from an indemnity company or from individuals which would protect any customer ordering service from a member of our state association against loss due to the man's absconding or leaving obligations unpaid. Mr. Hall met with our Executive Committee and the matter is making progress and there is a good possibility of getting that done.

I think that is going to make the state Title Association very much worth while and give a definite value to membership in it. In other words, if by advertising and publicity we can convey the thought that by ordering from a member of the Missouri Title Association a person is safe even though that individual's responsibility may not be as great as some of the larger companies, it is going to make the privilege of being a member of the state association particularly valuable.

Our state meeting, which by the way was our largest in attendance, was attended by Mr. Johns. I knew Mr. Johns from Detroit and was surprised that he was as lenient with us as he was until I learned he had just come from Omaha and was being a little careful.

We also introduced five bills in the last legislature tending to make the release of deeds and mortgages more strict. We had a very, very nasty scandal in St. Louis last year due to fraudulent releases by affidavit. I am sorry to say those bills died in the legislature for lack of time in passage, like a good many more things do, but it is our intention to bring them up again at the next session.

I think this matter of the blanket bond is a thing any state association might well take up. It is going to make the state association actually worth while.

CHAIRMAN WYCKOFF: Anything that is going to benefit the customer is a good thing but while there may be some necessity in some communities of using surety bonds I believe if it is feasible it is better to put title insurance in the field.

MR. CARL H. BECKMAN (Toledo, Ohio): I am the president of the Ohio Title Association. I don't know why but I am. One of my fellow abstracters at the meeting explained to me they had run out of suitable timber for the presidency, which probably explains why I am president.

I have enjoyed these round table talks because they are just the talk of "folks" and that is more intelligible to me than some of the more formal things I have heard.

One thing that has been accomplished in Ohio this year, I think, is entirely through the efforts of our good friend, Mr. White, of Cleveland. That is the matter of judgment liens. Our statute now provides that pending suits do not become liens on real estate until they are docketed, so that they cannot date back to the beginning of the term of court. That does away with a lot of uncertainties and difficulties and simplifies matters very much from the point of view of the Realtor and the abstracter.

I didn't come here to instruct. I came here to be instructed, but there is just one thing that I might say. I have heard some discussion of fees, and after all, we are in the business to earn a living. We have had three regional meetings in Ohio since our state meeting. Our membership committee is active right now in getting these meetings going in different parts of the state. We haven't had any regional meetings in my regional vicinity but two years ago we got the abstracters in my county together,

that is, all of the companies and abstracters who really count, and formulated a schedule of prices. If it will be in order I might tell you briefly what they are. We can't equal Montana, however.

We found abstracters were making extensions at that time for $3 and $3.50, which of course, was not a living wage. We do not make any continuation for less than $5 even though it be only for a day. We do not make any abstract for less than $30. If the period of time is more than two years and between two and five, the minimum price is $6. If it is more than five years' search the minimum is $7. We charge a dollar apiece for every deed more than one, that is, the minimum charge would include one deed, one mortgage, one mechanic's lien, and one lease. Every other instrument shown is charged for. If there are two deeds and no mortgages or liens there would be an extra charge for that one deed.

We had some difficulty in getting over the hill. The attorney for our own largest client was a bit reluctant at first. He intimated it would be too bad to lose their account. I agreed with him it would be a very regretful thing and I hoped that wouldn't come to pass. He allowed me to think it would come to pass for some time but it blew over and we didn't lose a dollar's worth of business, and we don't confine ourselves to the minimum charge by any means.

It used to be if a charge was $4 instead of $3.50 there was quite a kick about it. Now, if the minimum is $7 I charge $10 and nobody bats an eye. We get $2 for any court procedure that figures in a chain of title. That is quite different than $10 like they have in Montana. We charge $5 for anything in the federal courts, such as receivership or bankruptcy. So in that part of the state we are getting something like decent fees.

I mentioned that $30 was the minimum charge for an abstract but it is very seldom we make a $30 abstract. Now they have discovered that the prices are up if an abstract is worth $65, that is what we price it and they don't say anything about it. Heretofore, if an abstract cost $30 or $35 and we used to make it for $15 or $20 we had to account for that. Now, it seems, nobody questions it.

Of course, we are all cursed with the small time abstracter and particularly the young attorney without any practice who turns to abstracting to put in his waste time. You will find if you have a little nerve and get together the principals that are operating and have an agreement, you may have a little grumbling for a short while but that will pass over in a week or two and you will get not only your minimum prices but add on as much as you think you ought to have and there won't be as much complaint as there was before when you put on 50 cents.

I have been delighted with what I have heard here and I am going to try my best to take back some of the things I have heard to the state organization.

CHAIRMAN WYCKOFF: Thank you, Mr. Beckman.

I will now turn the meeting over to Mr. Lindow.

Report of Chairman, Title Insurance Section

By Chairman H. Lindow, Detroit, Michigan

CHAIRMAN LINDOW: I see I am down for a report. I haven't much to report other than the fact that the Title Insurance Section is undertaking a campaign which might prove to be very interesting to the title companies and very beneficial to some of them.

I haven't had a hundred per cent reply to my questionnaire and I want to speak to the fact that I haven't. The fact is, what are the title companies doing to further title insurance both in their local communities and in state and all over the country? We have listened to some of Jimmie Johns' sermons. Many of the title companies, I know, are in the same shoes a lot of the country abstracters are in.

In sending out this questionnaire much thought was given to what was wanted. Many of the questions asked were very, very confidential. I hope I made myself clear in my letter that they would be kept strictly confidential and that the report would be made as a whole and no specific company or any certain part of the country mentioned.

Some of the reasons for getting these facts and ideas are these—in Detroit we have had requests from the real estate board, the lawyers, life insurance companies, and various other financial institutions as to what the title situation is, not locally, but nationally. I doubt whether there are very many people in the title game today who know what the true condition is. We have sat back the same as the abstracters have for years and taken everything for granted. My friend Jim has pepped the abstracters up and given them a little nerve. That is proven by the fact that a representative of one of the large life insurance companies three years ago undertook to tell us that something would have to be done regarding our title policy.

There is no use trying to blame any one individual, any one firm. I don't agree with our Chairman, Mr. Wyckoff, when he stated yesterday that this situation probably is not as bad as it might look and that we still could probably dictate as to what we give our clients. I doubt very much from what I have heard from men who have discussed the situation with these life insurance company representatives whether we are in position to dictate as to what we are going to give them. I think the time is right now that every man in the title business should clean up his house and put it in order.

We undertook in the last few months to revamp our policies of title in both our owner's and mortgage forms, studying word for word as to the conditions and stipulations of the policy. I didn't know what some of them meant and I don't know how the laymen would know. We also studied many forms from the East, West and central part of the country and likewise were amazed to find things that were ambiguous to us. In one case I left town shortly afterwards and took a policy of title insurance with me and asked a representative of a very large title company as to certain conditions in his policy. He answered that he didn't know that it was in the policy nor why it was there. I know there are many others in the same position and how can we expect the public to accept a product that we don't know about ourselves?

The idea of this questionnaire in many respects is to help the other fellow. There is no reason why the knowledge of a uniform policy of Pennsylvania, the uniform policy of New York, and I understand, a proposed uniform policy of California, can't prove beneficial to the title companies all over the country. I see a further need of some of the larger title companies in Metropolitan cities spreading out to help the small title companies or abstract companies to further the use of title insurance.

If we don't do it somebody alse will. Unless we have facts and figures to supply the smaller title companies and even some of the larger companies as to what the best ways are we will lie dormant. It is interesting to note the answers to the question of losses. There is a variation of no reserve set aside to upwards of twenty-five per cent of the fee collected. When the question is asked as to what is a legal reserve for losses and you have a

board asking that question that is thinking of title insurance nationally, what are you going to answer? No one knows. True, state conditions might vary but there should be some uniformity along many of the practices of title companies which there isn't today.

There is the question of advertising of title insurance. This questionnaire will also tend to bring about knowledge of who is doing the advertising over the country, what the amount is, and what forms of advertising, giving the other title companies the benefit of the experience of others.

I mentioned in this questionnaire the question of marketability. I presume we heard plenty of that yesterday. I hope almost every one is in sympathy with the idea that regardless of whether you say you insure marketability or not you really do because you couldn't afford to do otherwise if the question might arise.

Another question and a serious one —why do some of the large life insurance companies lending money on real estate loans all over the country —take title insurance in Detroit, Philadelphia, New York, and possibly some other cities? Why don't they take it in every city where there is a title company? Is there something wrong with the policy of that home company? Are their methods wrong? If they are, let's correct them.

The point is that the day will come, whether it is done by the Title Insurance Section or the Executive Secretary or some one else, when somebody will have to take the time to sell every financial institution that might loan money anywhere in the country on the idea of using the product of a local title company, which is in the best shape to show the evidence of title. It is very surprising to get reports from all parts of the country where you suppose they have respectable title companies as far as size and form and everything else are concerned and yet these life insurance companies do not take their policies.

I also wanted to get some idea as to the volume of title insurance in the past few years, believing that there are basic arguments and sales talk for many cities, including Detroit, to know the progress of title insurance over the whole country. It is nice to say Chicago has written three times the title insurance they did three years ago. It is nice to say it has spread through the whole state of California. Those are convincing arguments or final conclusions to your arguments.

One other thing—especially in new communities many are interested to know how a sales department or sales organization will benefit in putting across title insurance. Naturally, it means a capital investment. I would like to know, as the questionnaire asks, how many organizations maintain such a department. We might be approaching the subject from the wrong view. There are other sales organizations. There is no reason why our sales executive shouldn't get in touch with them to learn their methods and likewise they learn ours.

I don't know of anything more to report. I am in hopes that at the Seattle convention I can give a report. In the interval I hope to be able, where I see glaring instances of what I would suppose to be improper practices, to suggest changes.

Report of Chairman, Abstracters Section

By James S. Johns, Pendleton, Oregon

Before I start to talk to you about the Abstracters Section I want to get into the record the request that has been made of me by a few country abstracters who are in attendance. We country folks want to express our deep appreciation to the Chicago Title and Trust Company for the fine entertainment we have received.

I would like to go still further and thank them for the safety that the delegates at this meeting have experienced, with these bandits killing off six or eight every day, and while the mayor is attending to his war on books with the king of England, it really is a marvelous thing that there have been no casualties yet.

