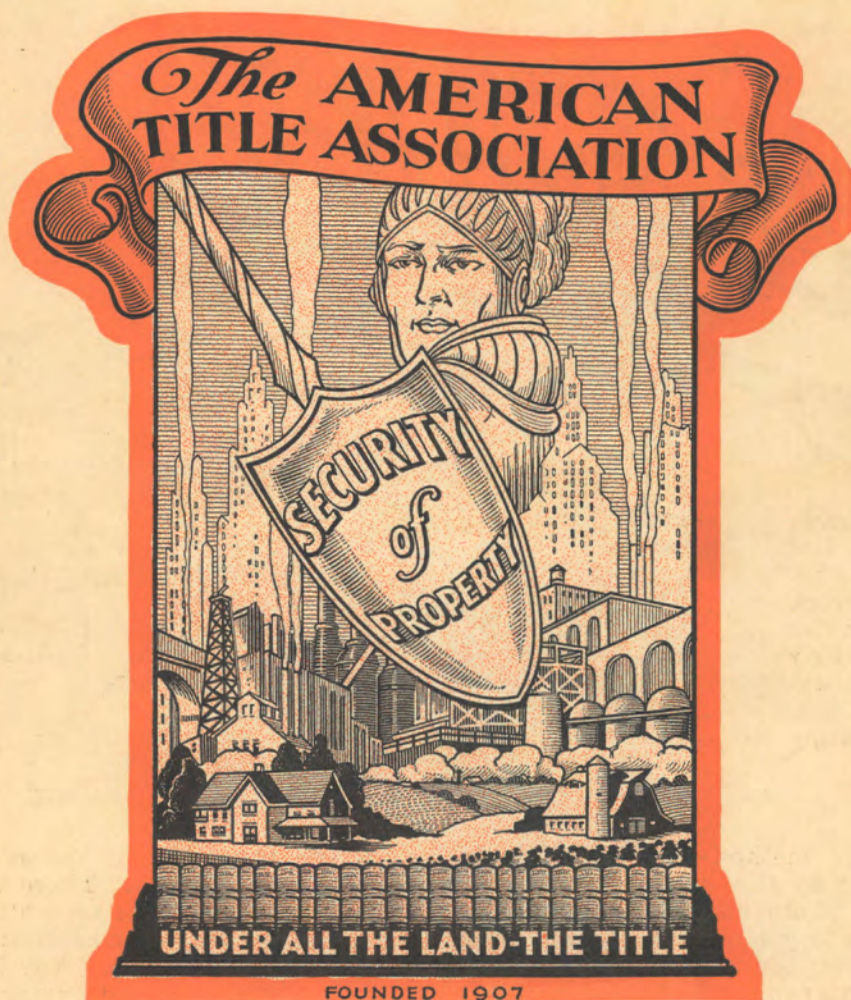


TITLE NEWS

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The Publication of



JANUARY 1931

Vol. 10

No. 1

PROCEEDINGS

Twenty-fourth Annual Convention

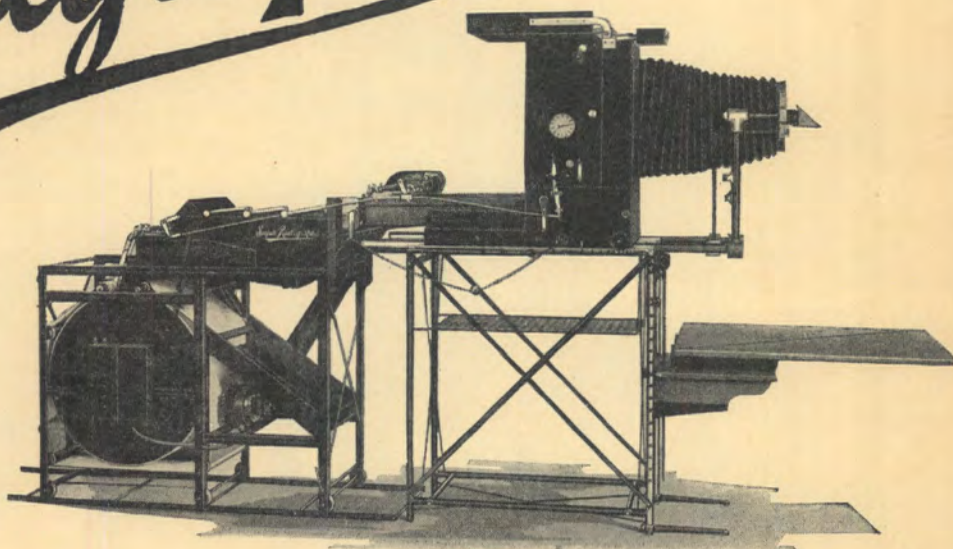
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TITLE NEWS

Volume 10

JANUARY, 1931

Number 1

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Editor
Richard B. Hall

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1931

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S A M P L E C O P I E S O N R E Q U E S T

PROCEEDINGS

Twenty-Fourth Annual Convention

THE AMERICAN TITLE ASSOCIATION

RICHMOND, VIRGINIA

October 7, 8, 9, and 10, 1930

The convention was called to order at ten o'clock, Tuesday morning, October 7, 1930, by President Donzel Stoney. The sessions were held in the Jefferson Hotel.

PRESIDENT STONEY: It is right and proper that we should start this twenty-fourth annual convention of the American Title Association with a prayer by one of the reverend gentlemen from our host city of Richmond. It is our pleasure to have Reverend Beverly D. Tucker, Pastor of St. Paul's Episcopal Church of Richmond give us this prayer. (Invocation by Reverend Tucker.)

PRESIDENT STONEY: The address of welcome from the State of Virginia was to have been delivered to us by the Honorable James H. Price, Lieut. Governor of the State of Virginia. The Lieut. Governor was not able to appear and we are signally honored in having Honorable J. Garland Pollard, Governor of Virginia welcome us here. Governor Pollard.

Address of Welcome GOVERNOR POLLARD

Mr. President and ladies and gentlemen of the convention. The Lieutenant Governor was to have been present to welcome you to Virginia. I sincerely regret he could not appear for he is a much more eloquent speaker than I and could better convey to you our pleasure in having you come to this great City of Richmond and glorious State of Virginia, or as we call it down here, the Commonwealth of Virginia. The Lieutenant Governor had to go to Kings Mountain today to make a speech for me and he requested me to take his place on this occasion. I am happy to welcome you here but am sincere in my regrets that he cannot appear for he looks much more like a Governor than I. It was forcibly brought home to me a few days ago that I did not look like one and there was nothing about me to remind one of a Governor. There were a few little girls living in the neighborhood

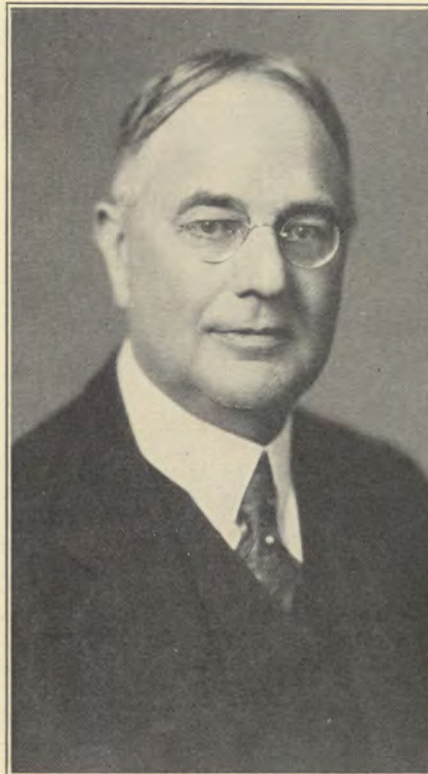
of the Capitol and on Jewish holiday they requested at the office to see the Governor. The Governor was busy and they had to wait an hour or more. After my business was over I went out to greet the children and asked them what I could do for them. "We want to see the Governor," one of them said. "I am the Governor," I replied. A little girl said: "You aint Governor Pollard. Go on and stop your kidding, you're a preacher."

One of the most beautiful words in the English language is the word "WELCOME." When it is spoken from the heart it is so full of meaning it is useless to try to say more. When I think of the various efforts on occasions like this to improve on the word welcome I can recall to mind the speech of the Mayor of a Virginia town who spoke something like this: "Fellow citizens, it is my honor and privilege as Mayor of this great city to welcome you to our midst. I do not know how to tell you how welcome you are, but you are as welcome as the sight of land is to a shipwrecked man; you are as welcome as a cold drink of water is to the harvest hand parched under the noonday sun; you are as welcome as a watermelon is to a little negro pickaninny; you are as welcome as a life saver to a drowning man going down the third time; you are as welcome as a proposal of marriage to an old maid; you are as welcome as a baby to a couple who have been married fifteen years without the least shadow of a sign of hope. If you can think of anything more under heaven or o'er seas more welcome than that, you are just that welcome."

We welcome you to Old Virginia, the most ancient of the American Commonwealths. It was within this state that one of our earliest law-making bodies took the first official step towards the Independence of the United States of America. This state gave us Washington; first President of the United States; our own great Thomas Jefferson and the incomparable Robert E. Lee. You will not be in Virginia long before you will learn that the Virginians have one very marked characteristic and that is that they think more of themselves than anybody else thinks of them.

I see my friend, Mr. Rhodes, here, who was overseas with me during the late world war. I have often laughed with him over something that happened to me one time when I was expounding about Virginia and it will illustrate the point that Virginians are proud of

The Presiding Officer



DONZEL STONEY
San Francisco, Calif.

themselves. I was asked to address a group of American soldiers in the early part of the war and the gentleman who introduced me said I was from Virginia. That gave me an excuse to boost for my state. I began by saying: "Boys, I know that out there among all these soldiers Old Virginia has many representatives. I have just come from home and I want to look into the faces of my fellow Virginians. Boys from Virginia—stand up!" There was a long and embarrassing pause in which nobody stood up. Then I repeated: "Boys from Virginia—stand up. Among five hundred American soldiers old Virginia, the mother of states and statesmen must be represented. Stand up, boys, for your state, the good old state of Virginia!" There was another long and embarrassing pause and no one stood up. I then said: "How many Virginians are here?" There was no answer and after what seemed an eternity of silence a fellow stood up and said: "Mr. Pollard, there were two Virginians in this battalion but both of them are in the guard house." As soon as I could be heard above the laughter I went right on and said: "Boys, Old Virginia is the greatest state in the American United States. If all of the tobacco grown in Virginia was made into one great cigar it would be long enough to reach around the moon and the earth. If all of its cotton were manufactured into clothing there would be enough to clothe North America, Europe and Asia. If all the mules grown in Old Virginia were turned loose in North Carolina they could consume the entire state in one single meal. All its hogs could dig the Panama Canal with one scoop of the snoot. And if all Old Virginia's cows were placed end to end and made into one big cow, she could be grazing in the southern equator and brushing the icicles off the north pole with her tail." Virginia was put back on the map and I was allowed to proceed with my speech. I regret I must leave now to welcome the Illuminating Engineers who are holding their annual convention at the John Marshall Hotel here in Richmond. I want to close by saying that I hope your stay in Virginia may be so pleasant that you will want to come back again. I am recommending to all my friends from all parts of the country that they come here to spend their last days for the ascension to heaven will be easy and natural and no shock to the system. May you be so pleased with the visit that you may come back here and live in God's country. I thank you.

PRESIDENT STONEY: We have certainly learned something about Virginia. Thank you, Governor Pollard, for your very cordial welcome. Now we are to learn something about the City of Richmond and if it is as good as the Commonwealth of Virginia, it must be good. We know it is a wonderful city or it would not be the capitol of this great state. I take pleasure in introducing Doctor W. Brownley Foster, who is going to welcome us

for the City of Richmond, in the place of Hon. J. Fulmer Bright, Mayor.

Address of Welcome DR. W. BROWNLEY FOSTER

Mr. President, ladies and gentlemen of the convention of the American Title Association and guests of the City of Richmond, in the Commonwealth of Virginia, it is a great pleasure to appear before you representing the City of Richmond. I regret that the Mayor was unable to appear before you to express his welcome for your visit to our city, but I feel sure that you have enjoyed our very amiable Governor Pollard. He told you what a hard time he had convincing some little girls of his identity. I had just such a time not very long ago when the city turned out for the opening of our Bowling Alley. Governor Pollard was in shirt sleeves enjoying himself bowling. By my side sat a little boy who wanted to see the Governor and I pointed him out. I had a very difficult time in convincing this little chap of the authenticity of my statement for he thought the gentlemen I pointed out bowled too well to be the Governor.

If the mayor could have been present today with his great gift of oratory, he would find no trouble in expressing the welcome the City of Richmond feels for you. His metaphoric ability is inexhaustable and whatever he would have said to you could not have surpassed the true welcome the City of Richmond extends to you. We are delighted to have you here. One of your first orders of business should be to underwrite the title to that welcome. We are happy to have you come from distant parts of the country and see our city. It is quite beautiful and charming here. There are many interesting things of historical value and should not be overlooked by any of you. You should try while you are here to visit all these places that mean so much in our American history.

Along with other reasons we are happy to have you here is the reason you are working, earnestly and intently, to insure fundamental improvement in the welfare of our country. We all heard over our radios the other night the address given by our President in which he spoke of hard times and of his confidence that they were returning to normalcy. We know that is your mission, to stabilize the financial conditions of the country and we are proud that you chose Richmond for your meeting place. President Hoover was speaking to a group of bankers when he expressed faith in the return to normal conditions and his belief in the great power of the banks to aid the situation. You men are closely associated with the true conditions and are working to bring a greater stability into the most important of our countries wealth—REAL ESTATE. We are delighted to have you meet here and discuss the ways and means

of bringing about fluidity in the handling of real estate. It has always been a drawback to ownership of real estate that it was not more fluid. Stocks and bonds which are easy to realize upon in a hurry have appeared much more desirable to the average investor and this is not a healthy condition to place our real estate in.

I had an interesting experience in titles when I was health officer in another City of Virginia. A gentleman of rather a peculiar type came into the office. He had the appearance of being a man of education but was not very neat in his personal appearance. He wanted us to do something for the preservation of some almost priceless persian rugs. He could not do what he wanted and he went away, but I was interested in following the case. I found that the gentleman was a once wealthy man who had lost his property through defective title. A judgment had been obtained and forgotten and no one at the time realized that it was a lien upon the property. His farm was subject to the judgment of a prior owner which had been forgotten, but the holder of this forgotten judgment sold the farm which was subject to it and this old gentleman was going around the city collecting from everybody to pay the judgment and repossess his land. The city adjoining the farm was in doubt about the title to a great many of its public buildings. It had grown over a portion of that farm and a great railroad station was located upon it. One-half of the Fire house and engines rested upon it. The city had built a high school upon it. So I am very thoroughly convinced of your necessity and ability to keep such instances from re-occurring. I am glad you are working to make real estate more secure as an investment.

I want to repeat that I am very sorry that the mayor could not be here and wish very much you could have had him welcome you and express this communities feeling for you.

I hope your business will not keep you so engaged that you will not see the beauties of our City. I believe some drives have been arranged for you and urge you not to miss them. I hope you may all be enabled to overstay the schedule time for your convention and pay us a real visit and I guarantee if you do, in years to come you will want to come back.

I repeat—the City of Richmond welcomes you.

PRESIDENT STONEY: Thank you, Dr. Foster, we really believe you welcome us as guests to the City of Richmond. We are now going to hear from our own class of people. H. Laurie Smith is going to address us on behalf of the Richmond Title Companies. I take pleasure in introducing our official host, H. Laurie Smith. (applause.)

Address of Welcome H. LAURIE SMITH

It is mighty good to see you people

again, just a little earlier in the day than I did in San Antonio. You will remember that it was around midnight when my turn came to speak and I know I was not very welcome.

Within the mountainous part of Virginia many years ago, the only means of transportation was by horseback and when you rode into the neighborhood of one of the sparsely settled houses, all members of the family would appear at the entrance of the door. You could ride up in the midst of barking dogs and the whole family would come to greet the visitor to make him feel welcome. They always said: "Come right in and make yourself at home."

I think the mayor's representative and the Governor have expressed the welcome of the Commonwealth of Virginia and the City of Richmond in an able fashion and all I can say to add to it is: "Come right in and make yourself at home." We want you to enjoy your stay and are going to do all we can to make your visit pleasant and to make you feel the warmth of our welcome. I want to take this opportunity of expressing the gratitude of the Richmond Title Companies, The Title Insurance Company of Richmond and the Lawyers Title Insurance Corporation, feels toward their neighbors who have so finely and courteously aided and helped us with the entertainment of this convention; The New York Title & Mortgage Company and the Mortgage Bond & Title Corporation of Baltimore. We have not many title companies in Richmond, or in this part of the world, and it was quite a large job to try and give you people the sort of welcome we felt for you. We are indebted to our neighbors for their courtesy and assistance.