Some of you folks may not know about this but Mr. William Hale Thompson, the mayor here wanted all of the mayors of the various cities to join with him in his war on King George and he asked the mayor of Minneapolis to join with him to shut out all histories that had a long reference to England in them, but the mayor of Minneapolis wrote back he had troubles of his own and was going to see there were no bibles sold in Minneapolis because they mentioned Saint Paul and had no reference to Minneapolis. (Laughter)

I have had a little experience in the last year. Among other things, I have traveled about 27,000 miles at your expense, and I want to disagree with Ed Wyckoff and agree with Ed Lindow that there is a dangerous situation confronting the title insurance business. I am a little out of my sphere, perhaps, in talking to you folks. Ed Wyckoff said yesterday that you should not accept dictation at the hands of the users of our abstracts and policies, or words to that effect, and that there are trained executives in the title insurance companies and you should not be stampeded into thinking if you don't write a special form of policy you are going to lose something and that each business knows best how to handle its own affairs and its own policies.

If it weren't for one fact I would let you title insurance folks wash your own dirty linen. There was once a dear old lady who wanted to join the Methodist church but she believed in complete immersion for baptism—this is a true story—so the Methodist minister called the pastor of the Baptist church and asked if he would baptize the dear old lady for him because he didn't have the facilities for complete immersion. The Baptist pastor answered, "You wash your own dirty linen."

I feel like letting you wash your own dirty linen except that you are interfering with our welfare. East of the Mississippi river, I am told, every Federal Land Bank is now accepting term abstracts. Term abstracts are a development of just the last few years and there isn't the money in it that there is in a complete abstract and we don't want term abstracts, but they accept term abstracts with a surety bond from a surety company as an evidence of title. The title insurance companies have failed to function and you are stepping on our toes and, folks, we are going to holler.

There are some things that many of you think shouldn't be spoken out in public but I want to tell you that where there is a stream supplying drinking water for a community and it has become foul and dirty, there is no value in glossing it over and letting it go as it is. You have to stir it up and get the mud out of it. We might just as well consider things in open session.

You talk about never being able to get together on a uniform policy of title insurance. That sounds very familiar to me, folks, because I have heard that from the abstracters every place I have been and I have been quite a few places. Our friends from Ohio say they can never get the Montana fees. That is "apple sauce." They can. I just want to tell you folks who think you can never get together on a uniform policy some of the big life insurance companies aren't particular whether you do or not. There are those who will give them the form of insurance they want and if you won't come to their terms they will do business somewhere else. You can either clean house or not, just as you please.

I attended the Indiana meeting last fall. It was a pretty good meeting, but do you know that yesterday and the day before yesterday a nation wide title insurance company held a convention in that state attended by their agents and there were abstract-

ers in attendance at that meeting, more, I am told, than ever attended any meeting of a state association.

The American Title Association has never been able to effect an organization in certain southern states, Georgia and North Carolina, for example, and this nation-wide title insurance company is perfecting an organization among the abstracters. My information is that at their meetings in Florida they had greater attendance than at the state association meetings.

We have got to get away from generalities and saying something can't be done, because while we are saying the abstracters can't get together and the title insurance people can't get together, the point is, somebody else is doing the thing you say can't be done. We have to stop holding experience meetings and get down to a definite program of work and see that the folks do the work—elect people who will work. We have to get down to cases. We have gone along in a haphazard manner long enough.

There is some talk that Dick Hall is going to leave us and answer a call to private business and opportunities. I would like to tell you some of the things that I know he does that will be a mark for another secretary to aim at if we aren't able to keep him. I went barnstorming with him around some state association meetings this fall and I got acquainted with him.

He recently had a conference with the Attorney General of the United States and four of his assistants discussing title matters and which lasted an entire forenoon. He wrote a bill which is being introduced in Congress for the benefit of the Title Insurance Section. He reported to you that a bill "was written" but he wrote it. He had a two days' conference with the general counsels of five of the leading life insurance companies in the United States. He wrote a bulletin for the United States Chamber of Commerce, which goes to every member of that body. He is a member of The American Trade Association Executives.

We are getting a lot of contacts. We are getting to be a good sized organization and we are going to have to step along pretty lively if we are to keep up with the procession. This is directed not only to the abstracters but to you title insurance men who think something can't be done.

Dick Hall is a member of the Committee on Junior Financing of the National Association of Real Estate Boards. The other fourteen members of that committee are leading economists in the United States. That is considerable recognition of us.

He wrote a brief for the Bank of England on title evidence in the United States; has reviewed the manuscript or rewritten chapters in three books on real estate law in the last year and is now writing for the Encyclopedia Brittanica.

Besides that, he writes three-fourths of TITLE NEWS and edits the other one-fourth, which means practically rewriting it. Usually a trade publication of that kind employs a separate editor aside from the general secretary.

Dick has done a tremendous lot of work towards state meetings, planning programs, and working on regional meetings. I get the thanks. All the "ballyhoo" comes to me. I appreciate it but he has done all of the detail work and a good deal of the thinking part. Dick said yesterday that we have got to have people who will work. We have all got to assume part of the burden. We have come to the place where we either have to progress or we have to retrograde. If we are going to progress we have to have more money.

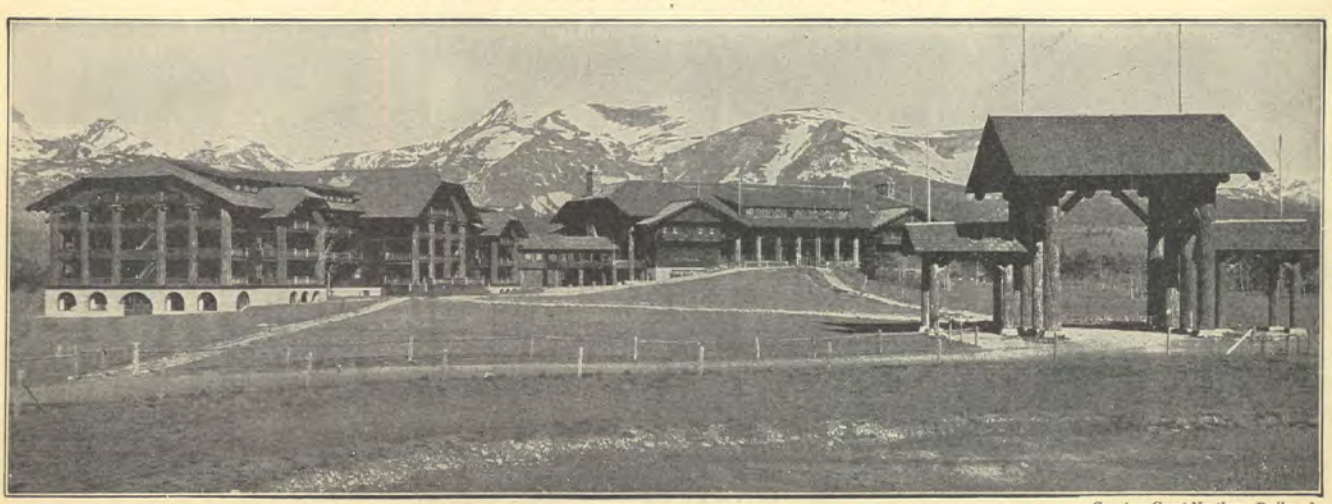
I think I speak the sentiment of the abstract people when I tell you officials that you can get it from the abstract states where they have done what our Executive Secretary and I have been preaching to them because in those states they now have it to give and before they didn't. If we are going to continue to improve the standing of the state associations we have to have an executive secretary or an assistant or somebody who can go to state meetings. It is not fair to expect a chairman to go because it is too expensive in time and money. You have to have a paid man to do that.

I want to talk to you a few minutes about your states meetings. Most of them are the "bunk." There has been some kidding going on about my tearing up the program in Omaha. Out of twenty abstracters Ed Dougherty, who is an attorney and president of the Nebraska Association, asked to appear on the program, only one was going to appear. What did he do? He got some attorneys to address them. Those people shouldn't have heard about the fine points of law; those poor devils ought to have heard how to make a living, and to show my contempt for their program I tore it up and threw it at them, and any program like that—a good program in itself but not what they needed—I will do that or something else to call their attention to the fact their program is the "bunk."

For example, in the state of Washington, where they have four past presidents of The American Title Association, they had a meeting a couple of months ago, a delightful social time. Their hosts very agreeably entertained them and they had some very nice papers, but I understand there wasn't a word said, there wasn't an intimation as to how they could begin to make some money.

I don't know what we are going to do if you don't wake up. There is the president of the Washington Title Association and I want him to hear it. I have been talking to him all the way to Chicago. We have written books, we have put it in "Title News," and have spread the gospel; yet they say,

Glacier Park, a Stop-over on the Convention Trip



Courtesy Great Northern Railroad

Glacier Park Hotel

"We wonder if this can be put across here."

To show you that I have a personal interest in the state of Washington—my county adjoins the state of Washington. I did some abstracting for a man in that county and charged him the reasonable fee of $60. He went to the title company there in that town and asked what that would cost and they told him $15. He was "hot" and he told me so. I telephoned my friend in the other county and asked him what was the matter and why he was butting in on my business. We talked frankly and he told me he hasn't made any money since 1921; yet there isn't a better abstracter in the United States than that man in that other county.

How are they going to be wakened? If they will wake up they will begin to make a living. The state officers do the best they can but as the gentleman said about Ohio, they ran out of material for president and picked on him. Unfortunately that is true in lots of places. (Laughter) It isn't the fault of the man. They change officers every year; there is no continuity of thought. Somebody is in office and rides his pet hobby for a year and then another man comes in and rides his pet hobby and nobody pays any attention to it.

There has got to be a program of activities for state associations. I don't know of any way for it to be done except for the national Association to put it across, in other words, to take you by the hand and tell you how to conduct your meetings, what to work for, what to do, and then send a hired man there to see that you do it.

At a state convention lately Dick Hall was present. They didn't know about regional meetings. He harangued them and they still didn't know and he finally said, "I am going to stand here until you either do what I tell you or turn me down," and they did what he told them and they are going to make some money.

Really, folks, you don't find such stupidity anywhere as you do in the title profession. Dick Hall has worked out a program of activities for state associations. I admit that I supplied a few of the ideas but Dick did most of the work. This provides:

PROGRAM OF ACTIVITIES, STATE ASSOCIATIONS

GENERAL AFFAIRS

Agree on certain plans of Commissions. Recommend Cut out entirely, where any, 10% collection charge.
Eliminate charging by page, and base fees on item basis, such as, per entry, per court case, etc.
Uniform Certificate.
Prescribe Abstract form.
Prescribe what is to go into an abstract.
Work out bond for members, (Surety Company) in states not requiring it now.
Keep in touch with State Conventions of Real Estate Board, Building & Loan Associations.
Send out Directory to all customers.
Work out escrow bond and escrow business for abstracters.
Develop other lines of profitable business activities.
Credit Bureau.
Service Bureau.
1. Legal.
1. Practical.
Regional Meetings.
Bulletin.
Court Decisions.
Grievance Committee.
Encourage the maintenance of plant.
List all attorneys, banks, loan companies, building & loan associations, Realtors in particular, real estate men in general, send letter calling attention to members in their county. This would be augmented by letter from American Association provided expense paid.
Preach better work—better materials. Plats.
Encourage building reserve fund.
Encourage incorporating companies and not doing business under individual's name.

CONVENTION

A Real Program.
Sufficient Publicity.
Entertainment.
Registration Fee.
Abstract Contest.

LEGISLATIVE PROGRAM

Require surety company bond.
Examination and license.
Require set of books or index.
Sponsor measures that will simplify our land laws.

MEMBERSHIP

Require set of books, if none in county then make special provision for tentative membership.
Membership Committee to pass on application only after careful investigation of standing, ability and reputation as price cutter, etc.
Provide for expulsion for unethical conduct.

You are going to have legislation in every state. The legislation is going to be written by your friends or by you and you had better write it and then not do like our friends in Missouri, write a bill and put it in the hopper and forget it.

I am going to talk about the North Dakota law, which is a fine law in many respects. Those people wrote the law and knew by what vote it would pass the senate and by what vote it would pass the house months before the legislature convened. They knew that the governor would sign it and if the governor happened not to sign it they knew the lieutenant governor would sign it. Don't go off half cocked on this business. You all know some legislator. Get him indebted to you some way, under obligations to you, and then collect.

I am telling you what you have to do. I am going out of office very soon and I don't care what you think of me. Here are some of the things you have to have which they have in North Dakota. You have to have an examination to see whether you are competent to make abstracts. You have to have an examination of the plant to see whether it is an efficient one. Then you have to pay a fee and get a license. You have to give a bond and a whale of a big one—for your own benefit, I will tell you, the bigger the better.

Now, there are some things your bill has to provide for. In Oregon anybody can make abstracts and anybody does make them, stenographers, people out of a job, anybody. But in order to shave a man you have to have attended a barber college for six months; then you have to be an apprentice for three years; then you have to pay your money and get a license if you can pass the examination. I want to ask you when we are going to raise our standards as high as the barbers'. We really ought to be on a plane with the barbers, hadn't we? It seems so to me. You can't practice medicine or law or engage in many other professions including barbering without a license.

If our mistakes take people's property away from them, don't we owe it to the community to get right? Perhaps you will have to have a grandfather clause providing that if somebody in a man's family was an abstracter he has to be let in now, but eventually you are going to have a house cleaning.

The way the North Dakota law works, there are three examiners who are title people and if anybody wants to pass the examination it is some job. It works. I am not just telling you a lot of things but I am telling you things that work.

Somebody told me he got $3 for a certificate and asked me what he should do. I said, "It costs $7 just to walk in our office and walk out, and beginning the first of March it is going to cost $8." Some one paid me the compliment of saying that I practice what I preach. I am not like the preacher who was on the coast spending a vacation. He had written some letters and on Saturday he walked up the village street and asked some boys who were playing where the post office was and they told him. He told them he would like to have them come to the little church the next morning and he would tell them how to get to heaven. One of them said, "How do you know the way to heaven when you can't even find the post office?" (Laughter)

Let's be practical about this and practical about regional meetings. The folks don't get together, some-

how, on regional meetings unless there is some hard-boiled chap on the outside like Dick Hall or Bill Clarke. They are the only two people I have found in the United States who are capable of conducting a regional meeting and doing an absolutely good job. So Dick has written complete, specific instructions, "How to Conduct a Regional Meeting." There are some twelve or fourteen pages of it which I will not burden you to read now, but any state official who wants to know how to do this can find how in this prospectus and learn of every problem that has been encountered up to this date in conducting regional meetings. If you have the gumption, if you have the welfare of your neighbor and yourself and your children at heart sufficiently to want to begin to make a living, send for this prospectus.

Regional meetings have worked and I would like to have you know how they have worked in some places. I will start with our Secretary, who is interested in a title plant in Kansas. What has been your experience?

MR. HALL: We happened to be in a district where they held the first regional meeting in Kansas, which was held last year after Jimmie spread the gospel at the Mid-Winter meeting at Kansas City. The meeting was well attended—100% of the district and resulted in a stabilization of prices and practices as well as an increase of 25% average.

Last October Jimmie was at the state meeting and a representative crowd was there. Others became so inspired, went home and formed city boards. So we have a great deal of respect for and faith in regional meetings. Those are plain facts. We have demonstrated it can be done in Kansas.

CHAIRMAN JOHNS: Mrs. Pearl Koontz Jeffreys is secretary of the Kansas Association. What have you to say, Mrs. Jeffreys?

MRS. JEFFREYS: I don't know that I can add very much to what Mr. Hall has said except that we have found the regional meetings quite a success. Those meetings are to the communities what the state meetings are to the state people and what the national meetings mean to the whole association. By getting together we have gotten more confidence in ourselves and have seen how low we are in our profession and are beginning to take on a little pride and are trying to set a standard for our profession.

We have found that the regional meetings have done a great deal not only in the matter of prices but in making abstracting a profession. We are going to put special stress on regional meetings this year. After our state meeting our president named the chairmen of the different districts and I don't suppose those letters had been in the several offices for over twenty-four hours until letters began to come in giving me the names of abstracters in their districts and saying, "I am going to get busy."

MR. LINDOW: I would like to know what the abstract prices are in Kansas.

MRS. JEFFREYS: We are ashamed of them. They are not enough. I think it would average around $3 or $4 for certificates and from 50 cents to a dollar a transfer. In many places they charge by the page for court proceedings but very few get nearly enough. But we are really ashamed of our prices in Kansas.

MR. MORGAN: Is that before or since, the prices you are talking about? What were the prices before?

MRS. JEFFREYS: Before.

MR. HALL: There is another thing abstracters should do and that is engage in added lines of service. Completing requirements affords a logical, profitable work. When a man comes in to get some title requirements taken care of we go on the theory that there is only one place where he can get title service. We are in the abstract business and we are in the title business and when a man starts a deal, no matter whether it is an abstract or title, he expects to be seen through that proposition. Somebody has to handle it. The lawyer can make requirements but he doesn't know how to fix them. That is our business.

I will say we have specialized on this work for years. When an abstract is examined it is brought back to us and we send out a final report that the requirements are O. K. or that they cannot be complied with except by action in court. We get paid for that because we are the only people who are equipped and trained and know how to make a title. It is something more than making an abstract. Any real estate man or any other person can make an abstract. We render complete title service and I will say forty per cent of our revenue comes from completing requirements, or for title service.

CHAIRMAN JOHNS: Mr. Clarke, what have you to say about regional meetings?

MR. WM. CLARKE: One thing I overlooked yesterday was regarding the success of these meetings. We had several and every meeting went on record as wanting another meeting before our next state meeting. That is what they think about it. We didn't get them all signed up on this schedule and as these meetings were held with a definite purpose in view, that was unfortunate. We started out to get uniformity in abstracting. We found our fees were not uniform and figured that was the most important part so we started on uniformity in fees.

At the next meeting they wanted a uniform certificate presented to them for discussion but before they get that uniform certificate presented to them the state is going to adopt this schedule of fees in its entirety and we don't want to let up until we get that done.

There was some talk among the state officers that these regional meetings would be held to promote better feeling among the abstracters. Don't start out with that purpose. That isn't big enough. Have something real to shoot at when you start. We shot at the schedule of fees and it went over big with every one who attended. When you start these meetings have something definite to work toward and don't let them talk about anything else until you get that purpose accomplished. If you do, you are lost. You might have to have a "rough-neck" like Jim Johns or Dick Hall or myself to do it but be rough for a while and they will think more of you. We folks think a lot of Jim Johns. He told us at Great Falls what was what. We didn't like him for about an hour but we liked him a heap before he got through.

We are going to get everything uniform in Montana as far as it is practical to do so. Our next step will be uniform certificate and then uniformity in abstracting. I have been president of the Montana Title Association for four years. They wished me in because there wasn't anybody else to take it and they haven't let me go. Until they take somebody to take my place who will carry out the program I am not going to let them let me go.

CHAIRMAN JOHNS: Has anybody anything to ask or say on these subjects?

MR. BECKMAN: One thing that is bothering me—what are you going to do where you have a whole lot of fellows, young lawyers who are hanging around with nothing to do and don't count their time as worth anything and when they do a little job for anything over a dollar they are just that much ahead? Unless you get some kind of legislation in a state that says who is an abstracter and who can do abstracting, how are you going to shut out one hundred and one popinjays who are around doing an extension for a dollar and a half?

CHAIRMAN JOHNS: Why don't you put ten per cent of your fees in a reserve fund and then tell your clients you have some financial responsibilities? Advertise the fact you are a reputable, responsible title company.

One thing I have talked about is the way a lot of abstracters who operate under their own name obtain money under false pretenses. When they die what good is their certificate? Absolutely none. They are obtaining money under false pretenses if they put out a certificate and have nothing back of it. With some of them there is no responsibility when they are alive.

. . . Mr. Johns retired and Vice-President Wyckoff resumed the chair . . .

CHAIRMAN WYCKOFF: Going back to this matter we were talking about yesterday. I think "dictation"

is a bad word to use. I don't like to be dictated to by anybody. I am willing to cooperate with anybody. I believe that anything which suggests dictation is bad anywhere in your method of doing business. I instruct my force all the way through not to use the word "must" in correspondence, but say "it will be advisable." Nothing irritates anybody so much as dictation and I would not wish to go on record as having said the title companies should dictate what they should do to anybody. What I did try to convey was not to be stampeded; nobody else can dictate to you, either, notwithstanding what Ed and Johns said.

Judge Cornelius Doremus, President of the New Jersey Title Association, for whom we anticipate a seat in the governor's chair of New Jersey, is the president of our state association and I promised him an opportunity, in the limited time which he could give us, to give us a paper on one or two questions which are on our program. I am going to offer him that opportunity now.

Membership, Dues and Activities of State Associations

By Judge Cornelius Doremus, Ridgewood, New Jersey

I think my friend, Mr. Wyckoff, is very happy in his remarks as they apply to any one, as we know so well, but especially as they apply to me. You were no doubt glad, those of you from California and other states, to be advised of my anticipating being governor of New Jersey so that when you come to Trenton you will have the pleasure of seeing how legislation is conducted in favor of title associations.