There is no more time to express to you our welcome, but we want you to feel that all of Richmond is glad you are here.

Response

J. W. WOODFORD

Mr. President, ladies and gentlemen, You know, along in the summer I began to feel that I was not going to have any part in this convention. It became a serious matter as time went



H. LAURIE SMITH
Chairman, Richmond Convention
Committee

on and still no letter came from Dick giving me a part in the program so I would have an excuse for coming. I could always get away before for I could say that I had to work like a dog at the convention. But I began to work like a "pack of dogs" to get to come this year. I wrote to Dick and asked him about it and told him I wanted some work. He came back and said "There is nothing to do." He said, however, that I was down to respond to the addresses of welcome and was to wise crack for ten minutes. So that is the reason for me being here.

After the two addresses of welcome made by these prominent gentlemen from Virginia, Governor Pollard and Dr. Foster, I thought I was going to have some job in responding to them. But, they both have left the hall, consequently I cannot respond to them; there would be no reason for they would never hear what I said. Mr. H. Laurie Smith needs no response. We think of Laurie as Auld Lang Syne Smith.

Being charged with the responsibility of doing my part in keeping this program going along properly, I have got to consume this ten minutes, so excuse me please for what I might say.

I have not seen Virginia since the fall of 1920 when I left Washington, by way of Memphis for the Convention at New Orleans, and we all spoke of what a delightful section of the country. There were nice red apples along the railroad and the pumpkins were getting ready for Halloween. Old Jack Frost was just showing along the ledges and it was a most delightful trip. Naturally I wanted to come back. I wanted to see Mount Vernon, on the beautiful Potomac. We all wondered why it took Grant so long to get into Richmond. This state has produced some wonderful men and we wanted to see their homes. We wanted to see the home of George Washington and of Thomas Jefferson. We wanted to see the homes of these men who made history for the United States and a history of true leadership. We wanted to see the beautiful city of Richmond, the tree covered streets and the beautiful homes, its historical places of interest which have been such an important factor in the vivid background of American history.

I want to give you fellows some advice. If your wife is fond of antiques do not go for a walk with her down Franklin Avenue between First and Fourth Streets. I have never seen so many antiques. They are beautiful but hard on the pocketbook. It seems that the antique industry of Richmond is a thriving industry. Coming back from a walk down Main Street I saw a place with nothing but Oklahoma Antiques. There was nothing on that porch but "jugs." After having lived twenty years in Oklahoma I think I have earned a right to express my opinion on the habits of the people in that state. What I know of Oklahoma "Corn" and the Oklahomians who drink it, a piece of crockery is all that would hold enough. I recommend those jugs for the purpose. (laughter).

We are tickled to death to be here and most of us have come a long way to enjoy your hospitality. We are planning on having a delightful time.

Presidents Address

DONZEL STONEY

It is my duty to now give the annual address of the president of the association. I painfully remember at one convention I had been requested to appear on the program and had worked days at home to prepare my address. When I started on the journey across the continent to the convention in Atlantic City, I rested easily for I knew my speech was all prepared and I need not worry. I sat in the convention

hall during the morning of the day on which I was to appear and listened to the gentlemen who preceded me on the program. Before my time came I found the entire ground had been covered and I had not one new idea to put before the convention. So I took a walk on the Board Walk trying to think of some new ideas. It is tough on the people who come last on the program for all the other fellows

have undertaken to cover the ground.

Bill Davis of Atlanta put a brand new idea into my head, though. He said that the information and satisfaction one derived from attending the convention was well worth his expenses. I pondered over this idea and wondered how I was going to work it so my expenses would be paid. The solution was that I went home and raised my own salary.

You all know this association has been somewhat stifled by the financial depression. It has done a great deal of hard work but has been handicapped in its progress by the lack of funds. I feel, that so far as this year is concerned, we are going behind, financially. It seems to me that in the future some plan should be worked out where this will not be necessary. The finances should be handled the same way as any large financial institution. I know that is your desire, too. One reason for a greater expense, and also for a real strong organization, is that we cover so much territory. We extend from Massachusetts to California.

We have had some splendid work done by Jim Johns, Donald Graham and our own Dick Hall. They have had a great deal of cooperation from the members of this association and from non-members. It would be a great pity if that work were curtailed for the lack of finances for it has been of inestimable value to the profession and all of the members of this association have had benefit from it, either direct or indirect.

These three men have all gone out into fifteen or sixteen states where business was in a deplorable condition. They have been instrumental in getting the business on a better basis; a healthy competitive corporation. They have eliminated a tremendous amount of price cutting and the giving of commissions, where commissions did no good, but just lessened the profits. They have done wonders with the business and put it on a foundation where every man is making more money and is on a better working basis with his competitor. This has all come about as the result of the effort the American Title Association has put forth, and the association has paid the bill. Jim Johns and Donald Graham have given very freely of their time. They have left their business weeks at a time to carry on this work.

The association has been sponsoring a uniform mortgagee's policy and this has brought about a further expense. Stuart O'Melveny has been carrying on this work and has accomplished a great deal. I do not know how many hundreds of forms were in existence over this country being changed from day to day and month to month. The work done by Stuart and his committee has cost money, but we are getting somewhere. They have worked on the theory that a title insurance policy should be a protection and not a mere device for getting money. With these accomplishments our self respect increases and we find we are recognized by the big organizations of the country. Take a look at your programs and see who some of our speakers are.

Following me is Walter B. Kester, Executive Secretary of the Mortgage Bankers Association of America. On Friday we are to hear Herbert U. Nelson, Executive Secretary of the National Association of Real Estate Boards. For two years we have been urging the utmost cooperation with the Mortgage Bankers and the Realtors Associations. We are all interested in the same things. We can accomplish more with their aid and we can help them and by our mutual assistance we can bring about higher standards in our business and better our service. I think it is a fitting tribute to our Executive Secretary that he has succeeded at this time in bringing these two forces closer to us. I am satisfied as time goes on we are going to reap benefits from this spirit of cooperation that is so essential to the organization. We have done a great deal toward this general advancement. Give us the funds and we will do more. Such work cannot go on without money and I know you are willing to finance it properly.

I can recall difficulty that we have had with the Government of the United States. Some old statute said that the Government must obtain an abstract and could not take a policy of title insurance. Dick Hall has been working on that situation and has made it a great deal better. Being at this end of the country and close to the seat of things he made a number of trips to Washington, D. C., and finally in this last session of congress the bill passed in an amended form whereby the government can accept Certificates of Title or an Abstract. I have a peculiar instance to cite along this line. Lately we have had four deals in our office for the Government and in which they were taking title. We do not issue abstracts. We are a Title Insurance Company and absolutely refused to give them anything else and the Government accepted them.

Another step in the right direction is the bill known as HR 980. At this session of congress it was approved by both the House and the Senate. Some amendments were required, however, and it will come up at the next session to be voted upon, which is more or less a matter of form after it has been approved. This Bill requires that in a foreclosure of a mortgage you can bring in the United States as a party defendant if they claim a lien on the property. This legislation has been recommended for a number of years by the American Bar Association. It was unjust to the mortgagee to find himself in the position of paying the government lien before he could acquire good title after foreclosure; even though the lien might be a junior one

to his and in most cases was. He was in no way responsible for the debt, yet he had to pay it before the foreclosure gave him good title. This situation will be cleared up by being able to name the Government of the United States as party defendant in foreclosure actions.

I have been affiliated with this association a long time and I think it is real organization and has some wonderful people in it. I want to take this opportunity of thanking the executive committee and all the other committees for their excellent cooperation this year. I have enjoyed my term and have great confidence in the future of this association. Thank you.

PRESIDENT STONEY: I am sure you all know how important it is to change officers once in awhile. I am going to stop now to appoint the chairman of the general nominating committee. Each state has its own representative and I want all you states to get together and name your man for the nominating committee immediately. Give the name to the reporter just as soon as possible. I would like to have all these names before the afternoon session takes up. For the benefit of those who have not attended a previous convention I should like to say that all the delegates from a certain state select one man from that state to appear on the nominating committee. The only appointment made by the president of the association is the general chairman appointment. His duties are to preside at the meeting of the nominating committee where the officers for the year 1931 are nominated. I hereby appoint Walter M. Daly from Portland, Oregon, as general chairman of that committee. Don't fail to name the representative from your state immediately.

While I am on my feet I would like to appoint the resolutions committee. We have lost some of our valuable members this last year and should have a committee to draw up these resolutions for paying proper respect to these members. I am going to name J. L. Mack, of San Bernardino, California, as chairman of that committee and S. E. Gilliland, Sioux City, Iowa and Guy M. Long, Memphis, Tennessee, as the other members of the committee.

We are particularly fortunate in having the next speaker in that he is the executive secretary of one of the largest representative financial associations in the country. There work is so closely associated with our business and we are very happy to have him. I know he will have a real message for us. Mr. Walter B. Kester, Executive Secretary, Mortgage Bankers Association of America.

Mutuality and Responsibility in the New Decade

WALTER B. KESTER

The American Title Association, under leadership of President Stoney, Secretary Hall and your other capable executives, is to be commended for its high standards and the efficiency of its service in the interests of the title companies of the United States.

The vital nature of your Association's work is apparent from the fact that real estate title service is an extremely important segment in the whole circle of our industrial and agricultural life. This importance is well symbolized by the cover on your Association magazine showing that beneath all the smoke-stacks, the oil tanks, the grain elevators and—most important of all—beneath THE HOME, lies the land and the evidence of title thereto.

I consider it an honor indeed to be on your convention program and to bring you the sincere greetings of the Mortgage Bankers Association of America.

We have observed in your association a broad minded tendency to extend your helpful activities beyond the confines of your own selfish interests. Your interest in a far-reaching program of improvement in the state land laws, your advocacy of H. R. 980 making the Federal Government a party defendant in state cases involving Federal liens deserve to bring you the permanent good will of every branch of property owners realtors, builders and mortgage bankers.

Four years ago in September, 1926, the Mortgage Bankers Association convened in this very hall in its 13th annual convention. The convention week here was one of the most pleasant that our members ever experienced. This is as fitting a time as any to pay tribute to Richmond's splendid civic spirit and limitless hospitality. We assure you, from our own experience, that Richmond's treatment of your delegates while here will be as wholehearted as was the welcome of this fair southern city.

This is a fitting place also to pay sincere tribute to a citizen of Richmond who as President of the Mortgage Bankers Association over a period of two years in 1926-28 directed the working out of a program and policy for the conduct of the mortgage business that will stand as our chart and our guide over many years to come. I refer to Mr. E. D. Schumacher whom you all know.

I would like to discuss "Mutuality and Responsibility in the New Decade" not from the standpoint of the title business nor from the standpoint of the mortgage business but from the standpoint of general business.

President Erskine of the Studebaker Corporation said the other day "What is this mysterious specter called 'General Business'? It is nothing more or less than the sum total of a great many individual businesses. General business is good when a sufficiently large proportion of individual businesses are good."

We have just finished a remarkable decade.

This ten year period following the Great War has been termed by some: "America's Golden Age of Commercial Activity." Mr. Paul Mazur in his book "America Looks Abroad" has said, "The decade of 1920 to 1929 was startlingly dynamic, even to the point of the fantastic. If ever there was justification for Henry Adam's theory of the acceleration of history, it was then; history moved like an object falling in space; its speed increased each moment."

In 1920-29 automobile manufacturers jumped from two million to five million cars annually. From 1923 to 1928 building construction maintained an annual volume of three billion dollars. It was estimated that over a billion dollars in advertising was spent annually to teach the public to desire more and more of the things that were being produced. In the early part of 1929 there were more than sixteen mil-

lion stockholders of corporations in the United States. The public was showing almost blind faith in the ability of American Business to maintain a condition of permanent prosperity.

During 1927 the earnings on the principal listed stocks averaged between nine and ten per cent of the average market price. In 1929 the market price on these same stocks had, through the heavy speculation therein, increased so greatly that the earnings were only five per cent on the market price. On the so-called "blue-chip" stocks the earnings in many cases were less than two per cent on the market value.

One of our financial writers said that the great preference of the investing public for common stocks reminded one of the psychology of remarriage—"the triumph of hope over experience."

The acute general housing shortage felt in many American cities during and immediately after the World War, and the demand for business property occasioned by a rapidly expanding commerce stimulated the public to a frenzy of buying and selling that carried front foot prices to such heights that they will furnish subject for legends in generations to come. Most business men felt that a reaction was bound to follow.

Henry Ford expressed this process eloquently when he said recently: "When the boom spirit is on, people are led into extravagance, and then into debt, and then into gambling, in the hope of somehow getting money to release them from the economic predicament brought on by extravagance and debt. When the reaction comes the expenditures go as far below the normal line of need as they went above it during the boom. *And so it comes about that the business of this country has had very little experience with anything in the nature of normal progressive consumption.*"

It would seem that Mr. Ford's last sentence in that statement is most significant: "And so it comes about that the business of this country has had very little experience with anything in the nature of normal progressive consumption." Is it possible that the attainment of balanced production and consumption is the next great conquest to occupy the minds of our business leaders? Can we conceive that the attainment of this one ideal might possibly stand out as the triumph of the New Decade?

Many prophets seem to be at a loss to imagine any new factors in the



WALTER B. KESTER
Secretary, Mortgage Bankers Assn.
of America.

business situation which will have the power to stimulate business in the next ten years as it has been stimulated over the past ten years by new inventions.

If we must grant that some industries such as the automobile, building trades and radio show signs of settling down to a permanent level of stability, are we necessarily at a loss to imagine new stimuli that can make future decades eclipse the one that is just past?

To relate just one instance: Is there not considerable significance in the fact that fifty per cent of our communities and homes are now without electric service or appliances? Given a period of catching up on the debts incurred in the purchase of their autos and radios, we could prepare an extensive list of many articles contributing to the comfort, convenience and health of our citizens that have not been sold to them as yet.

We have seen the inhabitants of many a lowly shack somehow manage to obtain an auto or radio because these new inventions opened immediately a vast territory of new pleasure, education and comfort. The acquisition of these two conveniences stimulated conviction on the part of every American that he is entitled to a high standard of living. It is but a step from autos and radios to tiled bath rooms, electric lights, good furniture—even a remodelled or new home. We have not even begun to scratch the surface of the American's latent demands.

But, in the final analysis, the net results of our country's economic progress over the next ten years must be reflected in our world trade activities. Here is a remarkable opportunity of which we have only made a slight beginning toward realization. In fact, the beginning has been feeble in comparison with our other business victories.

Our exports in 1929, somewhat over five billions of dollars, were less than four times the export volume of the year 1900. Allowing for decrease in the merchandise value of the dollar, it is evident that our world trade has lagged far behind our other accomplishments. And 1929 was the largest export year in our history, barring the abnormal years 1917-1921!

By and large we have not shown particular aptitude for world trade. Is there hope for us in the fact that our younger generation is learning more about foreign countries and languages through travel and education? Should we derive some comfort from the fact that our universities are turning out more and more specialists in foreign commerce?

To quote Mr. Mazur further, the world as a whole is just beginning to feel in very small measure the effects of the industrial revolution which was started a hundred and fifty years ago. Great masses of people in other countries have so far been provided with little beyond the bare necessities. If

even the fraction of a dollar were added annually to purchases of all men and women on our planet, America's export trade could conceivably double and treble in a short time and the benefits of this trade stimulus would reach into every home in our land.

Another author has said that millions of people, from the dawn of history have so far found that the earth is merely a convenient place on which to fight, starve and freeze.

Fundamentally then, we cannot help but see almost unlimited opportunities for prosperity in the ten years ahead. But in viewing the future with faith, it is fitting that we take stock of our ability to cope with the new conditions of a new decade. How far have we gone up to this date? How much farther can we progress in the next ten years?

As Shakespeare outlined the several ages of man so might we say that business presents four definite ages.

Our business history may properly be said to have begun when the Phoenicians took to the sea four thousand years ago. This is a very short time back when we compare the length of the period with the total period of time that our present human type predominated on the globe, a period of about forty thousand years according to estimates of biologists.

These beginnings of "business"—or more properly "barter" were intertwined with piracy. The first sailors plundered when they could and traded when they had to. This we might call the primary or kindergarten age of business.

Business as distinguished from barter did not come into existence until 1500 years later because it was not until that coined money and credit came into use. Even at that barter has come almost into our present age for tobacco was legal in Virginia's colonial days and right today in parts of Africa a current "money" standard is trade gin. This age of business characterized by the use of money or credit might be termed the grammar school age. It was somewhat more refined than the piratical age but it was still an age of extreme individualism and ruthless exploitation.