I am pleased to have this opportunity to say a word to you before leaving on the twelve-forty train. By anticipation I am trying to give you my views briefly on what I think of this proposition.

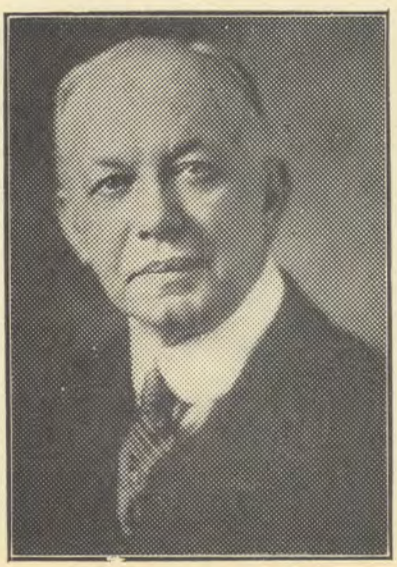
"Membership in State Meetings." "What Shall Fees Be?" What Method Is Used by State Associations To Keep Up Membership?"

1. The fees for membership in State Associations must necessarily depend upon local State conditions. In States having large cities, such as New York, Pennsylvania, Illinois, New Jersey, Ohio and Massachusetts, the minimum membership fee should be at least $150. The reason for this is that the amount of business conducted by the State Association in such States is great in volume and the volume of business coming from large cities is so great that every conceivable effort should be made to make such Associations very workable and expense should not be considered where it would militate against real service. Paid secretaries and employees are necessary. Bulletins should be issued with great frequency and a complete system of information such as is required by progressive Title Companies should always be on tap. Reports should be frequently required from local companies to be made to the State Association and this should be tabulated and a constant correspondence had between the State Association and members to more effectively carry on the work. Office rent, paid help, postage, carfare and many other incidentals are absolutely necessary for the daily conduct of the work. In other States having less volume of business, the fee could be approximately $100.00 and the amount of service required proportionate to such membership fee. In many States a membership fee of $25 is ample where the service is more spasmodic and rendered only occasionally, principally upon request. $50.00 should be the minimum, or whatever sum is consistent with its business. This association expense is a good investment.

11. (a) Methods used in State Associations to keep up membership varies almost as much as the number of State Associations involved. In other words, I would say there are at least forty-eight different methods. There is, however, much in common in every State.

I find that many States have annual conventions at which papers are read, speeches made, banquets given, and there are many social activities during the period of the convention. This is one of the best possible means of keeping and increasing the membership. The *esprit de corps* is made 100% by this method.

(b) Mid-year conferences at which the main events are the reading of papers, addresses and possibly a social dinner, are also very conducive to an increase in membership because of the increased interest brought out by attendance and the passing along from one to another of the experiences of those attending. Quarterly meetings of members of the Executive Committee are found to be very valuable. I speak especially for New Jersey and as President of that State Association. I find immense interest created in the membership by the sending out to the members of questionnaires, subject matter for discussion in the Board of Directors of the Individual companies, and matters to be brought before the Legislature for the benefit of Title Companies. I find individual lawyers, abstracters and conveyancers, by reason of their membership in the State Associations, given prominence, new ideas, better business, more publicity and receiving much benefit and this benefit runs right along to Title Companies and Trust Companies doing title business. Regional meetings I find are becoming more and more popular by a survey I have made through Title Companies doing business in the United States and are productive of splendid results in local quarters.



Cornelius Doremus

Some states are altogether too large to have much direct contact between companies, abstracters, conveyancers and lawyers in different portions of the state widely separated and the State Title Association, but by having regional conferences they solve individual needs and get closer together. This helps also very much in standardizing forms, prices, ethics and general conditions. If membership is to be stimulated and increased, we must make title work a real profession and bring to bear the elements of pride in our business, ambition to succeed, confidence in each others work, keep away from jealousy and antagonisms, make each individual and each company feel that he and it is part of a great organization animated by motives of mutual helpfulness an interest in each other, and keep out petty jealousies or undue cutting of prices and belittling the work of the other fellow. States should be divided into districts. Appoint many committees with real work to do. Keep every one busy. This stimulates interest.

In most Associations that I have

been brought in contact with and made a survey of, I find there is a growing tendency to have a real interchange of methods, ideals, standardization of price and general helpfulness and uplift.

Can National Associations Render Real Assistance To State Associations Which Will Be Helpful To State Associations? What Should Be The Relation Between State and National Associations?

1. National officers will greatly inspire members of State Associations by their presence in as many of the State meetings as possible. This promotes good feeling, real understanding, and shows the desire of the National Association to help the State Association by the sacrifice of time and incurring of expenses for the benefit of State Associations.
2. Standardization among State Associations of:
   a. form of policy
   b. fees
   c. ethics
   d. helpfulness and mutual understanding
   e. the same as Clearing Houses in banking circles—to have State Associations feel that through the National Association all their wants and wishes can become known and needs supplied.

National Association Conventions act as a *magnet* to draw together representatives of State Associations as a *wheel.* With the National Association as a hub, the strength and cohesiveness radiates to State Associations and perfects the whole the same as the spokes and rim make the perfect wheel. There are over thirty State Associations members of the National Association and others are constantly coming in. This enlarges and radiates the scope or territory in which the National Association is interested. The pattern on which the U. S. Government is formed is a wise one to follow. We can adopt a practice similar in form and usefulness.

Legislation.

The National Association can help greatly to enforce uniform divorce laws (affecting real estate titles;) uniform mortgage and deed forms, use of photostatic records for recording in books, copies for use in evidence, etc,; legislation affecting real estate titles such as liens of judgments and other encumbrances; uniform County Clerk's certificates on deeds and other instruments; encourage issuance by State Associations of a magazine similar to "Title News," (that most instructive and well edited magazine for which so much credit is due to our genial National Secretary, Richard B. Hall); send special personal letters a month prior to each National Convention giving a synopsis of the events of the Convention and urging State Association members to be sure to come, this in addition to notices and articles in the "Title News;" take intense personal interest in every State Association and if one gets dowsy and the interest is lost and membership runs down, send one or more National officers and resuscitate it; present for consideration to each State Association the question of setting up reserves for losses.

It is vital to the upbuilding of the title industry that there be an increase instead of a decrease in membership in the National Association. Every annual State Convention or Conference should be attended by one or more National officers. Every State Convention or state-wide meeting should be reported to the National Association and edited by national officers for possible helpful suggestions.

At every National Convention special papers should be read each year on mortgages, conveyances, standard forms of policies, mechanics' liens and divorces as affecting real estate laws of descent. This brings sharply to the attention of all of us by the reiteration those outstanding features of title business which would produce suggestions and helpful criticism with a view to the remedy of any defects.

Attendance at National Conventions is a liberal education and helpful in the work of State Associations. My first National Convention was at New Orleans. I took some part in it and brought back a number of new ideas to our New Jersey State Association, of which I have the honor of being President. We put many of them into force and they have been very helpful.

Inquiry and Search Bureau. This has been established in the National Association and should be made much of by State Associations and individual members, both of the State and National Associations. The service is free and most helpful and comparatively few thus far have used it.

The uniform mortgage act is now before our National Association, also the National Association of Real Estate Boards, American Bar Association, Association of Life Insurance Counsel, Mortgage Bankers Association, and the Federal Farm Loan Board. Our Association can and should co-operate in getting this most important act passed. It is drawn under the supervision of the National Conference of Commissioners on Uniform State Laws. It was started back as far as 1889 by the Bar Association but is now approaching the end of its tedious course.

Zoning. Bring about a general understanding of its nature, value, and so far as possible, secure a proper legislation for different localities and a general acceptance of its principles.

The relation between the State and National Associations should be as close as the union of the Siamese twins. They are interdependent.

Title Bulletins

By Charles E. Lambert, Rockville, Indiana

The American Title Association was first organized by a few ambitious abstracters who had the vision, from the states of Michigan, Illinois, Wisconsin and Indiana, at the old Palmer House, on State Street in Chicago, Aug. 8, 1907.

This was on call of a circular letter issued to the abstracters by Mr. Walter W. Skinner, April 15, 1907, who was at that time President of the Wisconsin Abstracters' Association. Together with this information was a copy of the proceedings of the first annual convention of Wisconsin, containing addresses of some able speakers relative to organizing National and State Associations—especial mention being made as to the suggestion of Mr. John T. Kenney, printed in pamphlet form. Mr. Skinner with the assistance of Mr. Kenney, first organized their own state and the former was honored as its President, while Mr. Kenney was given the Vice-Presidency for like service. Both advocated an American Abstract and Titlemen's Magazine or periodical of some kind, to serve as a medium of communication between the members of this association and their friends.'

The basic reason for organization was the Torrens bill talk in Wisconsin. These two names are now famous in the abstract and title profession—the former, Mr. Skinner, as builder and originator of the American Title Association of today. The latter, Mr. Kenney, opposing Torrens system, and who was called upon to explain it in public addresses. The most notable event of this nature was his address before the law classes of the Universiey of Wisconsin, located at Madison; taking for his subject, "The American System of Land Titles." Mr. Kenney at that time advocated a state commissioner of land titles, state examination and supervision of conveyances, surveyors', abstracters' and registrars' of deeds, inspection and supervision of

abstract and registrars of deed's offices, use of plats on all deeds as well as abstracts; simplifications of land descriptions; photographic system of recording deeds.

Looking back to 1907, even the most trying years getting under way and gaining recognition, have been most gratifying. Our pioneer leaders have all been men of high intelligence and experience in their particular lines of endeavor; in law, abstracts and title insurance. The title bulletin respects and honors the memory of these gentlemen who suggested a publication of this sort. It represents an amazing progress in modern advancement for the betterment and growth of state organizations. It is a sort of text-book and a school of instruction for all departments, treating on almost every subject of interest to the membership of today. It teaches the importance of new things and is the publicity agency through which the State organizations function.

The first American Title Association magazine was launched when Mr. T. P. Keator, Manager, Farm Loans and City Bonds, Chicago, endorsed the parent organization in its infancy in 1910. He donated many columns of readable information to its welfare and helped to make its success possible, his being the first publication speaking out for the abstracters' cause and advancement in the United States. The American Association then being only about four years of age, officially endorsed and accepted Mr. Keator's proposition and great kindness, and a fine co-operation existed and was maintained for several years.