The high school age of business began to make itself evident with the appearance of trade guilds in medieval times. The evolutionized form of this organization is the business association in modern times. Including trade associations and chambers of commerce there are now about 8,000 of these organizations in the United States. Just as the high school boy begins to get more social minded and to become more interested in fraternities, athletic associations and the like so have business men in their high school age formed closely knit organizations to which they have a feeling of intense loyalty—loyalty to their cities and states in the case of their chambers of commerce loyalty to their own business groups in the cases of the trade asso-

ciations. This intense loyalty to a specific trade group has naturally resulted in intense rivalry between the groups which condition has been termed the "new competition." Instances of this new competition between groups are especially noted in the building material field where, for instance, lumber, face brick, common brick, cut stone and other interests vie with each other for a share of the home owner's dollar.

Let us not minimize the salutary effect which this "high school" or trade association age has had upon business. If the groups have fought with each other a little too much at times let us remember that in our present stage of development it is strife that brings men together.

But in this day and age a high school education is not enough. It is time that business should enter its university age which for want of a better team we might call an age of "planned economy" through cooperative action of all trade groups. Whereas the high school age was characterized by the term "new competition" in which the candy manufacturers were publicly fighting the cigarette manufacturers for their share of the consumers dollar. Are we not justified in thinking that we are now ready for a "newer competition" wherein the candy manufacturer, the cigarette and every other branch of business shall come together and compete with one united front against our age old bogey "economic instability?"

In Great Britain an Economic Council has already been established which, in concert with the Bank of England is preparing to stabilize British Industry. Russia is challenging us in the field of economic co-ordination. Since 1928 they have been performing a great experiment known as the Five Year Plan. The object of the plan is to supply their agriculture and industry with definite objectives controlled by a central planning agency.

From 1928 to 1933 they plan to increase their agricultural production 155 per cent and industrial production 136 per cent. The agricultural schedule is coming along slowly but they claim to be progressing so well in industry that many divisions will have attained their goals in four years instead of five.

Because Russians are attempting to work out their political and economic destiny along lines that are not consistent with our own racial history and instincts just remember we cannot wholly escape being affected by the results of their economic experiment. We cannot overlook the fact that economists all over the world are examining the five year plan to see what aspects of it are applicable outside of Russia. Don't forget either that five hundred Russian technical experts are now in the United States studying our factory methods and that over forty large American Corporations are assisting in the construction programs called for by the Five Year Plan these including such companies as the Ford Motor

Co., the Dupont Co., the General Electric, Radio Corporation of America and others.

The way we in America can meet such collective competition will not be to stand idly by and condemn it but to form our own fighting unit in this world wide "newer competition."

An auspicious start has been made in this direction in our own country. As long as a year and a half ago our "Committee on Recent Economic Changes" with which President Hoover in his former capacity as Secretary of Commerce had so much to do, reported that "we cannot maintain our economic advantage—unless we consciously recognize the principle of equilibrium and apply it skilfully in every economic relation."

Bear in mind that this report was made some time before the happenings of last October which tended to give the report prophetic significance. In October that thing happened which the Republicans call a readjustment and the Democrats call a panic. Regardless of what we may call it we must all agree that this depression has strikingly different characteristics from those in 1893 and 1907. John O'Connor of the U. S. Chamber of Commerce described the situation eloquently before the Mortgage Bankers Convention three weeks ago when he said, "When business men paused to see if others likewise were pausing the President of the United States called a number of influential leaders to Washington and stated his belief that through co-ordinated business planning, rumors could be put to rest by facts These White House Conferences were

followed by the creation of the National Business Survey Conference. The purposes were to mobilize industry for a united effort to prevent unnecessary and fear-inspired business disturbances—it was possible to bring into conference about four hundred business men who because of the trade associations back of them represented practically all of the major forces of our nation's business."

Mr. O'Connor then proceeds to enumerate some of the immediate results of our quickly created "Economic Council" which were:

(a) Labor pledged to withhold demands for increased wages.

(b) Employers expressed the intention to maintain wage scales.

(c) Increases instead of decreases were made in capital expenditures running into the billions of dollars.

(d) Desirable construction work was advanced, expansions and betterments made, public improvements speeded.

As Mr. O'Connor reminds us, "In earlier years panic would have become epidemic." As it actually turned out, to use his words "this effort at cooperation may be said to have assisted materially in a Winter and Spring situation that threatened to be infinitely worse than we actually experienced. It has also assisted in laying the basis for an earlier and healthier recovery than might otherwise be expected."

In his address yesterday to the American Federation of Labor President Hoover stated: "The Department of Commerce reports to me that public works and the construction work by the railways and utilities in the last eight months amount to about \$4,500,-

000,000, as compared with about \$4,000,000,000 in the same period of the boom year of 1929, or an increase of about \$500,000,000. In all previous depressions these works decreased, so that the gain is more than even the apparent figures."

Even more remarkable is this statement on the same occasion: "Our freedom from strike and lockout is well evidenced by the statement of the Department of Labor that in the last depression there were more than 2,000 labor disputes, many of them of major character and accompanied by great public disorder, as compared with less than 300 disputes in this period, and these mostly of minor character."

Thus America has once more shown itself equal to a new emergency and to a new set of conditions. As Albert Wiggam says in his book, "The New Decalogue of Science": You are familiar with the ten commandments which God wrote on tables of stone and gave to the Children of Israel. He is still doing the same thing. But in our day instead of using tables of stone and burning bushes to reveal His will he has given men the microscope, the telescope, the chemist test tube and the statisticians curve to enable men to make their own revelations.

With such a decalogue before us it appears that the way is clear to graduate during the next ten years from our high school to our university age in business, to recognize that the "new competition" has evolved into the "newer competition" which recognizes a greater inter-dependance among business groups. This is our conception of mutuality and responsibility in the new decade.

Report of the Judiciary Committee

HARRY M. PASCHAL, Chairman

Your Judiciary Committee respectfully submits the following report:

This Committee has kept in close touch with all cases throughout the United States affecting abstract and title insurance companies, with the following result:

(a) In the Pacific Reporter District the case of Blair vs. Guarantee Title Company, of Long Beach, et al (California Appellate), reported in Pacific 284, page 719, is of real interest to abstract and title insurance companies who have escrow departments. In the case referred to, the defendant title company acted as escrow holder.

During the course of the transaction the escrow officer accepted a deed with the grantee's name left blank, another deed wherein another defendant had forged the grantor's name. The escrow officer further misrepresented and concealed information from the plaintiff.

The defendant title company sought to avoid liability, first, because it re-

ceived no profit from the transaction, and second, because the escrow officer was not authorized to so act in such a transaction. The court held that wherein a party acts as an agent through which a third person is injured, then it must respond to such third person whether or not they received anything of value for its service in such transaction. The court further held that although the title company's instructions to the escrow officer did not authorize him to act as he did in the transaction, the title company, nevertheless, held out the escrow officer as having apparent authority to handle the transaction, and since he participated in the fraudulent contract, the title company was liable for what the officer did pursuant to his apparent authority.

(b) Attention is also called to the case of People vs. Jones (California Appellate) reported in Pacific 280, page 555.

This was a criminal prosecution for forgery. Defendant had forged certain escrow instructions. The defendant raised the question that it was merely a case of false personation. The court held, however, that the escrow instructions constituted a contract, and when executed by a person purporting to be the party charged in the instructions, such execution constituted forgery.

In the Northwestern Reporter District (covering the States of Iowa, Michigan, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin) the following cases are noted:

(c) In Hill vs. Wakefield State Bank, decided by the Supreme Court of Michigan December 3, 1929, and reported in Volume 227 N. W. Reporter at page 543, it was decided that a vendor who turned over deed in escrow to cashier of bank, who was independently engaged in real estate

insurance and loan business, with instructions to collect amount due on contract and deliver deed, was held not as a matter of law entitled to recover against the bank for breach of trust as custodian of deed for premature delivery or failing to collect total amount due, where there was no proof that the cashier was acting for the bank, or that the bank, when it accepted a mortgage on the premises, knew of plaintiff's contract rights.

(d) In the case of Lindberg vs. Younggren, et al, decided by the Supreme Court of Iowa, January 14, 1913, and reported in Volume 228, page 574 of the N. W. Reporter, decides, among other things, that where a deed is in escrow and depository wrongfully delivers it to grantee or another without performance of conditions upon which it was to be delivered, no title passes, and subsequent purchaser from grantee acquires no title.

Also where deed conveying land to corporation was placed in escrow and thereafter changed as to grantee with vendor's consent and delivered, vendor by reason of ratification thereof and subsequent delay in attempt to collect purchase price was estopped from recovering against substituted grantee, and had no lien on premises for purchase price.

(e) Jones vs. Southern Surety Company, Supreme Court of Iowa, December 13, 1929, as modified on rehearing April 14th, 1930.

The first case is reported in 228 N. W. Reporter at page 98, and the case on rehearing was reported in Volume 230, page 381, of the N. W. Reporter.

The above case is of considerable interest to title insurance companies. A great many questions were decided, and among them that a decree pursuant to stipulation in a suit to cancel a conveyance compromising and expressly withholding from adjudication question whether grantor was incompetent or was overreached or defrauded was held not res judicata in subsequent action against title insurer involving questions withheld, since in original



HARRY M. PASCHEL
Chairman, Judiciary Committee

suit nothing was adjudicated and no estoppel effected.

Also in action on title insurance policies burden of proving fraud in securing issuance of title policy or that defective title was within exception held on insurer, and where title insurer refused to defend cancellation suit against grantee, as required by term of title policy, insurer waved its right to do so, and violated duty to defend, and subjected itself to liability for breach of contract and reasonable value of attorneys' services reasonably performed in conducting defense.

The above case decides numerous questions of great interest to title insurance men.

(f) In my own State (Georgia)—in

the Southeastern Reporter District—we have a case of vital importance to abstract and title insurance companies. This is the case of State of Georgia, on the relation of John A. Boykin, Solicitor General vs. Atlanta Title & Trust Company. This case is now pending in the Supreme Court of the State of Georgia. This action was instituted by the Solicitor General at the instigation of certain members of the Atlanta Bar, and sought to enjoin the defendant title company from preparing deeds, notes, releases, etc. On the trial of this case the Judge in the Lower Court decided that while our company had the right (under the law and under its charter) to prepare any deeds, notes, releases, etc. in connection with a title which it had been called on to examine and/or insure, it did not have the right (under the law or under its charter) to prepare any deeds, notes, releases, etc. for customers where the company had not been called on to examine and/or insure the title. We then filed a petition to amend our charter in certain respects, this amendment to grant us the power "To prepare any and all papers in connection with the conveyance of real and/or personal property that it may be requested to prepare by a customer." Acting at the instance of this same group of lawyers the Solicitor General filed a caveat to our application for a charter amendment, and upon the hearing the Judge refused to grant the amendment. We feel confident that the Supreme Court will reverse the Lower Court, and that the amendment to our charter will eventually be granted.

Mr. William J. Davis, the President of our Company, felt that this matter was of such importance to abstract and title insurance companies generally, that he has had printed an ample supply of the brief of our counsel in this case for distribution at this meeting. Copies of this brief will be found on one of the tables, and we want each of you to take one, as we believe you will find it of interest, and, in addition, it may be of some practical value to you in the future.

Report of Treasurer

J. M. WHITSITT

Mr. President, ladies and gentlemen: I am sorry to say that my report necessarily deals with finances. I can read these figures on this paper and give you some idea of the finances of this association. But I want to talk to you besides. Thirty-five thousand dollars was our minimum budget for this year, but this money did not seem to be coming in. When things got so hard about June, the executive secretary,

Mr. Dall, chairman of the finance committee, and I got together and we tried to tear down the budget. We figured that we could cut it down \$6,000.00 by letting some help go and cutting down the TITLE NEWS, but we have found it impossible to cut it that much. There are always some things coming up that we simply must take care of. We figured just as close as we could and all we can possibly trim off the original

budget of \$35,000.00, is between \$2500.00 and \$3000.00. You fellows call on the association to do this or that, and we want to do it, but it takes money. The executive secretary is asked to render many services and comply with many requests but that takes money. Some of these invitations are hard to turn down and it is not beneficial to us to do it. But, our expenses had to be cut down,

After the three of us met and tried to work out the solution it was decided that I go on a "begging" trip. That was what it amounted to, just a plain "begging" trip. I went east to try and collect this money. Right here I want to say that I went on my own expenses. I also went on my own expenses down to Chicago where I met with Dick and Mr. Dall. I went to New York and called on Mr. Condit and over to Newark to see Ed Wyckoff. They both did wonders with their state and I got some money from them. When I got home I sent out letters to fifteen hundred members asking for money and got about one hundred and fifty replies. That is ten per cent. About one thousand of the letters asked for \$5.00. You will agree with me that there is no title company with the right to be in existence who cannot afford to pay \$5.00 to his association. Well, you would just be surprised how few answers came to that group of "begging" letters. This association has passed the hat long enough. To my way of thinking, that is just what is the matter with the financing of this organization. No self-respecting group of men can run a real association if they have to pass the hat to do it. We are going to have to get some other way of financing ourselves, so we can meet our bills. As it stands now about 10 per cent of the membership is carrying the rest of them.

We must have \$6,000.00 more this year before we can carry out the bal-



J. M. WHITSITT
Treasurer, Nashville, Tenn.

ance of the work. I have assumed the responsibility of getting this and I be-

lieve some of that will be cut down by what has been given to me since I have come to this convention. I have some checks, ranging from \$5.00 to \$250.00. We are surely glad to get it, too.

Now, we have spent a good sum of money this year. But, I am putting the responsibility on the members for spending this money. I will read the figures showing receipts and disbursements. As I said before reading these figures, we will need \$6,000.00 more to finish out the year. I believe you members are going to give it to us. \$35,000.00 may sound like a lot of money, but it does not come near covering the work we ought to be doing. When you are not actively connected with it you have no idea of the cost we have just to keep afloat. The budget should be \$50,000.00 and not \$35,000.00. If we did not spend all of it one year we could carry it over to the next.

There are bills in Washington that we should be following. We have not had enough beneficial legislation, for we cannot get it without money for expenses.

I know that at least 90 per cent of this association does not pay any more to the association than it takes to furnish TITLE NEWS. None of you can afford to be without it. 10 per cent or 15 per cent of our membership is carrying the load. We will never be successful unless the expenses are divided equitably among all the members. I hope this gathering will do something at this convention about the finances.

STATEMENT OF J. M. WHITSITT, TREASURER,
AMERICAN TITLE ASSOCIATION, SHOWING RECEIPTS AND DISBURSEMENTS FROM JANUARY 1, TO SEPTEMBER 30, 1930.

Receipts			
Cash forwarded from 1929.....	\$ 1,862.91	Office Rent	945.16
Advertising	646.84	Paid Bank	1,000.00
Individual Dues	290.00	Postage	939.71
Miscellaneous	537.47	Petty Cash Account	1,000.00
State Dues	6,767.00	Regional Meetings	990.96
Sustaining Fund	18,300.83	Secretary's Salary	7,499.88
Title Examiners Section.....	335.00	Stenographers	3,210.25
Total	\$28,740.05	Stationery and Printing.....	1,353.80
		Supplies and Miscellaneous.....	2,578.85
		Telegrams	279.33
		Title News	2,945.97
		Traveling Expenses	865.88
		Total	\$27,282.84
		Cash in bank	1,457.21
			\$28,740.05
Disbursements			
Advertising, Commissions and Expense.....	\$ 365.33		
Assistant Treasurer	450.00		
Expense of Sections	847.25		
Moving Expenses	1,021.91		
Office Equipment	988.56		

PRESIDENT STONEY: I heartily agree with all Mr. Whitsitt has said. The directory number of the TITLE NEWS alone is worth the dues you pay. I do not know how anybody can afford not to be listed in the Title Directory

of the American Title Association. In our office nearly every day people come in from the outside to do business in other places. It is worth money to have your name in the Directory. We recommend solely on their name being

listed in the Directory as a member of the American Title Association. We have not had any occasion to regret this procedure and intend to follow it as heretofore done.

Report of Executive Committee

E. H. LINDOW, Chairman

Carrying you to the past for a moment, you will recall creation of a special committee to prepare a uniform policy of title insurance to be known as the American Title Association form. This committee was appointed following the Seattle convention. It met at Chicago before and during two Mid-Winter meetings. That of expressions of approval of the work performed by this committee were entirely in order has been amply proven by subsequent events.

After the last January meeting, the Executive Committee accompanied by members of the special committee just mentioned visited in New York with counsel for fifteen life insurance companies loaning nationally. It seems almost unnecessary to inform you now the results obtained, but, entirely aside from the desirable results of that meeting, and over and above the formal adoption of the A. T. A. Standard Mortgagees form, I feel it proper to report that this meeting resulted in the securing of advantages along other lines. Friendships were formed which have already brought interesting and satisfactory results to abstract and title companies. We were able to impart to many of those insurance companies the value of securing evidence of title from our members, including both the abstract and title insurance sections. The Chairman is delighted to recommend, with full approval by the executive committee, annual renewal of these excellent contacts.

Next in importance in our opinion are the Mid-Winter meetings. These meetings are of unquestioned value. They enable the officers of not only the national organization but also the state organizations to meet and discuss matters of mutual interest, to exchange ideas, to learn how to increase interest on the part of the general membership in association affairs, how to increase company earnings, and they have numerous other results. They afford a special opportunity for committeemen living far apart to visit with their chairmen and devise ways and means for efficient functioning. They give the executive committee opportunity not otherwise available to make a general survey of the entire country and secure first hand information on which the committee is able to build its plans for the coming several months. Your Chairman urges increased attendance at Mid-Winter Meetings by all presidents, secretaries and councillors of state organizations.

Activities of the association have

increased year by year. In recent months, our income has decreased materially. With full realization of this probability which has not materialized into an existing condition, the executive committee, during the year, has gone extremely carefully into the matter of expenditures and has initiated, or supported, curtailment wherever possible. It has consulted frequently with our executive secretary and has approved many reductions proposed in one form or another by him. Among these may be mentioned reduction in personnel in the office of the secretary, of travel expense in connection with trips or proposed trips by representatives of the national body, reduction in cost of insurance of TITLE NEWS through elimination of certain parts thereof, and in other ways.

These are troublesome times. The executive committee knows that careful eye must be kept on, first, expenditures, and, second, that the membership realizes the national association must continue and that it can only continue if sufficient funds are pro-

vided. Ours is a trade organization. We are organized for the sole purpose of improving and extending our activities. To extend means research work and contact work. These mean expense.

Speaking personally—although I believe the entire personnel of the executive committee would approve this statement—it is my honest belief that whether we wish to or not, we will be forced not only by our own membership but by the public as well, to extend our activities. This means that expenses are bound to increase. Additional research work will be carried on, meaning that the staff in the office of our secretary probably will have to be increased.

We have observed with pleasure the result of the move of the executive office. This move has given our executive secretary an opportunity to contact more closely with members not only in his office but at state conventions held near Chicago and, last but certainly not least, it has resulted in closer contact with the associations of mortgage bankers and real estate operators, as well as other trade bodies. Our contacts with these today are quite close and the results of the next several years' contact should be gratifying. True, it has cost a little more to maintain the office in Chicago but, in your chairman's opinion, the results obtained have fully warranted the slight additional expense.

With the exception of but three or four states—the new schedule of dues will become effective on January 1st, 1931. Many states are already on the new schedule. When this schedule was adopted it was hoped that with a slight sustaining fund money would be secured to provide sufficient revenue. However, due to additional activities, which have been multiplied through initiation of a variety of services not even dreamed of a few years ago, coupled with the reasons heretofore indicated, it will be necessary that more study be given to ways and means of providing sufficient funds to meet these new demands.

As it is, our financial condition during the past year has been such that some activities favored by your committee have been foregone. Some very important things have had to be dropped. We were not able to do as much as we had planned on selling the American Title Association form of mortgagee policy to our members and, through them, to their clients.

Maintenance of TITLE NEWS means a greater expense than one would im-

The President Elect



EDWIN H. LINDOW
Detroit, Mich.

agine. For your information I report that it costs about 12 thousand dollars a year to prepare and distribute this. The executive committee feels that we should discuss the elimination of TITLE NEWS as a printed, monthly publication, to be supplanted by bulletins issued at regular intervals by the secretary.

We regret to report the loss from our Advisory Committee of Mr. Clarence H. Kelsey of New York, who was taken by his Maker during the past year. Mr. John N. Stalker of Detroit has been appointed to fill the vacancy. In addition to that appointment, we are pleased to report the appointment of Mr. John Henry Smith of Kansas City as a member of the same committee.

Members of the executive committee have represented the national body at the following state meetings and have explained at those meetings national activities being pursued.

At regional meetings, Don Graham covered Kansas and part of Missouri, Jim Johns finishing Missouri. As a result of those meetings, the abstract business was stabilized, prices were increased over forty-five per cent and those states prepared for the introduction next year of the abstracters qualification law. Dick Hall attended the Wisconsin, Illinois and Michigan meetings; Ed. Wyckoff and Hall,

Pennsylvania; Wyckoff, Hall and myself, the New York meeting; Jim Johns the California meeting and Stoney, Whitsitt and Hall attended the Connecticut meeting.

During the year the executive committee maintained close contact with legislative problems and, where it seemed desirable, offered services of national officers to state organizations. The high spots probably are, efforts to secure legislation providing for acceptance of title insurance by the United States Government; the Federal Lien Bill which went into the hopper of the last Congress. Reports of these will be made in detailed form by those who closely followed these matters.

The Executive Committee favors continued regional meetings. Many of these were attended by officers and members of the national body. Your chairman, in addition to attending some state and national meetings also had the pleasure of a long, satisfactory interview with a committee of Iowa title men and with the Iowa Commissioner of Insurance.

The Mortgage Bankers Convention was held this year in Detroit. Many members of the Executive Committee attended. Detroit being your chairman's town, he was able to observe more closely than usual the desirability of maintaining continued close con-

tact with organizations such as this Dick Hall was present and seemed to know everybody attending the convention. In addition, we are pleased to report that he seems to possess their confidence to a degree much greater than would ordinarily be imagined. He was able to arrange for the appearance on the program of a representative of our Association, who presented an interesting paper on the subject, "A Modern Service for the Modern Mortgage Banker." The speaker, incidentally, happened to be a close associate of mine—Jim Sheridan of Detroit. It is to be regretted that more of our members did not attend that convention, particularly in view of the fact that it was held in a city only a five-cent ferry fare distant from Canada!

PRESIDENT STONEY: Our next report is to be given by Henry R. Robins, who is our National Councillor, Chamber of Commerce of the United States. Ed. F. Dougherty was to have appeared at this time and give the report of the Committee of Cooperation, but has sent word that he had compulsory business elsewhere and could not reach Richmond in time to give his report. We have it in written form, however, and it will be read following this report. Mr. Robins.

Report of National Councillor Chamber of Commerce of the United States

HENRY R. ROBINS

The eighteenth annual meeting of the National Chamber of Commerce was held at Washington during the month of May, 1930, at which this association was officially represented by its secretary, Mr. Richard B. Hall, and the national councillor. There were several other members of the association present and attending in other capacities.

The main theme of the meeting was expressed in the motto: "What's Ahead for Business?" Many new problems and far reaching economic experiments and innovations were freely discussed and commended upon, as well as the interrelation of diverse business with each other. The work of the National Chamber of Commerce is expressly valuable in a general way by bringing together some three thousand leaders in different lines of business from every section of the United States, to discuss openly the separate problems of each, as well as how each may help develop not only its own business but general business conditions throughout the country.

The membership of this Association in the National Chamber has been particularly helpful and valuable in rendering assistance, information and many



HENRY R. ROBINS

services to the Executive Secretary and his staff throughout the years.

In the open meetings and discussions, many subjects of interest to the public were touched upon, such as tariff, immigration, public highways, forestry, taxation, health, banking, cost accounting, foreign relations, employment, transportation, home building, construction, financing of homes and many others. Although these apparently are not connected with the title insurance business specifically, yet in a more comprehensive way, title insurance is vitally interested in the results. The real estate business, which contributes to the business of title insurance, is dependent upon the success of every other line of business in order that fixed and determinate incomes may be established for the population at large to rent and purchase homes for their families and businesses.

PRESIDENT STONEY: We want to thank Mr. Robins for representing us before that most important organization, the Chamber of Commerce of the United States and attending the meeting in Washington last spring.

What's Ahead for the Title Business

By RICHARD B. HALL, Executive Secretary

I have never thought it necessary to exploit the accomplishments of the association, and its office in particular, before the annual conventions. Those who conduct the work as committeemen, officers, or charged with specific activities cover the field in their respective reports. They are told to you as they occur during the year in the publications of the association and you are already informed of them. Suffice it to say in passing that this has been a great year and your association has become further established.

The move to Chicago created more and broader contacts, advanced the position of the title business, and brought other benefits too numerous to mention, as well as those not yet realized. Our accomplishments this year in federal legislation are things we can be proud of. The work with the state associations in regional meetings, participating in their conventions and affairs, stimulating their activities and laying the ground work for the introduction of the abstracters law in twelve states was in itself a year's accomplishment. Practically all the state associations are doing fine work in their localities, due greatly to the inspiration and help rendered by the national association.

It is upon everyone's mind in any business as to what is ahead. It is a trade association's duty to render a greater service than ever in such a period as this, and it's your duty to utilize and support it. The title business has for twenty-five years now talked about the same problems and rehashed the same things over time and again. It is time we quit that and determine definite policies, recommend them to the title business, and put things into effect. This convention is the place to decide upon them and get a program under way.

Change, or doing different, is something the title business does not know. Each company is a peculiarity and an entity, surrounded by its own economic conditions. "Can't" is the password. If anything is the matter with our business, it is because it is in a rut. This has been called an era of profitless prosperity, and I know no business that has suffered more than the title industry. For a long time we have been sailing along on high, with no real policies or definite practices, not knowing whether certain things were good business or not; and succeeded because there was a volume. Now that volume has shrunk somewhat, and other things have added to the complications. It isn't all a lessening of business so much as its inefficiency and

archaic methods. This present condition is healthy because it means a survival of the fittest, not only of those in a particular business, but of an endeavor or vocation itself. If the title business does not help itself and survive, it will be because of a lack of vision and the taking hold of the situation by those in it.

In all businesses the demands for increased service at the same or a less price have made profits rare. This is true in our business, as the necessity for more efficient and increased service from both abstracters and title insurance companies have almost overwhelmed them; and yet neither have increased their charges to carry the load. They are like a lobster being slowly boiled to death alive, complacent and not realizing what is going on. The best example is the demand for a full coverage title insurance policy. Most companies supplied this at no additional premium. Many kidded themselves by issuing the policy, getting letters of indemnity against mechanics' liens, using the loan companies' inspectors' reports, and other such methods for protection. Even though the work was done by the client, few title insurance companies realized the mechanics in handling the proposition so

the policy could be issued increased the cost of production many times.

The title business is its own biggest obstacle because of the utter lack of a meeting of minds on either minor or major points of practices. Each company has its own idea of what should constitute a title insurance premium and the method of determining them. There are as many different kinds of policies as there are companies, some of them issuing many different forms of both owners and mortgagees. In some places the same thing is known as a title insurance, a title guarantee, or a certificate of title. The organization and conduct of title insurance companies is sometimes under the banking department; others, general corporation statutes, insurance laws; and a few, specific legislation. Everyone considers title insurance as insurance, except those in it, who vainly cry that all hearken to their pleas and explanations that it is insurance but not insurance.

The plea of its being a personal service rendition is fast being ruled out, as court decisions of late brand it as insurance; and federal taxation has also decreed it is not a personal service matter. The title insurance companies have fought any semblance of regulation in the light of insurance, and that has not added confidence from the public. The truth is the name is a misnomer, and we would have been far better off never to have used the word "insurance."

Development of title insurance has been further retarded by the companies' trying to issue an inadequate and partial coverage instead of real insurance. They have allowed the public to dictate a low price, have tried to sell it by cheapness, and have had to sacrifice quality. The excuse for partial insurance was that they did not get enough to give the other.

Title insurance will take a big step forward when the companies themselves realize that when a man negotiates a real estate deal he wants to go some one place and be able to turn his money over on the strength of some assurance he can do so. He does not want to get a separate survey, find out about mechanics liens, see whether there are any taxes unpaid, learn whether anybody is living on it that should not be, and all the other usual exceptions. He would far rather pay money and get real service.

The growth of title insurance has been largely on the mortgage business, because the lenders of money have demanded it. With but few exceptions



RICHARD B. HALL

the title insurance companies need not brag that they have developed business. They have either been forced to go into it or some unusual circumstance has brought it about.

The average citizen has an abhorrence of real estate deals, and both abstracters and title insurance companies are to blame. The average abstracter has one idea in mind, and that is his big work is to unearth everything he can that will show the title bad. The title insurance company has the same obsession, concentrating its efforts on finding all the reasons a policy should not be issued rather than how it can. The average abstract and title insurance office has an atmosphere of suppression and repression rather than of helpfulness. Why not change expression, smile a little, and create a clearer atmosphere, so that when one walks into any title office there will be an impression that the whole effort will be spent on trying to see you through your deal as quickly and as economically as possible, and with a minimum of trouble.

The abstract business is imbued with "titlitis," one of the two most deadly known of human ills and ailments. It is that chronic condition of scrutinizing the records, to detail minutely all the trouble you can find, and render as little service as possible for a small fee. This somewhat prevails in title insurance and, added to it, is "legalitis," the second most deadly human ill and ailment. The combination of the two makes a very bad case. Too much attention is paid to the legal examination of a title and the combing of fine law points about technicalities and matters that happened generations ago. People have an idea that title insurance should make real estate a liquid asset and is a modern method of enabling them to handle their property, rather than it is a glorified attorney's opinion or the process of marcelling the fine hairs of legal points.

Title insurance should be sold strictly upon its merits as a service proposition. Little progress will be made trying to sell it on the basis of protecting people against being dispossessed of their property and run out of their homes by a lot of highly improbable things that might come to light after fifty years, or the other "bogey mans" in land law. This is evidenced by the fact that title insurance for owners policies is making little progress in new or sparsely settled communities where people know the title by heart. They might buy it to expedite a transaction, but not from any hidden danger.

Title insurance companies must re-

member that turning down an application is poor business. It keeps an order off the books and at the same time provokes the land owner. His title is branded as unusable and all the neighbors look upon it as haunted. Once his application for title insurance is turned down the poor owner has little chance of ever disposing of the property or using it for collateral. In all too many cases it is only a technicality.

All businesses have a field outside their own endeavor and we have a big one in modernizing our archaic land laws and making real estate a desirable and usable investment.

The economic loss in the same age-old technicalities continually arising in titles is tremendous. Grant that title insurance overcomes them, there is still an economic waste in the title companies' continually getting around them by various means. We should secure the enactment of the Association's Fifteen Proposals for Uniform Land Laws in all the states. The title companies should take the lead in correcting any others needed in their own localities. The National Association of Real Estate Boards, the Mortgage Bankers Association of America, the United States Building and Loan League, and the American Title Association represent the four interests dependent upon and having in common real estate and its use as the business and integral part of the commercial and social structure of this country. Besides working in cooperation and doing all that is necessary, the title business has the basic part. Real estate will never be any more of a liquid asset or usable than the evidences of title available. We should make our transactions easy.

In going out of the field of the mechanics of our own production we find the real estate boards have sponsored city planning and construction; the motor boat manufacturers, the development of shoreline frontage; the automobile people the building of good roads; and we can well follow their example. We should surround our business with proper legislation, giving it responsibility and prestige. We should have an interchange of experiences and customs that will enable us to serve economically and efficiently.

The contact and relation with the public is pathetic. Those in the title business seem to think advertising unnecessary and that having available any statistics suicide. In these two respects we ignore and violate two of the three cardinal virtues of business success, advertising and public relations and complete information about the business losses, cost of production, etc.

The salvation of the title business is not going to be by a return of volume; it is going to be by increased efficiency of operation, enlarged activities, creation of appreciation by the public, a knowledge of costs so that we will know where "we are at," and then a revision of price schedules when it is found operations are at a loss.

The ills and ailments of the title business are known to all. It's time policies were determined and the business put on a march ahead. The national association has for three years now predicted this present situation and begged the members to adopt such measures as would not find them wanting. They have in some places, with good success.

Along with the discontinuance of harmful and inefficient practices is the adding of sidelines. Even the Standard Oil Company is going to sell tires at all of its service stations. Another contemplates starting a general store so you can drive to the corner for oil and gas, and get hairnets, fly paper, beans, coffee, and everything else, including ginger ale, lemons, etc.

In closing I want to pay a tribute to that army of men who make the work of this association possible. With our budget remaining stationary for three years, the accomplishments have been increased many fold. The amount of money available for the work of the national association representing this business is ridiculous. Were it not for the more than four hundred men who give so freely of their time and money to carry the burden and maintain this organization of twenty-six hundred members, it could not be done. You are demanding so much of us that it is a case of providing the means or refusing.

This association should have a budget of from \$75,000 to \$100,000. To serve your demands we must have \$50,000 next year, and means must be provided for it. You give us the money, and we will accomplish what is necessary, with the advancement of the title business and greater profits to you resulting.

We have expressed many times our hopes of work that could be done and the program of activities that should be undertaken. It is maddening to all those so greatly interested and concerned to have to sit and not be able to do the absolutely imperative and necessary because the ideas of support to this association are so provincial. There will be just as better days ahead as you care to make them, and the only medium of bringing them about is your association by means of its activities.

Report of Committee on Cooperation

ED. F. DOUGHERTY, Chairman

The outstanding events in connection with this Committee, have been:

1. The appointment of the committee by Mr. Donzel Stoney, the President of the Association.

2. The notification thereof to the members.

3. Notice addressed by your Chairman to the members of the committee, inviting suggestions for proposed activities.

4. Acknowledgments from the members of the Committee, all evidencing a great desire to cooperate, but offering no concrete suggestions, intimating that the chairman should be the inspiration and guide of the committee and the father of all ideas!