After which came the first state bulletin. As to its origin, date and the State back of it, we have no authentic or reliable record.

Indiana a few years later presented its first publication known as "The Title Association Bulletin," announcing the fourth state Convention at Indianapolis, August 30-31, 1910, whose charter membership at that time was twenty-eight.

The first issue of "The American Abstracter," was printed October 1, 1911. It was devoted exclusively to the 'best interests of abstract and titlemen of the United States.' Kansas City was its place of birth. For want of financial encouragement it did not survive very long.

All these publications were knocking at the doors of the State Associations for admission, recognition and endorsement. The scope of the bulletin is vast, interesting and distinctive. It is indeed, gratifying to see and read about the constructive development that our publications have wrought. The 'now and then' bulletin should become a regular monthly publication in order to fully serve its purpose. They all promote higher standards and stimulate and revive run-down state organizations by increasing membership, and capturing title men who belong to that long list known as non-members. Bulletins should specialize entirely on modern advancement and achievement.

Stronger cooperation is the present need of our bulletins. Bulletins are the spillways of title knowledge—arranged in a fascinating combination—forging ever ahead in these marvelous times until the bulletins will find itself for capacity.

Throughout the country there is now a wide variety of title bulletins—all shapes and sizes; longs, shorts, stubs and slims. Not many states however, are fortunate enough to have a bulletin of any sort.

California has a department in the California Real Estate Journal made possible by the editor who is also executive secretary of the California Real Estate Association, and whose personality and interest in title association affairs has made this very satisfactory.

Charles E. Lambert

Allow me to quote from the California Bulletin: "Make this bulletin a field to thrash out many a problem." That is the true bulletin spirit. The bulletin can serve odds and ends of title information as well as other phases to be found therein. The bulletin will continue to go forward and draw many readers to its columns.

South Dakota, Arkansas, Colorado, Minnesota and Montana all issue publications at spasmodic intervals. In the main these are multigraph bulletins, samples of which the writer has perused. Texas and Pennsylvania also get out mimeographed copies from the office of the President on special occasions and they usually appear on an average of once a month. Missouri prints a monthly digest of Supreme Court Decisions affecting title matters and this is prepared by McCune Gill, who edits same in the TITLE NEWS.

Wisconsin has recently spruced-up its whole association and its bulletin reflects this spirit. They have just changed from a multigraph edition to a very attractive printed Bulletin issued quarterly. For value and subject matmatter this is most commendable. New York issues a printed bulletin on special subjects as well as mimeographed letters on certain occasions.

Kansas and Oklahoma are the two states attempting to issue a regular monthly magazine at present. Oklahoma without question leads the rest of them. They depend upon advertising to defray expenses and I understand have been fairly successful. We think there should be some kind of a regular bulletin service maintained between association headquarters and its members. There is no doubt but what Wisconsin presents the best medium of this sort. The mimeograph method serves just as well providing copies are gotten out regularly every one, two or three months in an attractive manner. The trouble with most of them is this: They are gotten out on the cheapest kind of plain paper and do not have much attraction. We really think a mimeographed bulletin with some painstaking care would serve effectively and is most economical. In this respect we somewhat favor the news-letter gotten out by Pennsylvania and Texas because it is attractive in appearance, to the point, and deals with important subjects. By being brief and having these other qualities it commands attention and the members at least know their state association is awake and functioning.

The attempts of Kansas and Oklahoma are very commendatory and pretentious but we do not know what they can report as being their experience and re-action. These will be fine if they do not take up too much time and work and finally prove an imposition on someone to prepare them. One who has never engaged in such work cannot realize the time and energy it requires.

We truly believe that one trouble with state associations now, is that they are never in contact with their members except at the annual meeting and this is only beneficial for the time-being and its real value lost soon afterwards as people lose contact with the organization and never hear of it until the next annual effort.

Bulletins make good, no matter in what state they are printed. Their influence is felt wherever they are read, and prove a mighty fine by-product for making friends and denote untold durability.

The new era to follow state bulletins is a rich mingling of many varied subjects which have been treated in an unforgettable manner. The bulletin expresses wholly new progressive ideas. It radiates everything new; is a brief history of a finer achievement and reflects the future. State associations need bulletins for development as they are the mediums through which advancement comes. Such are splendid enthusiastic State Bulletins.

The purpose of the bulletin has been emphasized herein. Every business in

this day and age of any consequent is represented by, and prints a live and snappy one. The immeasurable value of which cannot be questioned.

Bulletin growth and success all depends on your generous financial support and encouragement. Co-operation means much to you and others. Reconstruct your present ideas in its favor and found a publication which will meet with greatest success. Bulletins are winning the race by furnishing important information. This is a happy new print giving you an up-to-date slant of new impressions.

THE TITLE NEWS, official publication of The American Title Association, is now in its sixth year. Its pages contain wonderful information for all. One of the most prominent features contained there is "Law Questions and the Court's Answers," as compiled from recent court decisions, by Hon. McCune Gill, Vice-President and Attorney, Title Guaranty Trust Company, St. Louis, Mo.

Give title bulletins full speed ahead for the year 1928, and all others to come. Many new features will be published from the pens of able writers. This is worth remembering. Progress and prosperity will be hailed by all readers from now until all states have their own bulletins.

Most important of all is the SPIRIT of the publication. The bulletins are of inestimable value, dispelling the best things of benefit to all.

This is my closing glimpse of the future bulletin. Let us all companionate it.

Yes, bulletins are worth-while.

Open Forum Discussion of General Matters

CHAIRMAN WYCKOFF: I think there is no question but what bulletins in one form or another are of great assistance to state associations. We thank Mr. Lambert for the suggestions in his paper.

MR. LAMBERT: I want to compliment you on this very nice meeting. I am a charter member and I think it has been one of the best meetings I have ever attended.

CHAIRMAN WYCKOFF: Our Association and its business are increasing and it is natural that as the interests of the Association increase the programs assume greater interest.

SECRETARY HALL: Yesterday you folks heard me mention the National Association of Trade Executives and the mutual interests there were among those men. We have with us this morning as a visitor one of the most active trade association executives in the country and also an outstanding mover of the activity of that organization. I have known him only a short time but it has been a most mutually helpful and pleasant association.

I want to introduce to you so you may know him, too, Walter B. Kester, Executive Secretary of the Mortgage Bankers Association of America. (Applause)

MR. WALTER B. KESTER (Chicago, Illinois): Mr. Chairman and Members of the American Title Association: I am glad to have had the pleasure of listening to this obviously successful meeting. I feel that I know all of you through your efficient Secretary, Mr. Hall, who is known as a secretary who really accomplishes things.

One of the speakers said something about "Scarface" Al killing off eight in Chicago every day. We have a lot of local pride and we are very sensitive. We want you to know he is killing off twelve a day, as a matter of fact, and not eight. (Laughter and applause)

CHAIRMAN WYCKOFF: It has been nice to hear from a representative of an association whose interests and ours at certain points are very similar and contact.

I will now turn the meeting over to the two gentlemen who are to conduct the question box.

. . . . Mr. Wyckoff retired and Mr. Johns took the chair. . . .

CHAIRMAN JOHNS: Ed Lindow and I were to conduct a question box together. The first question is Ed's but as he is not here right now I will start with my question, Number Two —"Regional Meetings—How can they be organized, and will they increase the benefits of Association work? Have they been successful?"

Is there anything more to be said on that subject? Are there any questions anybody wants to ask?

A DELEGATE: Would you invite all the abstracters in the region to come, or just association members?

CHAIRMAN JOHNS: Association members, non-members, curb-stoners —get everybody there. Even the lowliest curb-stoner wants to make a living.

MR. FAWLEY: The necessity of holding regional meetings, as I said yesterday, is the biggest thing I have gotten out of this meeting. It has been advocated but we have never done it. I am satisfied we are going to get a lot of good in our association from that.

I would like to make one correction as to the prices in Washington. As I said yesterday, the average is a dollar for a transfer all over the state, although the Walla Walla man is an exception to the rule. We have talked that over in our meetings but haven't gotten it to where it ought to be.

MR. RICKETTS: In the experience in the states where you have held regional meetings, what is the best size meetings? Do you have better results when the regional meeting is not too small?

CHAIRMAN JOHNS: You will find things of that kind in the prospectus on meetings. You want different sorts of people in the meeting, for instance, in a bunch of oil counties such as you would have. You want to have them small enough so the men can leave home in the morning and get home in the evening because many of them really can't afford to stay over night. There should be a similarity of interests, if possible.

If there are no more questions on Regional Meetings, we will go on.

Have you anything to ask about that first question, "How to sell abstracts or title insurance in rural communities; how to educate property owners to have titles examined"? I will say for the benefit of the record that we have a little difficulty selling abstracts until people need them and then you can't keep them away. They have to come to you or your competitor. We are pretty much in the position of the undertaker—when they have to come to us, why cut prices? Did you ever hear of an undertaker competing with another on a matter of price? Why do we do it?

"Membership in State Meetings—what should the fees be?" is the next question.

MR. WYCKOFF: In that connection I would like to say, there was a committee appointed at the Detroit convention to study a plan of financing for the Association for the future. They have been studying the problem but are not yet agreed on the report. I think we shall have to let them report to the Executive Committee some time during the afternoon and any recommendations which they make which have the approval of the Executive Committee will be published in TITLE NEWS in the next issue of that paper which is available. It will probably be in the second issue you will get after this convention.

MR. RICKETTS: I think our association has proven to its own satisfaction that the more the members pay for membership, the stronger the association and easier to collect.

CHAIRMAN JOHNS: We have come to a dividing of the ways. We are either going to go ahead and become a more efficient organization and

have a better central organization and improve the state associations and improve conditions with the local title company or we are going to retrench and get down to a condition of innocuous necessitude." If we are going to amount to something we will have to raise our dues. You can just count on that. We are going to have to kick in with more money.

The next question is, "Can National Association render real assistance to state associations? What work would be helpful to state associations? Should not national officers make definite suggestions to state associations? Can National body suggest standardized methods of conducting business applicable to all states? Can charges be equalized throughout the country? What should be the relation between state and national Associations?"

Is there any discussion on that? As you know, I have very positive ideas about that. I told you that you can take your choice. You can either amount to nothing or you can take the recommendations that Mr. Hall and some of the rest of us have worked out and give them serious consideration.