5. On August 20, 1930, your chairman addressed to each member of this committee, the following letter:

"The purpose for which the committee on cooperation of the American Title Association was created, was to establish contact with similar committees of other organizations having among their objectives the accomplishment of things that are mutually desirable and helpful. Communications received from the executive secretaries of other organizations indicate a willingness to cooperate in the accomplishment of mutual objectives but our committee has not been solicited by any other organization to cooperate in a common cause and neither have we solicited the support of other organizations in a definite, specific program of activity. Obviously committees of this kind, having nothing but a dormant willingness to cooperate should the occasion arise, will not be of any value.

"It, therefore, occurred to me that we might interest ourselves particularly in one or perhaps two of the outstanding things in which the American Title Association is interested, and then solicit the support of other organizations to accomplish the desired results. For instance, we could con-

centrate upon having the Uniform Abstracters' Law proposed by the American Title Association enacted in the several states. We could probably gain the support of the real estate men, bar associations, mortgage bankers' associations, and perhaps some other organizations that might have a genuine interest in the enactment of a measure of this kind. This would perhaps be a large undertaking. The Legislative Committee of the Association could have charge of the work so far as the Association's activities are concerned. We would merely stimulate the cooperation of organizations outside of the Association. By follow-

ing such a program, our committee would not be invading the province of the Legislative Committee of the Association. If the legislative committee of the association is anything like ourselves, it would, no doubt, welcome having another committee do part of its work.

"If this program would not seem to be sufficient, or if we would like to add another cause, we might join with the Legislative Committee in its commendable efforts to resist the efforts that are being made to promote the Torrens System in this country.

"Please do not get the impression that I am attempting to make work out of a committee assignment that may have been intended to be purely honorary. The foregoing is prompted by the desire on my part on behalf of The Federal Land Bank of Omaha to have the Uniform Abstracters' Bill adopted in the States of Iowa, Nebraska, South Dakota and Wyoming. It is now a law in the State of South Dakota. The other Federal Land Banks are likewise interested. Affirmative expressions have been received from the General Counsel of The Federal Land Bank of Wichita, The Federal Land Bank of St. Louis, The Federal Land Bank of Spokane, The Federal Land Bank of St. Paul, The Federal Land Bank of Springfield, The Federal Land Bank of Houston, and The Federal Land Bank of Columbia. It would not be difficult to enlist the active support of the various Federal Land Banks and Joint Stock Land Banks, because they are interested in having good abstracts and good titles securing loans.

"I shall appreciate an expression from you of your reaction to the foregoing."

6. The final act of the committee consists of the making of this report, which is convincing evidence that the president was wise in selecting a committee which did no harm if it did not accomplish any great good.



E. F. DOUGHERTY

Abstracters Section

Wednesday, October 8

The meeting convened at 9:30 a. m., with Donald B. Graham, chairman of the Abstracters Section, presiding.

CHAIRMAN GRAHAM: Ladies and gentlemen, will you please come to order. We are a little late in beginning and we have a full morning's work ahead of us.

Chairman's Address

DONALD B. GRAHAM

We have all come a long way to attend this convention and no doubt we will all have a good time and feel that our time has been well spent. How many of us, among these abstracters, will go home and think we have wasted our time, not to say anything about money. We think that for the past twenty-three years we have been meeting once every year in various parts of the country. The same old crowd is always there and they discuss the same old things. Now, how many of you feel that way? I venture to say that there are some. But, did you ever stop to think what has been accomplished? It is very easy to forget the progress made. If any of you would stop to analyze the situation you could readily see what these association meetings have done for the title business. The twenty-three years this association has been in existence have been crammed full of progress. The ones of us who have the feeling that nothing has been accomplished have not grown up fast enough. What you feel is growing pains. We are not even in the "High School Age" spoken of by Walter Kester yesterday. Mr. Kester is the Executive Secretary of the Mortgage Bankers Association and those of you who missed his address will regret it.

In the past two or three years, however, we have entered into some activities which will bring us out of the woods, so to speak, and put us in the real business as it was intended to be.

It is very unfortunate that the depressing general business conditions all over the country should come just at the time we have really found ourselves. It is really too bad that business should so fall off when we are all ready to go on a better business basis than we were ever before.

Money to accomplish our purpose with is another thing we need and

have needed right along. Co-operation is another thing we have needed most vitally. We go along making disparaging remarks and slighting inferences about the association and have been a very bad competitor to our neighboring abstracter with our lack of co-operation. Some of us may feel, perhaps, that all this enthusiasm in both the national and state organizations may be misguided. However, I believe you are all finding out that better

progress can be made when we unite to do it. Continually hackling with our competitor does not gain the results that co-operative competition does. A number of you may think the association is on the wrong track. You hear all sorts of remarks about any organization, but the thing to do if you feel that way is to get in and lend your support to it. By doing that we can have an honest-to-goodness working organization which will benefit the abstracter.

I have spent the past thirteen months working one-third of my time in the interest of the national association, or the American Title Association, as it is properly known, and am more firmly convinced than before that we are on the right track. We have taken some twenty years to get there but we are arriving.

The work of the Abstracter's section of the American Title Association this year has been terribly handicapped. The past four months of the year we have been practically without funds. It is a very natural condition and can be worked out with a little time and patience, and incidentally, some business. Charity is said to begin at home and I am sure that we all feel that now is the time to be more careful, to cut expenses in every line. Right now the small abstracter in a small town is very hard up for cash on account of the business depression. It has not seemed right to the association to urge them to spend money outside of the bare necessities. But, do you not think that now is the time, when conditions are so bad, to buckle down a little harder, give a little more and get together and work this thing out. Now is the time we need each other.

Real estate sales have dropped off approximately one-third over what they have normally been. Along with



DONALD B. GRAHAM
Chairman, Abstracters Section, 1930,
Appointed to Executive Committee
1931

the decrease in business the overhead of the abstractor has increased. There are more demands made on abstractors and title companies each year as time goes on and if we are to meet those demands we have got to work out a system of making the proper charge for our work and get together on these charges. The way to do it through our state and national associations. The individuals cannot work it alone.

There really are only about one-half dozen State Associations in the United States we can point to with pride and be really proud of. Those are going ahead and making progress for themselves. They are seeing to it that the proper legislation is being enacted to benefit their business. I want you to visualize the difference in your state if such an association could flourish. I want to leave this thought with all of you so when you go back to your own state you will get in behind your state association and support it stronger than ever before. You will find that it cannot all be accomplished in one, two, or three years. It takes a long time and the consistent support of every abstractor in that state is needed to make the abstract business what it should be.

I sat in a meeting of the executive committee yesterday that I wish all of you could attend. The matter of finances were discussed. These men are as vitally interested in your association as they are in their own business. That know what it means to the business as a whole. They worry about it just the same as if it were their own financial worry. After all if they did not feel that it was worth while they could let it drop, but show me a one of them who would.

We have found in the last two years that the abstractors can pass legislation which is beneficial to us. In a number of states we have done it and in a short while we are going to do it in others. The trouble has not been with the public legislators, it has been with the abstractors themselves. In a few of the states affiliated with this association the abstractors are afraid that any legislative attempt will "backfire" and the results would be undesirable. That seems like a lame excuse, but they give it. They are afraid that, for some reason the legislators will think they have not had rigid enough laws against the abstractor and if they are stirred up at all they will immediately put in such laws. We cannot hope to accomplish much in the way of legislation in the states with that attitude, but will have to work in them when we can reverse their mental attitude. There is a hard job

ahead of us and at times it seems discouraging, but we are making progress. I would like to predict that before 1932 at least three more states will have protective legislation for abstractors. I would, also, like to predict that in at least six states the abstractors are making from 45% to 60% more money for the same amount of work than they have ever done before. This is a direct result of the national association working with the state associations in the conducting of regional meetings. We have covered four states and the progress has been almost unbelievable. Various officers of the national association have attended the conventions of the state associations in other states. All of this has cost money, but it has accomplished much. We must have more money before we can proceed with other state legislative programs, but if we never received another cent, the legislative work already done this past year would justify the existence of the American Title Association.

The State of Wyoming is a unique sort of state. It seems that for fourteen or fifteen years there has been a statute on the books which required that there be a plant and a bond before an abstractor could do business, but the legislature had forgotten to make a board of commissioners of any sort to enforce the act. They had the act, but no way to enforce it. Now in 1931, I believe it is, there is to be an amendment to that act, for enforcement in accordance with the Model Abstractor's Law.

We conducted regional meetings in Missouri and had a great deal of success. The association is a good one and the conditions favorable. The conditions in Kansas is not so favorable. It is hard to get around from place to place and the association is not as strong as it should be. You would drive miles and miles and then sit in a meeting from 10:30 to 4:00 and start out and drive miles and miles before you would get to the next town for a meeting. It is not a very comfortable life. The only way to describe ones self is to say you are a "traveling salesman." I even slept with a taxicab driver in one place. I will be willing to bet he didn't like it any better than I.

We are coming more and more to the conclusion that while these meetings are necessary and must be carried on to reap the full benefit of the business, they must be carried on in a different manner. We cannot expect these men to go around and give their time "gratis." I am not complaining for the time I have given, nor do I believe Jim Johns would, but the

fact remains that we do it and if the work is to go on as it has before, without sufficient funds, new men will be coming in to do the work and we cannot expect them to give their time. I think we should begin thinking and planning on raising enough money to hire a good man, who, of course, would have to be an abstractor, to visit all the state associations, conduct regional meetings and keep things going in a general way for the betterment of the business. That is going to take a lot of money, but it will be worth it. We have been giving \$2.00 per member a year to the American Title Association for a long time. That they have been getting along on that is more than I can see, but they have accomplished a great deal. There is only one answer. They have had to have more money from other sources. There has been a sustaining fund and some of the states have given enormous amounts to carry on the work, a part of which we should be carrying. Our executive committee is convinced that this method of financing must be stopped to obtain the greatest good for all. None of us are sold on the way we have been doing business; cutting prices, etc., to keep the competitor from getting the business. We want to get away from that. Then, let us get down to the task of creating the proper method for eliminating these objectionable features. Let us make an effort to make some proper financial arrangement whereby we can afford to gamble a little bit on what we think is right; whereby doing, we will obtain what we want.

I am convinced that the salvation of the state associations is to be affiliated with the national association and each work for the benefit of the whole. In the long run we will attain greater success. I could talk for hours on this particular subject and the advantage of such an affiliation, but we have interesting papers ahead and I am not going to take up any more time, but I do want you to go home and carry this message back to the associations in your own state and help to put over the idea that it will be necessary that we have more money to properly function.

You are going to be favored with a very interesting address this morning on "Cost Accounting for the Title Business." That is something we are all thinking about, but I daresay, something none of us do much about. I take pleasure in introducing Mr. J. E. Morrison of Joliet Illinois, President of the Peoples Abstract Company, who can give you some interesting figures on this subject. Mr. Morrison.

Plant Maintenance and Production Cost

J. E. MORRISON

For some years past I have been collecting figures, making graphs, charts, etc., with reference to the cost of production and plant maintenance. Last June I was inveigled by the program committee of the Illinois Abstracters Association to talk about the results of my investigation before the state convention. You know how those things are. The program committee gets hard up for talent and they accept most anything that promises a way out.

My position reminds me of the American playing one of the famous Scotch golf courses for the first time. He was having a lot of trouble, slicing here, hooking there, and, in fact, he was everywhere except on the fairways. Just as he was finishing the 18th hole he said to his caddy: "I don't like your course." The caddy replied: "Ye ain't bin on it yet."

That is my salvation. As near as I know, no one has been on this subject before, therefore, in order to disprove what I say you will have to dig down in your own records, thus accomplishing the main purpose of this talk, which, after all, is to get the individual title man to consider the business side of the title business to a greater extent than is commonly done at the present time.

As near as I know, or am able to find out, there is no authoritative data in existence gotten up in such a manner as to be of assistance to the average title plant executive in the consideration of production and maintenance costs.

There is a professional side and a business side to the title business. Most of us in our anxiety to get out superior work, confine our efforts, our activities and our thoughts to the professional side and if we have any time or energy left wish that we could cut our overhead or that collections were better.

We take just pride in turning out a 50 page abstract which we know is full, complete and accurate from the first word of the caption to the signature of the certificate. Yet how many of us can analyze the cost of that abstract. How much did it cost us for each warranty deed shown therein, or each estate, or partition suit? How much did it cost to make the chain? How much did it cost in plant maintenance? How much did it cost to charge to the books and collect?

I think if we knew those things many of us would be surprised.

I realize, of course, that conditions vary in every community, but with a little ingenuity the data which I present can be adapted to meet most local conditions.

The first step in analyzing your problem of production and maintenance cost is to decide definitely just what the normal maximum business in your county is. Very careful consideration should be given this matter, for upon it will rest your whole business set up. Having arrived at a conclusion your next step is to determine how that volume of business can be handled with the greatest efficiency and at the lowest cost.

A title plan has just one thing to sell and that is service. Service will not and cannot be satisfactory if inefficiency prevails in the plant operation, therefore efficiency should not be sacrificed in the interest of cost. I have found that in the long run it is much easier and cheaper to do a thing exactly right than it is to half do it.

Of course, we can never get away from the human probability to err. However, careful consideration of the mechanics of plant set up will reduce that probability to a minimum and thereby enable you to render efficient service.

From what I have said, it is apparent that we have two guiding principles to follow:

First: The determination of the maximum normal volume of business in the county.

Second: Your operating cost is directly influenced by the state of efficiency of your plant.

This matter of plant efficiency is one for which you may or may not be responsible. If your plant was conceived and operated for a number of years on the theory that time was cheaper than paper, you will have an expensive as well as a difficult and trying experience in rewriting and revising your indices so that you can operate efficiently and at a minimum cost. However, when you consider that about 75 per cent of your total overhead goes into the payroll and that it is all used for plant maintenance and the making of abstracts, the question of cost resolves itself pretty much into a question of plant efficiency.

Conditions in the title business vary so greatly throughout the country that no attempt has ever been made, so far as I have been able to ascertain, to standardize tract indices. It has been left for each title man to work out his own pet idea. Now, within certain limitations, this may be all right. However, I am inclined to think that, that is the exact reason why the abstract business, taken as a whole, has never been able to work out a cost system. I can easily understand why a set of books in Illinois, for instance, might not be adapted for the most efficient use in Virginia, but I can see no reason for any wide variation in the type of indices in use in Illinois. As an illustration: In my own county there have been, at various times, four different sets of abstract indices, no two of which were alike, and the operative costs varied as much as 100 per cent.

I am stressing this matter merely to point out the cause for the wide discrepancy in production costs among various title companies.

In order to get some standard of comparison we must assume a reasonable efficiency in the plant set-up and a volume of business sufficiently large to enable the plant to operate profitably without resort to various side lines.

As I said before, all a title plant has to sell is service. That service is rendered by trained employees who, by the very nature of the business itself, are of little value except in the county in which they have been trained. There is no surplus from which to draw. It takes a great deal of time and costs considerable money to train new material. Therefore an organization, once perfected, should be kept intact as long as possible and this regardless of temporary business stagnation.

It is my opinion that the organization of a title company should be based on the maximum normal volume of business in the county. The company which follows that principle will, I believe, be the gainer in the long run. Frequent turn-over of personnell weakens the structure of the organization and eventually will prove to be a costly type of economy.

A title plant naturally divides itself into three departments:

1. Plant maintenance department.
2. Production department.
3. Office department.

A satisfactory method in figuring costs is to follow that natural division.

To the maintenance department charge the salaries of all non-producers in the office.

To the production department charge the salaries of all the producers in the office.

To the office department, all office overhead with the exception of salaries.

Under this method the salaries of all employees from

the manager down are charged against either the maintenance or production departments. This method has the advantage of being simple and easy to apply.

Before going further I am going to recapitulate a bit.

We have determined, approximately, the maximum normal volume of business in the county.

We have a plant with a reasonably efficient set-up.

We have organized that plant with a maintenance department, a production department and an office department.

Now suppose we complete the picture and give it \$100,000.00 worth of business per year in order that we may have some definite figures to work from.

The total overhead of this company on that volume of business ought to run between 47 per cent and 53 per cent of its gross output.

This overhead will be spread among the three departments in the following manner:

Office overhead,	7- 8 % of gross output
Plant maintenance,	5- 6 % of gross output
Federal taxes	5- 6 % of gross output
Production,	30-33 % of gross output

Total, 47-53 % of gross output

The total overhead would be allocated to each department approximately as follows:

Office,	15 % of overhead
Maintenance,	10 % of overhead
Federal Taxes,	12 % of overhead
Production,	63 % of overhead

Now, before making a detailed analysis of these figures, I want to draw your attention to a situation that is very steadily developing in the title business, especially in the older states, and that is the constant decrease in the number of orders for complete, or, as we term them, government abstracts.

In our county this class of orders has decreased 64% since 1920, or expressing it in another manner, in 1920 27% of the total volume of orders were of this type. In 1929 they had decreased to 8%, and, like the stock market, the percentage is still decreasing.

I presume this condition prevails quite generally throughout the country.

From a cost accounting standpoint the effect of the decrease in government orders is simply this: Ten years ago the volume of this type of work was so large that separate cost sheets had to be maintained for government orders and for continuation orders. That was a difficult thing to do, and as a result accurate cost sheets were almost impossible. Now, however, the volume of government orders has decreased to such an extent as to be almost negligible in figuring costs, and for the past five years I have used as a cost unit the average continuation order, which, I might add, runs about seven pages in length, with an average price of \$17.80.

In my opinion whenever the government orders run under 10% of the total volume or orders, a cost unit based on the average continuation order will prove accurate enough for all practical purposes.

As I said before, the total overhead will run between 47% and 53% of the gross output.

Your producing cost, and by that I mean the salaries of all employees except those who work on plant maintenance, will amount to 63% of your total overhead.

In order to know whether or not your office is in balance, I have found it necessary to check the producing cost against the individual abstract and I have found the simplest way to do it is on a page basis, and, by the way, by a page I mean a sheet 8½"x12½", double spaced, with generally speaking, one instrument on a page.

After analyzing this matter of costs from a great many angles I have arrived at some rather definite conclusions as to the cost of the various items involved in the preparation of an abstract, and while they may not be of general application, I am inclined to believe they are at least fairly accurate and can be relied upon in the average county.

In my judgment the producing cost of the average continuation order runs about as follows:

Manager and counter clerk.....	\$1.40 per order
Chain man and reviser.....	.70 per order
Abstracter	1.93 per order
Minute clerk .....	.30 per order
Typist .....	.56 per order
Comparing .....	.49 per order

Total.....\$5.38 per order

In explanation of some of these items I want to say that the \$1.40 charge for manager and counter clerk not only includes counter cost but also the manager's service in securing the order as well as the cost of making various estimates from which no order was ever received. Though you may not have thought of it, every order carries a debit charge before it even reaches your office.

The \$1.93 charge for abstracters may vary according to the method used in the particular office. In this instance the abstracter makes all searches and compares the original minutes used in the job.

The chief abstracter makes up the chains and with the manager does the revising.

These costs do not contemplate the removal of any files from the court house.

The cost per page upon which these figures are based, is as follows:

Manager and counter clerk.....	\$0.20 per page
Chain man and reviser.....	.10 per page
Abstracter .....	.276 per page
Minute clerk .....	.043 per page
Typist .....	.08 per page
Comparers .....	.07 per page

Total

Plant maintenance cost will run about .125c per page.
Federal taxes will run about .125c per page.
Office overhead, including all charges except salaries and Federal taxes, will run about 20c per page.

Summing up, we find the cost of the average continuation order as follows:

Producing cost	\$0.769 per page or \$5.383 per order
Plant maintenance .....	.125 per page or .975 per order
Federal taxes .....	.125 per page or .975 per order
Overhead .....	.20 per page or 1.40 per order

Totals.....\$1.219 per page or \$8.733 per order

For the time being, I am going to drop the consideration of continuation orders and analyze the government order.

As I said before, the number of government orders has steadily decreased for the past decade. In our locality they amount to about 10% of the total orders and my analysis is based upon that percentage. In passing I will say that, that per cent seems to be about the bottom. I have no particular figures to support that opinion but circumstances indicate that it is true, at least with us.

A government order is a very desirable order. It may also prove very costly. If full use is made of, and full rates are charged for the work which you have on your press books, the profit on about 75% of this class of work will be quite handsome. If, however, you give your press work away at a more or less nominal price you are going to lose money on every government job you turn out.

I know quite well the temptation that the title man is up against. The customer knows that an abstract has been made for an adjoining lot and that the title company has half the title on its press books and he can see no reason why he shouldn't receive the benefit of a low rate for that work. Right here, gentlemen, is the dark skinned native in the title wood pile. Get full rates for that work or don't enter the order on your books. Let the other fellow have the job if he wants it. You can rest assured that if he takes enough of them you can eventually buy him out at your own price.

Excepting only such orders as are short and simple, you will lose money on every government order you turn

out unless a considerable proportion of the title is already in your press books.

Very probably some of you are inclined to disagree with me on this point. However, all I ask you to do is to figure it out when you get back home.

I know of a county where a condition existed for fifteen years in which 53% of the total orders were of a certain type of abstract and for every \$1.00 worth of those abstracts the cost was \$1.20, and then the title companies wondered why they weren't making money.

Now this same condition can easily exist with reference to government orders unless full advantage is taken of press work.

Under the same conditions as continuation orders a government order will cost about \$1.10 per page as against \$1.22 per page for continuation. The difference being in the compiling and office cost.

The average government abstract will run about 50 pages. The producing cost will be \$32.65. The maintenance, tax and overhead cost will be \$22.50, making a total cost of \$55.15.

At this point another phase of this subject presents itself. As I said at the beginning, 75% of the total overhead goes into the payroll. Now it is quite evident that the size of that payroll is the determining factor in figuring costs. Therefore it is necessary to consider the personnel required by an organization doing \$100,000.00 worth of business per year. I merely use that figure as a convenient unit. If the volume of business is materially greater or less, the payroll will increase or decrease in proportion.

That volume of business will, however, require departmental organization, and without such organization accurate cost figures are almost impossible.

Under conditions with which I am familiar the personnel required, with the annual payroll, would be about as follows:

Manager	\$ 8,000.00
Chief clerk	2,600.00
Chief abstract—chain man.....	3,600.00
4 abstracters at \$2,600.00.....	10,400.00
3 typists at \$1,150.00.....	3,450.00
1 comparing team at \$1,560.00 each....	3,120.00
2 minute clerks at \$1,150.00 each.....	2,300.00
1 copist, etc.	936.00
1 poster	2,600.00

Totals, 15

Totals, \$37,006.00

Local working conditions would probably cause some variation in this set-up. However, such a variation would not be sufficiently large to cause any material change in cost figures previously set up.

Federal taxes and office overhead will account for 25% of your total overhead and will amount to \$12,500.00, thus making your total over head \$49,506.00.

Your operating cost is going to depend entirely upon the charge made for your work.

Figured over a period of 5 or 10 years, the fluctuation in your overhead cost will range about 20%.

Operating on a 50% margin, the net return on the capital investment of a title plant located in a county where the volume of business amounts to and the plant is equipped to do around a \$100,000.00 worth of business per year, will be between 15% and 20%, which, considering the nature of the business with its attendant responsibilities, is no more than reasonable.

To operate on a 50% margin, your rates will have to be high enough to average about \$2.50 per page.

I doubt very much if the page rate of the average abstract company over the country at large will average much over a \$1.25 per page. Certainly it won't run as high as \$1.50.

I am quite certain that the average company will not get as much for the instruments shown in the abstract as the recorder gets for recording them.

In Illinois, on a comparable page basis, a recorder will average between \$1.50 and \$1.60 per page. An efficient, well managed recorder's office will, on that average, turn

back to the county around 20% as the net earnings of the office, and the only charges made against the earnings of the office are the salaries of the recorder and his deputies. If the recorder's office had to pay rent, buy its own supplies, pay taxes, both state and federal, and, in short, take care of its own overhead, you would find that recording fees would be doubled.

If an abstract is worth anything it is because of the degree of responsibility that is behind it. Low prices and an evident willingness on the part of the title man to do a job as cheaply as possible without regard for, or rather in ignorance of, his costs will never add to that degree of responsibility.

The title business should emphasize the value of the service it renders. The attitude of "I'll do the job cheaper than the other fellow" or "I'll pay you 10% or 15% if you give me your orders," is bad for the business. It weakens the stability of the business. It encourages price cutting and results in poor and unreliable work, and the evidence that this condition exists quite generally is available for all who are interested.

I think the title business has always suffered from an inferiority complex, and as you judge yourself you are going to be judged by others, so unless the business realizes this fact and changes its attitude prices will be low, work will be of inferior quality and, as a result, a lot of title companies will find themselves in the same position as the carriage maker did twenty years ago.

The way to combat competition either public or private is to furnish better service and better abstracts than the other fellow. If you do, it won't take the public long to find it out and you can get your price for the work you do.

This is a matter that is strictly up to the individual. If you are satisfied with mediocrity and cut rates, that's what you are going to get. If, on the other hand, you are constantly striving to build up your plant, to better your product and improve your service, you won't have any difficulty in getting prices commensurate with the work done and the liability incurred.

In order to get this matter in concrete form so that it will be of assistance to any of you who are interested enough to go into subject at some future time, I have prepared a table showing various costs based on arbitrary factors, which, of course, may or may not fit individual cases but which can be adjusted to meet local conditions. Most of these figures are actual, some are of necessity based on calculations. They are approximately correct and I believe sufficiently accurate to provide a working basis for individual research.

COST TABLE

Known factors:

1. Gross orders, 3600
2. Gross output, \$100,000.00
3. Rate per page, \$2.50

	Continuations		Government	
Classification of orders				
Percentage	90 %		10 %	
Number	3,240		360	
Average billing charge.....	\$ 17.50		\$ 125.00	
Total billing charge.....	\$56,700.00		\$45,000.00	
Billing charge percentage	57 %		45 %	
Total overhead	\$28,285.00		\$19,854.00	
Cost analysis	Per Pg.	Per Abs..	Per Pg.	Per Abs.
Writing	\$0.08	\$0.56	\$0.07	\$3.50
Comparing .....	.07	.49	.07	3.50
Minutes .....	.043	.301	.045	2.15
Compiling .....	.276	1.932	.20	10.00
Chain & Revising.....	.10	.70	.12	6.00
Counter clerk—estimat- ing, etc. ....	.20	1.40	.15	7.50
Total producing cost....	.769	5.383	.653	32.65
Plant maintenance.....	.125	.975	.125	6.25
Federal taxes .....	.125	.975	.125	6.25
Office overhead .....	.20	1.40	.20	10.00
Total overhead cost	1.219	8.733	1.103	55.15
Cost percentage.....		50 %		44 %
Combined operating cost .....		.47 %		

As a result of my studies along this line I have arrived at some rather definite opinions which, in conclusion, I'll pass on to you.

First: Taking all things into consideration the rates charged by the average title company are entirely too low.

Second: Rates are based on custom, or necessities of competition, rather than on a careful consideration of operating costs.

Third: There are more title companies in existence than the available business warrants.

Fourth: The best check on overhead is a carefully prepared budget.

Fifth: A time sheet or work chart should be kept on every job.

And now in closing, an interesting parallel is found in the comparison of conditions in the title business for the year 1921 and the present year. Using as a common denominator the orders received, you will find that the charts for each year will be almost identical. You will further find that the upturn started at the end of 1921 and continued up without a break thru 1926. Let us hope that history repeats itself and that the year 1931 will mark the beginning of another era of prosperity comparable to the one which ended over a year ago.

CHAIRMAN GRAHAM: I do not think it is possible for me to express to Mr. Morrison our appreciation of his paper. It represents hours and hours of labor on his part and is something we all need to go into. Since the San Antonio convention I think more and more of us have been thinking along this line. It means the very existence of our business and I know we will be eager to get the proceedings so we will be enabled to study Mr. Morrison's address, which has been so ably prepared. We are deeply indebted to him.

The next thing in order is the ap-

pointment of the nominating committee for the abstractor's section. I am going to appoint the following people on that committee:

Hugh C. Ricketts, Newkirk, Oklahoma.

Pearl Jeffery, Columbus, Kansas.

J. B. Purdy, Racine, Wisconsin.

This committee is to get together, name their nominees and make a report at 12:15, directly following the last paper in this session.

You will notice that we have scheduled for 11:45 this morning, an ad-

dress by Milton G. Gage, Sterling, Colorado. The title of his address was to be "Looking Down Our Own Back Alley." I regret that we are not going to get to hear from Mr. Gage, for I know you would have enjoyed that address. It was impossible for him to come to the convention. That gives us a little time and as we have a serious problem in this dues matter I am going to ask Jim Johns, our old friend, to talk to you about this and see if we cannot get this thing worked out before we go home. Possibly he can give a talk entitled "Looking Down Our Own Back Alley."

Looking Down Our Own Back Alley

JAMES S. JOHNS

It seems to me that every time I come before you it is to harangue you in one way or another. If I am not very careful I will have a terrible reputation the first thing I know. But, I do want to talk to you about the finances of this association. You have heard and talked and thought about financing your own institutions. Now, what are we going to do about financing the American Title Association? This is our institution and it is vital that we should support it. We had a luncheon yesterday of the state association officers and state councillors and the presidents and secretaries of the state associations. A statement was made at this luncheon as to the finances of this association. The question was asked, "What is to be done about it?" This is the situation, briefly, gentlemen:

The American Title Association has been erroneously financed, entirely. From the very first year of its existence, we country abstractors have paid \$2.00 a year for dues. Imagine it, just \$2.00 for all the good we get out of this organization. The average cost of carrying a member on the books of the American Title Association is around \$16.00 per year. Fig-

ure it out for yourself. Does that sound reasonable? I should say not. The method of financing of the association was changed a couple of years ago and it was decided that we put into effect a sliding scale, minimum of \$5.00 per year dues schedule. But, about that time we had to spend more money; a lot more money. You demanded we do more things and the \$5.00 a year minimum is not going to be enough. These added activities are greatly to our benefit and we should do them. We are all convinced of that, I have no doubt. For example: Mr. Graham told you about the regional meetings we have been holding. In addition to the time donated by the regional director there was an expense of over \$500.00 in conducting those regional meetings in the State of Missouri alone last year.

We all know that it takes money for these things, but what are we going to do about it? It is apparent that the title companies, who are not so much interested in abstracts as they are in title insurance, are not going to contribute from \$500.00 to \$1500.00 every year, apiece. I know of one title insurance company who is contributing \$75.00 every month toward

the financing of this organization. The biggest part of that money goes to help the abstractor. Does that sound like good financing? It is apparent that it cannot continue.

To repeat what was said at this luncheon yesterday, the suggestion was seriously made and seriously considered in the executive committee meeting, that the entire structure of the American Title Association be changed. That instead of working through the state association membership that the membership be handled direct with the national for membership in that association. Most associations work on that method.

Let me go on record right here as being against that plan. I am personally opposed to that for I believe we can help the national association and they can help us if we all stick together as we have been doing. But, I do know that we must re-arrange our financing. If we can finance this association through the state associations I am in favor of that method. If there is any other manner of doing it without divorcing the state and national associations, I am for that manner.

The association has entered into a

program, the success of which I am very hopeful for. I have seen the results that have come in the various states where we have been able to carry on this program. It has been most gratifying, but it does take a tremendous amount of time as well as money. It has been satisfactory in the experimental stage for a few of us to give our time and work all we could to make it a success. We have donated freely of this time, and willingly, in experimenting as to what could be done. We know now that there is a great deal to be done and can be done by this method,—that of the regional meetings. But, do you think we can ask Mr. Graham or myself, or our successors to give from one-fourth to one-third of their time away from their business each year to conduct the program in the abstractor's section? I know that you do not. There must be some new arrangement made. We must have a different set-up. You have all heard the reports from various people of the things that have been accomplished from this program—the stabilization of prices, the legislative program for better laws for our protection—and you all know that it is the desired thing. Before long we will be instituted into the title business, writing title insurance. When that more modern and profitable business is thrust upon us we want to be ready for it. But, right now, what are we abstractors going to do? That is the question before us. It is apparent that we cannot spend a month's time and a thousand dollars in a state from which only a few hundred dollars is coming in. One series of regional meetings is not enough. We have hardly scratched the surface as yet. We will have to go back and follow up this first onslaught. Only by that procedure can we get organized properly to make money, real money, not just chicken feed. Mr. Morrison's paper, which was given just preceding me, goes very much into detail about financing. To get those figures somebody has got to go around and do it. We cannot just sit down and wait. Now it evolves itself down to this: "Are we going to quit or go ahead as a national title association?"—and that means, whether the title business is going ahead or not.

If the right field representative were secured, and there are several available men, to go around and visit the state association meetings over the whole country, to bring the abstractors' standard up, we country abstractors' income would increase ten-fold.

On the account of lack of finances it has been necessary that **TITLE NEWS** be reduced to a mere skeleton of its former self. We cannot give you the valuable articles and interesting things for it takes money to print them. Again I ask, what are we going to do about it? I should like to have an expression from some of the state representatives who attended the luncheon yesterday to see what they think their states will do about it. Do

Vice President Elect



JAMES S. JOHNS

Who Becomes Chairman of the Executive Committee of the American Title Association

you think they will want to quit or kick through with enough money to support the association? I would like to see the abstractors and others here get together and settle this thing. Shall we discuss this thing this morning? Don, do you think we have time?