MR. WYCKOFF: A continual criticism of the officers of the Association is that they don't tell state associations how to do things, that they don't understand the local association problems. How in the world can we understand the local problems if when you write a man a letter and ask him what they are he says he hasn't anything to say? You can not expect me or any other officer to give you much help when that is the answer to the inquiry. You are not giving cooperation when you answer letters from the executive officers that way.

CHAIRMAN JOHNS: One answer to a questionnaire I sent out when I was young in the business, "What can the national Association do to help you?" was, "It can do nothing—I know it all." I have since met that man and I disagree with him.

MR. RICKETTS: Our association has done a good many of the things without their being advocated by the national association and we have been fairly successful. However, we know we don't know it all and want to get help. There is one thing the national Association has never done and I don't believe any one has ever done and some of us feel it can only be done in the national Association—that is the gathering of statistics. It is a big question and I don't want to go into it at length.

We hear about prices here, there and the other place. I don't believe we can get at the present time a list of fee scales charged, what the volume of abstract business is in counties of a certain size, and things of that sort. Certainly that is a big piece of work that could be done that would be of advantage to abstracters as well as the title insurance companies. At present there is, so far as I know, no definitely accepted way of valuing an abstract plant. Nobody knows how these fee scales we have been talking about started. They started charging so much per entry and the only way that can be changed is to use the old basis and raise them. It seems there might be a better way of charging for abstracts than that. Perhaps it can't be analyzed.

It seems there are two handicaps. In most of the abstract states the seller pays for the abstract. It is pretty hard to get him concerned or interested in the ability or worthiness of the abstract. All he wants to do is get by. That is a handicap we all know. Another thing, on all present fee scales, nobody knows what the abstracter is to be paid until the deal is finished. That is the ordinary condition. If every lawyer handling a deal could have on his desk a scale of fees for every transaction we could collect three times as much as we do with less difficulty than now.

Since that condition does exist, it seems to me some investigation could be made and a better system introduced.

MR. CROSBY: There is a point here I would like to bring up wherein the national association, it seems to me, can be of great service. As you know, the laws of the several states are widely separated on a great many matters and it seems to me there is an opportunity here where the national association could function in regard to this federal lien conformity law.

There are only a few states in the union that are not affected by Judge Taft's opinion in Rhea vs. Smith, and it looks from my angle as though if we made a concerted effort here we could put across in practically all the states where the matter has to be legislated a uniform conformity law and if we get started with that it may be we can correct some of the other matters.

CHAIRMAN JOHNS: That is Question No. 12, which is Ed Lindow's. Mr. Lindow says he doesn't want to answer that for a minute.

Is there anything about the North Dakota law requiring regular examination and bond and all that sort of thing that anybody wants to discuss?

A DELEGATE: Do you think the fees in North Dakota are large enough?

CHAIRMAN JOHNS: In North Dakota they had an old law regulating fees, I think, to 25 cents per entry. In order to get this law through they consented to a fee scale of about fifty cents an entry. That is one item that should not be included in statutory regulation any more than the fee a doctor should charge for an operation. They accepted that as a compromise and soon they are going to get more if possible.

A DELEGATE: Does that require grantee or grantor, consideration, book, page and description be shown or contemplate a full take-off?

CHAIRMAN JOHNS: I can't answer that off hand. I think it provides for the line abstract.

When you get a whole abstract it will look severe to you but there won't be opportunity for these client-less attorneys and stenographers and various people to make abstracts. Of course, you will have to take in those who are in business now. But you can buy them out afterwards or consolidate with them, or they will die, and before long the condition will get better. . . . Mr. Johns retired and Mr. Lindow assumed the chair . . .

CHAIRMAN LINDOW: I will answer the gentleman from Nebraska in regard to Question No. 12. I don't believe anybody is as well fitted as Charlie White to answer questions regarding the federal lien law and I am wondering if you have his book on "Federal Lien Law"? If not, it would be well worth while to write and get a copy.

The first question is No. 6, "Should state laws require substantial deposits as a prerequisite to incorporation of a title insurance company?" I am going to call on a few gentlemen I figure should know a little something about this subject. Mr. Henley, will you say a word or two?

MR. HENLEY: Mr. Chairman, I think probably due to the fact that a principal part of the facilities with which we work are the public records the public has gained and holds an entire misconception of the business of abstracting and title business generally. The fact that the source of our information is the public records seems to have created in the minds of the public the idea that the abstract business is in the nature of a public utility, which carriers with it as more or less of a corollary the idea that we are a monopoly. For that reason, although the thought may not be clearly expressed, always we find the idea in the minds of the public that we should be regulated because we make our money from the use of records which are prepared and compiled by the public. The customer entirely overlooks the fact, if he knows it, that we cannot as a rule use the records as we find them in the public offices and that those records are as free to him as they are to us, and that it is necessary for us to make a substantial investment in title plants in order that we may render to him a service that he requires.

Therefore, independent of the idea that any company in the title insurance business should create a proper reserve, purely from the psychological standpoint of building the good will for the business these reserves, it seems to me, should be created. It is the one answer that we may make to the demand for more extensive regulation, which, I think, is due entirely to this misconception in the mind of the customer as to the monopolistic control that the title company has of the public records.

Therefore, I think it is certainly desirable that the state require the maintenance of reserves and the deposit with the department of insurance or the state treasurer to insure the ability of the title company to pay its losses. The California law, as many of you probably know, provides for a deposit of $100,000 with the state treasurer. It also provides no company can write title insurance which has not a paid-up capital of at least $100,000. Therefore, the requirement which makes it necessary to deposit securities with the state treasurer is not onerous because if your capital must be $100,000, that investment should be in good, interest bearing securities and it isn't very material whether they are in your office or the office of the state treasurer. The fund is earning just as much there as it is in your office and your control of it is almost as complete as if you had it in your office because other securities can be substituted at any time.

The protection that this affords to the public is a very substantial element, in my opinion, in the development of good will and in the answer to the oft-repeated claim that the title company should be regulated in all respects because it has a monopoly and in the exercise of that monopoly uses records which should be open to the public generally.

CHAIRMAN LINDOW: Thank you, Mr. Henley. I understand there are some states where there are no such laws regulating title companies or demanding them to keep a reserve. That is one of the reasons why I mentioned this morning their policies are not accepted everywhere.

Are there any others who feel they would like to talk on the subject?

MR. GOLDING FAIRFIELD (Denver, Colorado): I would like to ask Mr. Henley—in addition to the requirement of the deposit and paid in capital under the California law, what supervision are you subject to on the part of state officials and is that a burden to your company?

MR. HENLEY: The insurance department of the state of California has the right under the law to examine the accounts and affairs of insurance companies at any time. We are required to make a quarterly and an annual report which are very complete. The law expressly specifies the securities in which surplus funds can be invested.

I think it is the experience of the companies generally in California that that regulation is not objectionable as exercised there. The insurance commissioner has no power to fix rates or in any way regulate. His duties, I would say, are purely administrative. The statute provides how we shall make our investments and the insurance commissioner merely attempts to see that we comply with the law. It is particularly with regard to our investments that he operates. If in his examination he finds we have made an investment which the statute does not permit he usually calls it to our attention. At the same time, we are not necessarily required to dispose of that particular investment. He merely disallows it in our admitted assets for the purpose of determining the extent to which we may issue policies.

MR. FAIRFIELD: In talking this matter over with various people at the national convention on one or two occasions it has been expressed that supervision on the part of the state and being subject to inspection by officials who are put there by politics, and so forth, was considerable of a burden and a lot of foolishness in so far as the attempt to regulate or pry into the affairs of the title guarantee companies. In other words, does the advantage of having state laws requiring deposits and this supervision outweigh the actual bother that is occasioned by the supervision on the part of state officials?

I am asking this because in Colorado we don't have very much supervision on the part of state officials over title guarantee companies.

CHAIRMAN LINDOW: I believe the members of the states where there is such supervision will agree the supervision will agree the supervision is a just one and it lends more responsibility and dignity to their business. If I am wrong, I hope some one will correct me.

MR. W. J. SNYDER (Philadelphia, Pennsylvania): In Pennsylvania we are opposed to placing ourselves under the department of insurance. Our reason for that is that a title insurance company is a service company and it does not have all the qualifications of other insurance companies. We are under the supervision of the banking department of the state and we are examined by that department about every eight or nine months.

We believe that a more satisfactory control of the busines is by legislation requiring each company to set aside a certain reserve for the meeting of their losses. The title association at its last meeting drafted an act to be presented to the next legislature of the state requiring each company to set aside $250,000 in a trust fund to be under the supervision of the banking department for that purpose. In addition to that, we have recommended that we set aside ten per cent of the premiums and add that to that fund. Any losses that are endured will be paid out of that fund and any investment that is paid off we have the right to take out and replace with another investment.

That has the advantage that you keep control of the funds yourself and they are not placed in the hands of a political machine. Our main thought was that if we were put under the insurance department it would open up the way for foreign companies coming into the state and if they made the deposit, having the same privileges and opportunities that the native corporations have. I believe that is one of the most potent factors in having your deposit. We all perfectly agreed there ought to be a sum set aside for the protection of the public but we believe that it is more economically handled, that it serves its own purpose, and that it is to the advantage of the home companies to have that in the form other than deposited with the insurance department.

CHAIRMAN LINDOW: In other words, I understand you have different machinery to get to the same point that other states do under the insurance commissioner.

MR. SNYDER: Yes.

CHAIRMAN LINDOW: Pennsylvania stands on record, though, as favoring a deposit to back up guarantee policies, doesn't it?

MR. SNYDER: Absolutely.

MR. McKEE: In addition to what Mr. Snyder has said, I think that our idea is that that fund should be in such a way that we handle it ourselves. In discussing this question in Pennsylvania we ran up against this proposition—as a rule title companies have been able to pay their losses. Occasionally a title company was associated with a trust company or banking company and the trust and banking company failed, principally not on account of the title insurance end of it but on account of the banking and trust end. Suppose you had a hundred thousand dollars deposited to pay your losses or protect your insurance policies. If you have them deposited in the state how are you going to separate them and pay your title insurance in preference to your other creditors? I don't think you can do it.

It is a good deal like our mechanic's lien law, which proposes to make a certain class of people who are protected under it secure without respect to other creditors or other people who need protection just as much as they do. Your hundred thousand dollars won't do you any good if you are coupled up with the banking department and trust company. I don't think you are protecting the policy holders at all.

Of course, we have just a small organization and for my own part, I think on general principles we shouldn't be advocating bureaus to run our business. They are always trying to set up a plan by which they get two or three inspectors who go around and stick their noses in other people's business. I think the sooner we get away from that idea the better. I think it is all right for us to lay aside a fund and protect our policy holders. I don't believe in the state having anything to do with that any more than inspection and examination of our books to see that we are properly organized and conducting our business in a proper way. We are under the banking commissioner but we don't want to be under the insurance commissioner as well.

CHAIRMAN LINDOW: I understand in Pennsylvania you have this dual system, which is not the case in many of the other states. The procedure in most states is that they come under the insurance commissioner. I know in Michigan we have only one annual report to make and in the six years we have been operating under that act we have had only one inspection so we haven't been bothered tremendously, and the facts that were brought up proved that it was beneficial. We learned something. That might not always happen, I agree.

MR. SNYDER: In answering Mr. McKee as to what protection the policy holder would have under that fund —in case the institution should become insolvent the act that I referred to provides that this fund shall be set aside and marked that it is held in trust for the protection of the policy holders only and that no other customer of the institution shall receive any benefit from that until all of the policy holders or all of the people holding the policies of that institution are taken care of. So that if that act should pass, that fund will protect the policy holders of the institution just as much, I believe, more than if the same amount of money were deposited with the insurance department, because if it is deposited with the insurance department it will have to be governed and litigated. The fund being set aside for that particular purpose can be used without any litigation whatsoever in defraying any losses or taking care of the policies outstanding.

MR. C. L. HALL: I would like to ask if there has been anything done recommending that it be a law.

MR. SNYDER: It was drafted at our last meeting. It will be introduced into the legislature next month.

MR. HALL: Don't you think ten per cent is too much after you make your deposit?

MR. SNYDER: We provide in the law that the initial deposit shall be made and then ten per cent of the premiums added until that fund reaches a million dollars. There is a limit to the ten per cent. That is ten per cent of the gross premiums. We charge an examination fee that is not considered a part of the premium.

MR. HALL: The examination charge is more than half of the premium ordinarily, isn't it?

MR. SNYDER: We charge $25 for the examination of the title; we charge one-quarter of one per cent to issue a mortgagee policy and charge one-half of one per cent to issue an owner's policy. The premium is that quarter or half of one per cent of the amount.

MR. HALL: Your ten per cent division would be about the same as five per cent in other states?

MR. SNYDER: On the whole amount, yes.

MR. FAIRFIELD: I am tremendously interested in this proposition from the standpoint of my company. We have a requirement that so much cash shall be paid in before a title company may incorporate. As a matter of practice there is set aside twenty per cent of the premiums to aid in the reserve to pay title losses. The state has general supervision over the company.

We are contemplating, for advertising purposes and for the betterment of our company and increased business, presenting to the legislature some kind of law requiring supervision and also requiring a deposit. I should like the advice of these gentlemen who have considered the subject as to whether or not we are putting our heads into something we will have difficulty with afterwards if we submit and secure such a law from our legislature. It would seem to me that possibly the benefits accruing from it in the way of advertising, and so forth, outweigh anything else.

MR. HENLEY: The Pennsylvania people and the California people are talking about horses; one may be talking about black horses and perhaps some one else about white ones. I don't see a substantial difference in the program they suggest and ours. I think I might be willing to agree with them it would be just as well to have this trust fund in the hands of a private, neutral trustee as with the insurance commissioner. I don't see that it is material. The provisions of the law which they propose provide practically the same protection as the California law.

We say we are inspected by and must report to the insurance commissioner. They tell us they are inspected by and must report to the superintendent of banks. They are both departments of the government and probably exercise their powers and jurisdiction in much the same way. We must deposit bonds with the state treasurer as a trustee. We have the same control over them, I assume, as they have over theirs in the hands of a private trustee.

Therefore, it seems to me there is no serious difference of opinion on the principles involved in this discussion. I wanted to emphasize that because I think it is quite important that it doesn't appear that any of us is opposed to some character of state regulation and to the creation of proper reserve funds under a specific statute or under supervision of state department.

MR. SNYDER: Mr. Henley is perfectly right and as far as making the deposit is concerned it makes no difference, but we feel that under our insurance laws a foreign corporation has just as much rights and powers as a domestic corporation and it is self-preservation that we are after."

CHAIRMAN LINDOW: If there is nothing more on this subject we will go ahead to the next, "Can a chain title company be justified?"

MR. S. E. PEIRSON (Detroit, Michigan): What does that mean, one corporation owning several plants?

CHAIRMAN LINDOW: It means being linked with a number of abstract companies or title companies.

MR. RAY McLAIN (Oklahoma City, Oklahoma): If I understand it, it is either a company owning several plants or having correspondents in those localities. My opinion is, if you work either state wide title insurance or national title insurance it has to be on that basis and I can see no reason why it can't be worked out. On that basis a local abstracter can look forward to advancing his business rather than feeling it is something that is going to kill his business.

As a practical proposition it has this appeal to me—forgery is one of the biggest risks the title insurance companies run. Recently in Dallas one of the title insurance companies paid a big loss on account of forgery. In Oklahoma a few years ago a building company forged mortgages amounting to several hundred thousand dollars and sold them all over the country. Within the last three months a mortgage company in southern Oklahoma has forged mortgages—I don't know how much it is going to amount to but I think a hundred thousand dollars. They have sold them to mortgage companies and I think some title insurance companies have insured a great many of those titles.

The plan that they operated on in Oklahoma City was this—a forger would make, say, four mortgages on the same property and have four abstracts. They would remove from the abstracts three of the mortgages and take one set of papers with one abstract and sell to one customer and another to another. If there had been title insurance in Oklahoma City and if those mortgage holders had required title insurance from the Oklahoma City company, whether it was operating by itself or as an aid to some other company, that could not have happened because on the books of the title company those four mortgages would have disclosed themselves and the duplicate would have been apparent immediately. The local company would have detected that forgery.

If the company writing insurance has to rely on the abstract, the forgery could be put over the same as relying on the abstract and opinion. For that reason I think that a company in a large center having an added capital stock and having a policy that will be accepted by mortgage companies, establishing either agencies or taking over local abstract plants and operating them as a part of the chain, it seems to me would be the most practical way of putting title insurance in and making it available all over the country. I think it is a practical plan.

MR. C. L. HALL: Our company is operating in eight counties in Washington and we had our capital invested, of course, in King County and are doing business there. It was a question with us first whether or not we couldn't use that same capital and do business in other counties through agents we might appoint. We have agents in other counties and they are getting the benefit of selling title insurance and we are getting part of the earning on each premium on each policy written. In other counties we have bought the plants and run them as abstract plants and as agents foi our company.

From the standpoint of the country abstracter who hasn't the money for the business to justify the deposit to the state it is a very good thing. We charge twenty per cent of the premium for our insurance and the examination is made in the county where the property is. The local abstracter hires one of our title examiners in his office and the work is done there with the same dispatch that it is done in the home office.

We have been able to put that over in the counties where we have these contracts by showing the local abstracter that he can make money by doing it. In Washington the average price of abstracts is about $10 and the average price of the title insurance policy is $20. If we can get him to increase his revenue by switching part of his business to title insurance and get $10 more on every order he switches he can afford to pay us twenty per cent of that $10 premium. The abstracters in the smaller counties are very happy to do that and we are glad to have our capital make a little more money. That is the way it is working. I don't think we should be called *octupi*. Every one seems satisfied and they are making more money than they were before.

MR. STONEY: I think your language isn't strong enough. I think the chain title companies are absolutely demanded. Mr. Henley told you there were just as poor notaries in San Francisco as you have here and other places. I can say we have had worse abstracters in some parts of the state than probably you have here. The only way you can improve the service is by eventually consolidating all the parts of the real estate transaction in title insurance.

There are two ways of forming chain title companies. One would be for a number of counties to consolidate on a title insurance company. That has been discussed but so far as I know the trouble always arose when it came to picking the manager. Generally it resulted in nothing. In addition to that there are great advantages in having a metropolitan company handling the business in the country, for two reasons. First of all, the large insurance companies that loan money throughout the country do not like to do business with the small title insurance companies if there are larger title insurance companies that can handle the business. Furthermore, in large transactions the financial centers generally are the places where the transactions are handled and it is more convenient to the public and more convenient to the people interested to handle the transaction where the financial center is. So when you as a metropolitan company underwrite the people in the interior you are giving to your particular affiliate the largest business that happens in his county and that is the business from which with probably less labor he gets the most returns.

I don't altogether agree with some of the members of the Association as to the proper method of extending title insurance because we have tried several methods and we have found there is only one that is efficient and that is to have your title insurance in all the companies in the county who are handling title business and then tell the public you haven't anything but title insurance.

CHAIRMAN LINDOW: You mean you have more nerve than the rest of the title men.

MR. STONEY: It is thoroughly efficient. You have to satisfy only the bank and pay no attention to the lawyer. We have no trouble whatever. In two counties there was some talk about monopoly and having us indicted for violating certain trust laws. It wasn't difficult to call attention to the fact we weren't selling commodities and weren't selling merchandise as a mercantile business and so were not affected by those law. It was not difficult in dealing with abstracts to show a bank, in most cases, it was cheaper to have a policy of title insurance than to have an abstract made and pay an attorney's fee for examining it.

With that one exception, how to get it over, I think the association, and particularly those in the title insurance business, will agree that we must provide the commodity wherever there is a demand for it and that is the only way to do it.

CHAIRMAN LINDOW: Let me ask —I think this question has come up on state wide title insurance or chain title companies or whatever it might be called. I think the vital question that is bothering, especially in states where they haven't seen fit yet to branch out and tie up with the abstract companies and smaller title companies, is as to the responsibility of the abstracter or abstract company or title company and their safeness in work-

ing out the examinations, and so forth. That is one of the very reasons I didn't make mention of it this morning. I was trying to find out, especially from California what the losses had been the past year or two, especially the branch offices or agents of the large title companies in California. I think the question that bothers some of these lage title companies and keeps them from branching is the fact they think every abstracter and title man is a "dumb dora" and doesn't know how to handle his business and they will have tremendous losses.

I would like Mr. Stoney or Mr. Henley to give us some idea as to what their losses have been under this arrangement.

MR. STONEY: I think it was three years ago that I made a summary as to losses in cases where we insured on property in the interior. Our directors one day authorized us to issue policies on abstracts and certificates made in Sacramento, San Joaquin, Fresno and Santa Clara counties. I discussed it with one of the Vice-Presidents, Mr. Clarke, and I said, "I think the best thing to do is to experiment a bit and write a policy of insurance on any form of evidence provided by a member of the California Land Title Association." After a period of three or four years I summed it up and discovered that we had collected $160,000 in fees and had paid out $2800 in losses. Since that time my observation is that we can make as many mistakes in San Francisco as the man in the interior county.