CHAIRMAN GRAHAM: We are getting through on time. Would you like to turn it into an open forum now, or wait until the open forum meeting tonight?

VOICE: Let us discuss it now. Now is the time to do something about it.

JIM JOHNS: Make your talks brief so we won't run over time and call your names when you get up so the reporter will get it in the record. Call your state, too.

JIM SHERIDAN (Michigan): I shall be very glad to report back to the Michigan Title Association exactly the facts as Mr. Johns has presented them to us. Speaking as a member of the state which was the first one to adopt the proposed schedule, we adopted it fifteen days after the Seattle convention, I feel that we are not going to have any difficulty in putting over any necessary additional rate schedule. We raised our dues \$5.00 per year over and above that schedule passed on at Seattle. That amount to be used by our own state organization. The president put the schedule to vote and it passed without one dissenting

vote. In fact, the president found trouble in recognizing the speakers from the floor who wanted to voice their approval when they found out the situation the association was up against. I realize that probably we might lose some members from Michigan, but those members we would lose may well be lost. They rarely ever attend a meeting and give absolutely no benefit to the association. There are some abstractors in small counties around over Michigan who have a strong disinclination to cooperate in any way. They are not interested in equalization of rates or anything which is beneficial to the business as a whole. But these few are very much in the minority. I feel that I can speak for the Michigan Title Association and safely say that as far as we are concerned at least 95% of Michigan will be very happy to support the national association on whatever financial basis they find it necessary to work out.

HUGH C. RICKETTS (Oklahoma): May I ask just how much money we would derive from the schedule worked out at Seattle if we all paid in on that basis?

JIM JOHNS: It will provide for about \$25,000.00 a year. The present budget is in the neighborhood of \$35,000.00 per year. Therefore, that means that they are still collecting about \$10,000.00 to \$12,000.00 from the sustaining fund. Our demands have increased and that schedule, when worked out, was deemed to be sufficient. It is not, however, and if every state adopted it we would still be short.

HUGH C. RICKETTS (Oklahoma): If the American Title Association needs more money, we want to be told about it. We want to be affiliated with the association just as we are now and if you need more money tell us so and we will take proper steps to get some more. I know that Oklahoma will do her part.

ARTHUR C. MARRIOTT (Illinois): I wish to speak as a representative of the Illinois Association. I believe the idea has been established some way or another that Illinois is opposed to any, or rather to the new dues schedule. I can find no record in any of the proceedings of the Executive Committee meetings where they have adopted the schedule. I do not think we would lose any members over a new rate schedule, but if we do lose any of them they will lose more than we do, for it is they who get the benefit of such an association. When I return I will take it up with the Illinois Association with the view of having it adopted.

W. C. WEITZEL (Nebraska): I feel that, so far as Nebraska is concerned, they will be in favor of any new schedule. We have now an association gradually coming up to the point where they know the difference between a twenty dollar gold piece and a ten dollar bill. I think when the Nebraska association meets the last of this month they are going to be very

favorable toward any further assistance they have to give for the support of the association.

PEARL K. JEFFERY (Kansas): When Kansas, in their eagerness, adopted the new dues schedule last year we felt that we would lose one-half of our membership. We only lost four so we feel greatly encouraged. I am sure Kansas will be ready and willing to do all we are asked.

J. B. PURDY (Wisconsin): At our convention held recently Wisconsin went on record as being favorable toward any dues schedule to carry on the necessary work. We feel that this work must go on unhindered and we are willing to aid it. I have spoken to at least ten members from the northern part of the state and we are all in favor, heartily in favor, of this new schedule. That is the proposed schedule to be whatever is needed. The schedule may raise our dues from \$10.00 to \$40.00, but we want this work to go on and we realize you must have money.

J. H. EARLY (Florida): I do not know how many members we have here from Florida and have not discussed this with anybody, but I do feel that I can speak for Florida. We have a \$25.00 dues schedule down there for our state association. It is my understanding that we give \$2.00 of that to the national association. I do not know our exact membership and don't know how much money is given from Florida on the dues schedule, but I know that in our company we got numerous requests for additional money for the sustaining fund. We sent the check asked for in each case. I think we would get farther if we had a stronger state association. As an association we do so little and accomplish so little that the way it stands now I would be in favor of sending all the money to the national association if we could get some regional meetings in Florida to get them all working together. Two meetings of that sort would accomplish a great deal more than our state convention. We had one regional meeting in Florida which showed some signs of getting results and if it could have been followed up I feel that we would have gotten results. If we could have someone like Dick Hall to go around, not once, but several times, they would all want to give more money to the national association.

When I go back home I will carry the message back that we will have to

give more money to the national association. I do not believe we will have any trouble in Florida.

RALPH BECKER (Missouri): At our last meeting which was held last fall, the fall of 1929, there was opposition to the schedule and we put it off until 1930. But, the regional meetings were held in the State of Missouri last year and they were such a grand success that we had no difficulty in putting over the new dues schedule this year. In St. Louis and the surrounding country the prices are stabilized to such an extent that some of the abstract members have bought new automobiles. Something unheard of until they got together. Why, one abstracter even gave a fine chicken dinner to all the officers and members of the association when they met in his town. He could not have done that not so very long ago. I know that Missouri will be sorry to have to change the new dues schedule when the one adopted at Seattle has hardly gotten under way, but it is necessary that these meetings be carried on and from the glowing example in my state of the success of regional meetings we are convinced that they are the answer. I do not think Missouri will object to a change of rates.

S. E. GILLILAND (Iowa): I am not really in a position to commit Iowa on the subject. I was called away from the state meeting this year before it really had gotten started and I do not know whether it was discussed at that meeting or not. I will be glad, however, to bring it before our meeting in 1931.

JIM JOHNS: For the benefit of the record and for everybody here I want to tell you the way they feel about it in Oregon. The Secretary of our state association announced that the present dues schedule was not enough to carry out our work in Oregon. Someone asked him how much he wanted. He announced "so much." A reply came right back by someone saying, "I move that." Then someone asked, "Are we going to have a legislative program?" The Secretary said, "Yes." "That will not be enough money, will it?" said somebody else. "Yes, I think so," said the Secretary. Then someone made a motion that in case we needed any more money the Secretary could draw on each member up to \$15.00 extra per member, over and above what had been provided for. I do not think we will have any trouble, whatsoever, in Oregon. They are right on their toes

with enthusiasm for the progress of this association.

HERMAN EASTLAND, Jr. (Texas): Texas is a big territory and they are attempting to do some big work in Texas. We are not willing for the American Title Association to discontinue its work, nor are we willing for it to go through with its program any way except through the state association. We feel that the best work can be done by the state associations and national association working together. We have not yet adopted the new dues schedule. It has been discussed a great deal but not adopted. It is certain that Texas would not be willing to segregate the national and state associations and I am very hopeful that something can be worked out for the mutual benefit of them both.

JOHN E. POTTER (Pennsylvania): The Pennsylvania delegation had a meeting yesterday and instructed their Treasurer to make a check for \$500.00 to the American Title Association to help it through this present emergency. I am satisfied they are in favor of the national association carrying out its present program and carrying it out through the state associations. It seems that this cannot be done unless every one adopted the dues schedule that was to bring in \$25,000.00 per year and the sustaining fund also kept up. I do not think the sustaining fund system has been very satisfactory and I believe that Pennsylvania would be in favor of any dues schedule that would abolish it and give enough money from the regular dues to keep the association going with its present program.

JIM SHERIDAN (Michigan): I understand the national association has been laboring along on from \$25,000.00 to \$30,000.00 per year. The proposed budget is to be \$50,000.00. I have heard what one state is doing and how they have planned their budget and how much money they are going to spend in that one state alone. I cannot see how you have possibly struggled along and done so much work on just that much money.

CHAIRMAN GRAHAM: I take great pleasure at this time in introducing Mr. Waldo C. Hodgdon, Assistant Counsel and Manager of the Abstract Division of the John Hancock Mutual Life Insurance Company, Boston, Massachusetts, who will address us on "Title Troubles of a Lending Institution."

Title Troubles of a Lending Institution

WALDO C. HODGDON

It was with a great deal of pleasure that I accepted your kind invitation to talk on "Title Troubles of a Lending Institution" and you may be sure that I greatly appreciate the privilege of attending your convention and being on your program. I trust that what I may say, the questions and discussions which I hope will follow and conversations with your members during the convention will be mutually advantageous.

As one who works on the legal problems involved in lending a large life insurance company's money on the security of real property I suppose I am representative of one of the largest classes of persons and institutions interested in real property titles. You gentlemen have something to offer us, either it be title policies, abstracts of title, or other sources of examination of titles, which we must have. You produce—we use the product. It is extremely interesting to attend your convention and hear your side discussed. The investments of lending institutions must be made in accordance with the provision of the law, both case and statute, of the jurisdiction under the statutes of which the institution is chartered and so some knowledge of those laws is essential to any consideration of the investment problems, both business and legal, of such an institution. The underlying law is statute; whether enacted by Congress for Federal institutions or by state legislatures for state ones, the statutes governing the lending of money on the security of real property are somewhat similar in their general principles. Although I shall base what I have to say upon the laws of the Commonwealth of Massachusetts, in which state my company is incorporated, the problems of lending institutions in other states must of necessity be somewhat similar.

The Massachusetts General Laws, pertaining to the real estate mortgage loans of our life insurance companies are found in chapter 175. We are permitted to make loans upon improved and unencumbered real property in any state of the United States and upon leasehold estates in improved real property for a term of ninety-nine years or more where fifty years or more of the term is unexpired and where unencumbered except by rentals accruing therefrom to the owner of the fee, and here the mortgagee is entitled to be subrogated to all the rights under the leasehold. No loan on such real property or such leasehold estate shall exceed sixty per cent

of the fair market value thereof at the time of such loan, and a certificate of the value of such property shall be executed before making such loan by the persons making or authorizing such loan, and a certificate of the value of such property shall be executed before making such loan by the persons making or authorizing such loan on behalf of the company, which certificate shall be recorded on the books of the company. Real property shall not be deemed to be encumbered within the meaning of this paragraph by reason of the existence of instruments reserving mineral, oil or timber rights, rights of way, sewer rights, rights in walls, nor by reason of building restrictions or other restrictive covenants, nor by the reason that it is subject to lease under which rents or profits are reserved to the owner, provided that the security of such loan is first lien upon such real property and that there is no condition or right of re-entry or forfeiture under which such lien can be cut off, subordinated or otherwise disturbed. This is provided for under G.L.C. 175, Section 62, paragraph 7, as amended by Statutes of 1923, C. 297.

For title purposes this section of the statutes divides itself into two outstanding parts; First, each loan must be upon the security of unencumbered real property and second, the property

shall not be deemed to be encumbered by reason of the existence of certain enumerated reservations, easements and restrictions nor because it is subject to lease under which rents or profits are reserved to the owner, all provided that the security is a first lien and that there is no condition or right of re-entry or forfeiture under which such lien can be cut off, subordinated or otherwise disturbed.

You notice that the statute is silent on the marketability of titles but I feel that no title should be passed for a life insurance company loan which is not marketable. Exceptions to this rule might be made for the titles of some states, in some circumstances. There are some titles which come within the provisions of the statute and which are marketable but which it seems to me should not be passed for a life insurance company loan. They are the titles which might be classed as business men's risk, but which a trustee would not feel justified in holding in his trust. It seems to me that in addition to always bearing in mind the law, title counsel for an insurance company should bear in mind that his company has a fiduciary relationship to its policy holders.

It is important to remember that a mortgagee may have to foreclose his mortgage and sell the security for the loan. The lien of a mortgagee must be such that it cannot be cut off or terminated except by payment of the indebtedness or by tax sales, etc., and the title must be such that the mortgagee can have no difficulty in disposing of it, either at foreclosure sale or afterwards.

The title problems of a lending institution are many and of course I cannot undertake to discuss them all but I have picked out a few which seem to be always with us and which have importance. Some of these problems are closely bound up with the business side of investing money and some are purely title problems.

There are two or three kinds of technically unmarketable titles that are frequently submitted to us. Perhaps the kind most frequently occurring has in it the estate of a deceased person where the period during which debts, expenses of administration, etc., are a lien, either because the short statutory limitation period has not expired, or because the proper steps have not been taken to start that statute running. It greatly helps us in these cases when the abstract gives full and complete information. The failure to show the size of the value of the estate,



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and the omission of that important information is very frequent, and the failure to fully abstract the proceedings delays us in closing the loan for your abstract customer.

Then we are asked to loan on the security of property the title to which is being quieted, that is not only before the time for taking the case to a higher court has expired, but before a decree has been entered. I often wonder why some of these proceedings are brought and feel that loans may be delayed by their bringing, until at least, a decree has been entered. Then there are the cases where the possibility of future issue renders titles unmarketable for I suppose that all jurisdictions follow the rule that the possibility of issue of a woman is never extinct.

It is surprising how many times attorneys will fail to call to the attention of a lending institution and will pass without comment, serious defects in titles. The local attorney should always give us the benefit to be derived from reading his reasons for passing hard points. We must rely on you to a great extent but must know how and why you pass a difficult point.

It is also important to remember that a lending institution often operates far from its home office and that it does not always know about many of the things that you gentlemen, familiar with local custom, know so well that you perhaps forget that we not only do not know them, but have no means of knowing. Do not hesitate to inform us of such local customs and the opinions of your conveyancing bar. It will help us all and enable us to give quicker service to your customers.

Special assessments, whether levied for improvements to city property or farm property, are both a business and title problem. A lender must know what his borrower must pay in taxes, whether the taxes are the ordinary town, city, county or state variety or whether they are taxes for improvements in or near the property. In many cases such improvements as drainage, sewer, curbing and paving are paid for, in part at least, by the owners of the land benefited and are paid for, not all at once but in installments. It is very important to a lending institution to have full details about the installment payments of special assessments that must be made by the mortgagor and his successors in title. The lender should know just how much his borrower must pay in each year and for what purpose the assessments are made. It seems that an abstract of title or a title policy should clearly show, preferably in tabular form, the exact amount of all future installments or assessments and the dates on which they are payable. Without such exact and detailed information neither the business side nor the legal side of a loan involving assessments can be properly handled. In the preliminary opinion used in my company we have

set forth a table showing the nature, amounts and due dates of all assessments, and this we feel to be a great importance.

It sometimes happens that when an abstract is sent for continuation or other purposes the abstracter will remove pages, or re-arrange them, change the cover and do other things so that when the abstract comes back it virtually has to be re-examined if the holder of the mortgage is to be sure that he has a complete abstract. May I suggest to the abstracters that when abstracts once issued from their offices are returned to their possession they make no changes whatsoever in arrangement, to any of the pages or the cover, but that all continuations and changes and additions be made either under separate cover or in such a way that it clearly appears upon picking up the abstract that a continuation has been made. Even changing the cover makes trouble for us because the original cover may have been stamped or initialed by an examiner in our office.

There is another matter which is of importance both to the business side of a lending institution and to the law department: restrictions. Those charged with the duty of making mortgages are almost as much interested in the restrictions, reservations and covenants in the title as are those whose duty it is to pass upon the title. The effect of restrictions is, of course, as much a business matter as a legal matter. In order to know what the restrictions, reservations, covenants, etc. are, they should be fully set forth in the abstract of title or title policy, as the case may be. That is the only way in which the lending institution in its various departments can have the information which it needs.

After the restrictions have been studied and it has been decided that they are not detrimental to the property, it must be considered whether or not there have been any violations of those restrictions. For the purpose of determining whether or not restrictions have been violated, they may be divided into two classes, those in which a breach can be ascertained by inspection and measurement, such as setback restrictions or restrictions requiring that no building other than a dwelling house be upon the premises, and those restrictions, a breach of which cannot be ascertained by such inspection and measurement, such as a restriction prohibiting the ownership of the property by a certain class of persons. Usually a plan will answer all questions of the breach of the first class of restrictions, and if a violation or breach appears, then the question comes whether or not that breach is of such a nature that the loan should not be made or whether it is so small that it can be ignored. It may be that protection can be had against a breach by insurance, and of that form of protection we sometimes avail ourselves. Dealing as we often do with properties at a distance, we must have clear

evidence in the form of a plan or statements about the compliance with restrictions, and it would seem that the same evidence which is furnished us could be furnished to the title company or abstracter with great advantage. The restrictions, a breach of which cannot be ascertained by inspection and measurement, give considerably more trouble in their ascertainment but they can be ascertained and it would save a great deal of time and trouble in paying for loans if those dealing with the titles in the first place would present real evidence on these matters.