The idea is that the real serious losses are less liable to happen in a smaller county than they are in a big county. In the first place, there is less liability of forgery and in our dealings with the interior counties we assume the responsibility for forgeries if they do not. The local abstracter is more familiar with the people of his own town and a good many people know what he owns and know the mortgagee. Our experience indicates our losses on country searches are comparatively less than losses on San Francisco business.

CHAIRMAN LINDOW: I am glad to hear that and I am sure it will be of interest to our members throughout the country who are figuring on establishing branches or agencies.

Has any one else anything to say on the subject? If not, we will pass to the last subject so far as I am concerned, which is, "National Advertising" and "Is Title Insurance Gaining or Losing?"

VICE-PRESIDENT WYCKOFF: I want to say that the question, "Is title insurance gaining or losing," came to me from one of the old members of this association, a veteran in the business, and he said that was suggested to him because of a conversation which came to him as an absolute shock. The question of whether title insurance was gaining or losing was very seriously propounded in a meeting of business men in which title men were interested.

I will say it came to me as a distinct shock. I thought there was no question but what it was gaining. The man isn't here who proposed the question. If anybody else has any idea as to some way in which title insurance is failing it would be of benefit to all of us to hear it.

MR. McLAIN: The only information I can give you is from our own standpoint in Oklahoma. In the last five years there have been four companies organized. Originally three went in about the same time, Oklahoma City, Tulsa and Muskogee. The one at Muskogee went out of business, I think, two or three years ago. When Jim Woodford left Tulsa no one knew anything about title insurance and it died a natural death. No matter how much a fellow knows about titles, unless he comes to the title association meetings and is affiliated with the national Association he won't know how to manage title insurance and had just as well not write it.

In Oklahoma City we started out with $100,000 capital. It was tied up in the plant and we gained no headway at all. What business we had was bad titles. We increased to $250,000 and began to see a little result from it. We thought that was inadequate. Last year we increased to $500,000 and our business is beginning to show a profit. Year before last our volume was about $750,000. Last year it was a million and a half; this year a little over three million. It shows that with persistent effort and proper capital behind it, it will grow.

One other company has organized in the northern part of the state but generally we can feel the demand is pressing. People are coming in from other communities and demanding it. There is a lot of agitation about it. Abstracters are talking about it in every county and it is going to be one of the big subjects at our convention next week. I would say the demand for it is growing materially in Oklahoma.

MR. J. E. SHERIDAN (Detroit, Michigan): On that same subject and for the purpose of making it a matter of record, I would like to say that in Detroit, or Wayne County, title insurance has been aggressively pushed for about five years. It is now taking care of—and I say this conservatively—at least fifty per cent of the transfers of land.

In 1927 we experienced a real estate depression in Detroit. The number of recorded instruments, deeds, and mortgages fell off, I should say perhaps sixty-five per cent of the previous year. I have consulted our competitor and his figures are about the same as ours. Our business, that is, title insurance business, on total number of orders received very closely equalled the preceding year.

CHAIRMAN LINDOW: Has any one else anything to say on the subject? If not there is one subject that I might go back to for just a minute before turning the meeting over. The subject was a sort of dual subject, as to how to sell abstracts and title insurance in rural communities. At the time Jim Johns had the question for the abstracters section some of the title men wanted to say something and didn't. I will give them a chance now. Are any of the members of the rural or urban communities here who want to say a word on how to sell title insurance in those places?

MR. SHERIDAN: I can only repeat what is probably known to every one, that is, to urge the larger title companies in the first place to educate the small town abstracter to what he really is selling. In Michigan we learned in one case six months after the execution of the contract that the abstracter did not know the conditions and stipulations of the policy he was offering. He had read through paragraph three but didn't know there were three other paragraphs.

In Michigan we have arranged wherever possible to have an officer from our own company speak to real estate boards in the rural communities and at luncheons of civic clubs to which we can be invited, the Chamber of Commerce luncheons, and kindred organizations.

One very effective means for furthering title insurance has been a banquet or dinner given jointly by the local associations to which are invited the banker, relator, and lawyer and a few owners of real estate. In a small community you will find, I should say, on an average, that eighty will represent the cream of the county, and if those eighty men can be sold on title insurance you then have the county tied up and in your hands so far as title insurance is concerned.

I would also suggest the propriety of belonging to the local real estate board, of having your local agent join the real estate board. If possible, have him join as an active member, taking out a broker's license if you have such a law, even though he does not pursue the real estate business. My understanding is that to be an active member you must have a broker's license. The advantages of being an active member lie entirely in the fact that you can serve on committees of the real estate board—it is missionary work, it is true, but it is profitable—and do a lot of work the men in the business don't like to do on membership committees, entertainment committees, golf tournaments and such as that. We have found that work done along that line in Detroit and in Michigan generally is quite profitable.

We have worked through the University of Michigan wherever possible. Officers of our company have spoken to the classes. Certain of our officers are on the faculties of the two colleges of law in Detroit, the University of Detroit and the Detroit College of Law. Within our own community we have probably twenty young men who

are studying law at night and every one of them is a salesman for title insurance. The men who will practice law in the future will know title insurance when they start practicing.

When we started furnishing title insurance in Detroit we agreed, in the case of a subdivision where the price of that subdivision was sufficiently high so that the title insurance cost at least as much as did abstracts, or more, to furnish an abstract in case one of the subdivider's customers declined to accept the policy. We had some difficulty convincing the interior abstracter he should do the same thing until we pointed out that within his plant he had everything prepared so far as the abstract was concerned, except the cover. He has the plant, the papers and typewriters, and the abstract itself, if it is demanded, can be worked in his spare time. We found our greatest trouble in that with the foreign element. In certain cases we have gone to the point of printing blanks in one or two or three instances.

I mention this again because it is something I want to get in the record. Out of the total delivery of not less than 15,000 so-called "sub" policies or individual policies covering individual lots out of a subdivision which had been previously covered by a master policy, our delivery of abstracts demanded by the customer don't amount to seventy-five.

I have one more thought to suggest, and that is to join the subdividers' division of the National Association of Real Estate Boards. Membership in your local board will not give you membership in that nor will you get the proceedings, and it is well worth the $10 it costs.

CHAIRMAN LINDOW: Is there any more discussion on the question? If not, I will turn the meeting back to the Chairman.

. . . Mr. Lindow retired and Vice-President Wyckoff resumed the chair . . .

CHAIRMAN WYCKOFF: You all have the programs with the questions upon them. I am simply going to ask if there is anybody here who wishes to speak on a question which has not been before the house this morning. Most of them have been covered.

MR. ANDERSON: I move that the Association thank Mr. Dall and the Chicago Title Association for the very excellent entertainment which they gave us last night.

. . . The motion was seconded and unanimously carried . . .

MR. McKEE: Is any one looking after the matter of getting up an excursion to Seattle and has there been anything done towards learning the sentiment as to which way we are to go?

CHAIRMAN WYCKOFF: Mr. Lindow is chairman of that committee and Harry C. Bare of your state is on the committee.

MR. McKEE: Have we found out the sentiment as to the best way to go?

CHAIRMAN WYCKOFF: We have tried twice and the expression of sentiment has not been very heavy. Mr. Lindow will probably put through a recommendation either in TITLE NEWS or in some other way.

MR. LINDOW: I might say regarding the Alaskan trip, the committee has met twice but we are giving all our thoughts and ideas to the matter of having a special train leaving Chicago, if possible, over certain proposed routes. There might even be such a thing as having a train leaving Chicago and El Paso or some other place for delegates from the South to go to Seattle but we are assured we have the nucleus of one or two cars, at least, for a train leaving Chicago on one certain road. We will send out a questionnaire setting out the proposal of the committee and asking what other road the members would rather go over.

As to the Alaskan trip after the convention—I don't think the time permits the committee to get an expression from the members by mail so it might be well for the members to make those arrangements themselves. I am told by the C. P. R. general agent at Detroit that those trips are already booked almost solid, so it would be wise for the members to make the arrangements themselves as early as possible for I doubt whether the committee can handle that within the time so as to insure getting passage.

MR. McKEE: The though I had was that if it is possible we should get a full train going to Seattle, starting from Chicago and it should be a personally conducted train, that is, as to stopping off at hotels and things of that sort.

MR. LINDOW: I think you will find that is what the solution of the matter will be from the committee because from the expressions we have received, unless there is very much of a diversified opinion as to what road, we have right now the nucleus of at least two cars and I have been assured by the general agent of one road that if we can get eighty or ninety they will give us a special train. The members will be informed shortly as to a certain itinerary which the committee will select and we hope to go as one big family.

CHAIRMAN WYCKOFF: The Transportation Committee for the Seattle convention consists of Ed Lindow, Harry C. Bare of Pennsylvania, M. P. Bouslog of Gulf Port, Mississippi, George E. Wedthoff of Bay City, Michigan, and Fred Wilkin of Independence, Kansas.

MR. FAIRFIELD: I move we adjourn *sine die*.

(The motion was seconded and carried. The meeting adjourned at one o'clock.)

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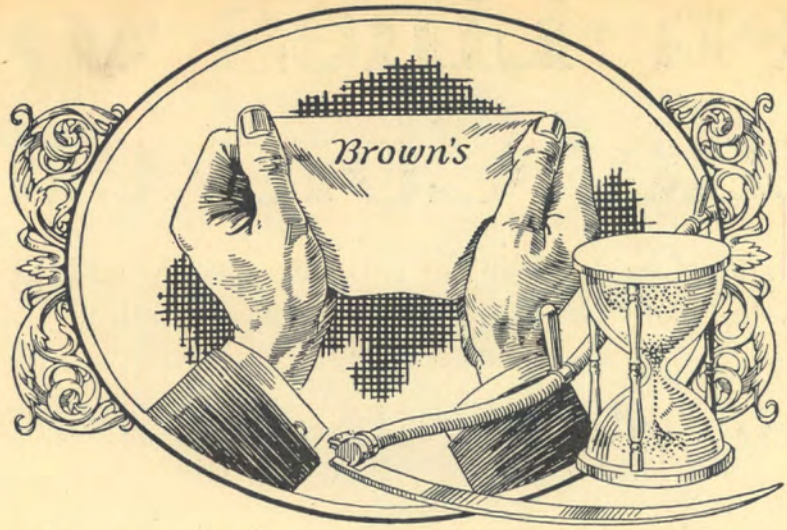

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