Closely allied to restrictions are zoning ordinances and other by-laws or laws which regulate the way in which an owner of land may use it. Such ordinances are not, of course, of record and they are not to be found in libraries at a distance from the city which they affect. Lending institutions, however, must know what these ordinances provide and how they affect the securities for their loans. Such ordinances in most places are of recent enactment and it may be reasonable to assume that properties subject to them are benefited by them, but a lending institution is not justified in proceeding solely on that assumption. The officers charged with the duty of making the loans should be familiar with the provisions of the ordinances and should know how their securities are affected. It seems that title insurance companies and abstracters could, to the mutual advantage of themselves and their clients, include reports on zoning ordinances among their other reports. Compliance with a zoning ordinance is of far more importance than compliance with a restriction, for public authorities are in a much stronger position to enforce their law if it has been violated than are private parties having restriction rights, after a lapse of time. The lending institution must be as careful to see that such ordinances are complied with as it must be careful to abide by the statutes governing its investments. I suggest for the consideration of title companies and abstracters that they consider these matters. I recall with great interest the remarks by the gentleman from St. Louis made in yesterday's discussion. Mr. Gill, I believe was his name. There is another service which title companies might consider and that is identifying the property described by metes and bounds in a title policy and show on a plan with the property which has been described to the lender by a different description, perhaps merely by a street number. We see a picture of a building at a given number and a plan. How do we know that building is on the land you describe. There has to be an identification. Why should not that be part of the service you render?

There is one matter about which I have been having some correspondence with people in different parts of the country and which I feel is a problem worthy of mention here. One purpose

of the bankruptcy law is to fix the line of cleavage with special regard to the conditions existing when a petition is filed, *Everett v. Judson* (1913) 228 U. S., 474, and the date of filing the petition establishes the commencement of the proceedings and the time from which the property of the bankrupt becomes in custodia legis, *Fairbanks Steel Shovel Company v. Wills* (1916) 240 U. S., 642. The filing of a petition in bankruptcy is a caveat to all the world and in effect an attachment, an injunction, *Acme Harvester Company v. Beekman Lumber Company* (1911) 222 U. S., 300 and this regardless of the court in which the petition is filed, provided that court has jurisdiction. After the filing of a petition in bankruptcy and before adjudication and the appointment of a trustee, the alleged bankrupt holds his property as a fiduciary for the trustee, *Acme Harvester case*, page 307, in *re Nathan* (1899) 92 Fed., 590. The title which vests in the trustee under the provision of U. S. Code, Title 11—Bankruptcy is that which the bankrupt owned at the time of the filing of the petition, in other words, the trustee's title relates back, *Bailey v. Baker Ice Machine Company* (1915) 239 U. S., 268. *White v. Stump* (1924) 266 U. S., 310 is a good case on some of the points herein discussed.

U. S. Code, Title 11, section 44 (e) on the effect of the recording of a certified copy of the order approving the bond of a trustee, has, so far as I can ascertain, never been construed by the federal courts as having any bearing on the question of notice of bankruptcy proceedings and the cases cited above seem to me to mean that bankruptcy proceedings are notice to all the world without any filing in offices established by the states. U. S. Code, Title 11, section 75 (c), directing a trustee to file a certified copy of the decree of adjudication in the office where conveyances of real estate are recorded in every county where the bankrupt owns real estate not exempt from execution, seems to be merely directory and to have no bearing on the notice of bankruptcy proceedings, *Ward v. Hargett* (1909) 151 N. C., 365; 66 S. E., 340, *Hull v. Burr* (1911) 61 Fla., 625; 55 So., 852, such filing being merely additional constructive notice to that given by the bankruptcy proceedings, *Hough v. City of North Adams* (1907) 196 Mass., 290; 82 N. E., 46.

It seems that the power delegated by the states to the Congress to establish a bankruptcy law includes the power to determine the nature and extent of the effect of an adjudication of bankruptcy and of the notice imparted by the vesting of title of the bankrupt's property in the trustee just as the power to constitute tribunals inferior to the supreme court carries with it the power to enact U. S. Code, Title 28, sections 812, 813 and 814.

It seems, therefore, that one deal-

ing with the property of a person by whom or against whom a petition in bankruptcy has been filed does so at his peril until the petition has been dismissed or the bankrupt, is voidable. U. S. Code, Title 11, section 11 provides that the courts of bankruptcy are invested with such jurisdiction at law and in equity as will enable them to exercise original jurisdiction in bankruptcy proceedings to "adjudge persons bankrupt who had their principal place of business, resided, or had their domicile within their respective territorial jurisdictions for the preceding six months, or the greater portion thereof, or who do not have their principal place of business, reside, or have their domicile within the United States, but have property within their jurisdictions, or who have been adjudged bankrupts by courts of competent jurisdiction without the United States and have property within their jurisdictions."

It is, of course, impracticable to search through the records in the offices of the clerks of all the district courts of the United States to see whether or not a petition in bankruptcy has been filed affecting an applicant for a mortgage or the grantor in a deed. Our position is that this company should have a search made for petitions in bankruptcy in the clerks' offices in the jurisdictions where the applicant and his predecessors in title probably would be, if at all, alleged bankrupts. This search would, in most cases, have to be made in only one district court clerk's office. This search, we feel, should be made even although you investigate and are familiar with the financial affairs of applicants.

Proceedings in bankruptcy are of an equitable nature, *Bardes v. First National Bank of Hawarden, Iowa* (1900) 178 U. S., 524. An adjudication of bankruptcy is defined in U. S. Code, Title 11, section 1 (2) as meaning "the date of the entry of a decree that the defendant, in a bankruptcy proceeding, is a bankrupt, or if such decree is appealed from, then the date when such decree is finally confirmed." I suppose that a federal court clerk in a certificate purporting to mention all the decrees in his court against a person would have to include an adjudication of bankruptcy if one had been entered but I doubt whether such a decree, which is almost always referred to by the federal courts as an "adjudication" and seems to be in rem comes within the conformity provisions of U. S. Code, Title 28, section 812, for an adjudication of bankruptcy seems to be notice to all the world when entered.

Our position is that a search for adjudications of bankruptcy should be made in the same clerks' offices in which we require searches to be made for petitions in bankruptcy.

We like title policies, especially the L. I. C. form and the A. T. A. form, which in view of yesterday's discussion you may be interested to know we re-

gard as substantially alike for our purposes. The "Full Coverage Policies" so well considered yesterday are what we want, for they eliminate so many of our troubles. The fuller the policy the better the service you give and we know you want to give service to your communities and customers. Thank you, gentlemen, for this privilege of speaking before you.

CHAIRMAN GRAHAM: I want to thank Mr. Hodgdon for coming down here to give us this address. It is hard for us to get the attitude of the lending institutions unless we can find out from them just what they want. We appreciate your talk, Mr. Hodgdon, and want to work with the type of company you represent to the mutual advantage of both. This meeting is about to come to a close inasmuch as Mr. Gage is not here to give his address and we have transferred Mr. Rickett's speech over until tonight. That is going to be an interesting meeting tonight. A special feature is the report of the special committee on advertising. Porter Bruck of Los Angeles will give this report, incorporating the use of motion pictures, as well as sound effects. We will have a real talking picture show here tonight aside from the rest of the program. We will close this morning's session with the election of the officers for the abstractor's section. Mr. Ricketts, will you make the report of the nominating committee?

Report of Nominating Committee

Abstractor's Section

HUGH C. RICKETTS: Mr. Chairman, ladies and gentlemen: This committee decided to place the following names on the nomination list as the officers for the abstractor's section for 1931.

Arthur C. Marriott, Wheaton, Illinois
 Chairman
 Herman Eastland, Jr., Hillsboro, Texas
 Vice President
 Ben O. Kirkpatrick, Tulsa, Oklahoma
 Secretary

Executive Committee

S. E. Gilliland, Sioux City, Iowa
 Russell A. Davis, Fairbury, Nebraska
 B. F. Wylde, La Grande, Oregon
 Pearl K. Jeffery, Columbus, Ohio
 Milton Gage, Sterling, Colorado

CHAIRMAN GRAHAM: Ladies and gentlemen, you have heard the report of the nominating committee. What is your pleasure?

J. M. WHITSETT (Tennessee): I move that the report of the nominating committee be accepted and those named be unanimously elected by acclamation.

R. L. MAXSON (Illinois): I second the motion. The motion was duly passed, whereupon the meeting adjourned.

Report of Advertising Committee

PORTER BRUCK, Chairman

The purpose of advertising in this business is to create a demand in the minds of potential customers for the service or protection which you have to offer. How many companies are attempting to do this is displayed by the advertising exhibit which your committee has arranged. The results which this advertising has accomplished are somewhat difficult of determination but the history of these affairs during the past year is something like this:

First, let us explain briefly how the material for this exhibit was obtained.

The membership of the association numbers somewhat over two thousand. The committee selected from this number some six hundred which, it was felt, would give a reasonable cross section of the business and to these six hundred, requests were sent for advertising material. A few replied and most did not—so it was necessary to broadcast an additional appeal to the majority. (Such requests as these are awfully easy to not answer.) A curious anomaly appeared at this point. Almost all of those who replied to the second letter started out by apologizing for not answering the first—explained that in the press of business it had been overlooked—and in the next paragraph proceeded to say that business was so poor that they had done little or no advertising during the year.

This kind of reply invariably leaves one dangling in mid-air, trying to decide whether it is best to believe the first paragraph or the second—or whether all of these people are, after all, really busy trying to figure out why there isn't any business.

On the whole, the response was truly excellent. Good material was sent in and it was delightfully refreshing to know that so many were so genuinely anxious to co-operate. So much for the method of collection: Now to the story and the results:

The advertising material can be divided into four general classes: Newspaper and periodical; booklets and folders; novelty, and direct mail.

Almost fifty per cent of the reporting companies use newspaper and periodical advertising. If the results obtained are consistent with the popularity of the medium used, the newspapers are the winners, but our correspondence does not tell us whether or not the companies advertising felt that the public had looked over the newspaper but overlooked the ad.

Twenty per cent of the companies use direct mail,—booklets, circulars,

letters—to sell title service; ten per cent use it to sell mortgages and four per cent to sell trust services.

Booklets and pamphlets vary greatly in size, appearance and usefulness. We must ask you to determine for yourselves their utility.

The novelty advertising is a little bewildering. How does one know, for instance, how much real value a company gets out of a ruler, a blotter, a celluloid triangle or a pocketbook? Value there must be, but its extent is virtually impossible of determination.

Some of the articles are really splendid. Anyone would be charmed to possess one of those big black rulers presented by the Dayton Abstract Company of Dayton, Ohio, or one of the billfolds from the Wagoner County Abstract Company of Oklahoma; the triangles offered by both the Pryor Abstract Company of Duluth and the Citizens Abstract Company of Kokomo are useful to anyone.

The material presented appears, on the average, to be substantial, dignified, and attractive.

There are several outstanding ad-

vertisements that, in addition to those described above, deserve mention.

The Chicago Title & Trust Company has run a beautiful series of ads; one that reads—"upon these records the new Chicago stands" is probably as fine an ad as anyone ever saw.

The Home Title Insurance Company of Brooklyn, New York, has achieved some grand publicity on Mr. Davenport, its President, and it has shown some magazine advertisements with tremendously arresting headings; for instance: "The end of a difficult year"; "Said the Blind Man"; etc.

Likewise the Santa Cruz County Title Company of California heads its advertisements in a startling manner, such as: "Title Snipers," "A Rough Landing on the Beach," "A Title Laundry," etc. Such headings would force anyone to read an ad.

There is always a question as to the actual value of booklets dealing with technical subjects but, if they are of value at all, certainly that dignified and excellent exposition on "What the Property Owner Should Know About Title Insurance," by William C. Byrns, Vice President and Title Officer of the Integrity Trust Company of Philadelphia, will do his company much good.

The Lawyers Title Insurance Corporation of Richmond, Virginia, has some magnificent advertising letters or folders, or whatever you may choose to term them. They are beautifully arranged and the illustrations are veritably works of art.

The Title Guarantee and Trust Company of Los Angeles issues a booklet entitled "Land Titles" which is really invaluable to those who have any relation to the title business; the Potter Title Insurance Company of Pittsburgh, Pennsylvania has published a legal directory which must be of immense value to attorneys and others concerned with legal affairs.

It is decidedly unfair to omit mention of the many other excellent bits of advertising material sent to us but there are so many good ones that if all were mentioned the list would assume the proportions of a census report.

Your committee respectfully requests that you view the advertising display with a critical eye and, if possible, from the standpoint of a prospective customer. We are confident that much of this advertising possesses a very distinct appeal. It is really Good—with a capital "G."

As mentioned in the early part of this report, many companies reported



PORTER BRUCK

Assistant Secretary, Title Insurance & Trust Co., Los Angeles, Calif.

that they were doing little advertising this year because of dull business. Isn't that a most peculiar state of affairs?

The sole purpose of advertising is to increase business and why anyone should feel that because business is dull no effort should be made to increase it is beyond comprehension. It seems to us that the frame of mind which dictates one to say that "business is dull and we can't afford to advertise" should be altered to the state of mind that says "business is dull so we can't afford NOT to advertise."

"It pays to advertise" is an old, old slogan but it never was more true than when applied to the title business and particularly when that business is feeling the effects of a nation wide depression—if depression be the proper term.

There will be presented to you at this convention a new medium of advertising—the sound picture. It may not be new to some of you but it *will* be new to most of you, we think, because the title profession has not often demonstrated its proclivity to "steal the thunder" of a new idea.

Through the courtesy of the Electrical Research Products Corporation you will be shown what other industries have done to display their wares to the public in an interesting, entertaining and forceful manner. It is the suggestion of your committee that the association seriously consider the advisability of preparing a sound picture which will create in the minds of the public a demand for the product that the members of this association have to offer. There is no doubt but that more people can be reached at a lesser cost by the use of sound pictures than by any other medium of advertising. You, the members of this association, must, of course, be the judges of the accuracy of this statement but we do believe that it should be given serious consideration.

Thought of the subject gives rise to many questions, it is true. For instance, what kind of a picture, if any, should it be—an educational picture, or what might be termed a propaganda picture?

Can we evolve an interesting and intriguing story by taking someone through a title plant in sound pictures or should we have a story, say, of the young boy and girl, desperately in love, saving their pennies to purchase a home; about to be married; then buying the home and on the eve of the wedding finding that they had lost their all through a faulty title? That latter part may sound somewhat ridiculous to you but consider these facts for a moment.

The title business has never been as popular in the minds of the people as we, who are in it, might wish. We have, therefore, set up a sort of automatic defense; a state of mind which borders somewhat on the "braggadocio"—which hopes that by sheer preponderance of knowledge it shall gain-say the opinion of others—those others, unfortunately, being those upon whom we depend for sustenance. Would we not be truly sensible and far-sighted in attempting to educate the public to the manner of our business? Consider for a moment—who knows how much money we must pay to build a plant and to maintain the plant and to produce the evidence of title? It is well enough to advertise in the papers or the magazines "use title insurance" but why not anticipate the reaction of the average man when he gets his bill and says to himself, and you, "why does it cost me a lot of money to have your outfit look at a book or two and then write out this policy on a piece of paper. The books probably cost a couple of dollars and the paper costs about eight cents and you charge me twenty-seven dollars." Can you blame your customer for thinking such thoughts? Of course you can't.

Surely we should give much consideration to a means of advertising, or of propaganda, or what you will, that will implant in the minds of our customers not only the need, but the value, the necessity, of a good evidence of title; a realization of the cost and the labor necessary to prepare such an evidence of title, of the years of labor and the dollars of cost that we have put into that plant to make it possible to write such a title.

If you will refer to the record of the proceedings of former conventions you will find that occasionally some ambitious advertising committee chairman proposed an advertising campaign to the American Title Association. His reports looked well in print and, no doubt, sounded well when delivered, but the suggestions made must have fallen on barren ground for the association, so far as we know, has never undertaken to promote the welfare of its members by educational advertising. We are banded together in this association for the good that it will do us—"us" individually, and "us" collectively. Just how much good the association has done us, is a question, we're afraid, we will all have some qualms in answering specifically. Is it not time to consider some definite, strategic move that will redound to the credit of our profession; that will implant in the minds of our public the definite and distinct value that our

work bears to the prosperity of the nation, that will make others see the part we bear in expediting and safeguarding land transactions and protecting what is most dear to us all,—our homes?

It is not within the province of this committee to do other than suggest, but in making our one suggestion we do heartily recommend that the association further investigate the advisability, and, if we may be pardoned the term, the acute necessity, of doing real constructive work for the benefit of its more than twenty-five hundred members; a work that will not be a continued eulogy to ourselves but one that will present an encomium to others.

In conclusion, may this committee be allowed to respectfully acknowledge the co-operation and graciousness evidenced by the member companies in their efforts to make our advertising display an interest and a success.

Through the courtesy of the Electrical Research Productions we are able to show to you tonight one or two pictures of the advertising efforts of other business industries. It will give you a good idea of what can be done through the talking picture medium and is a very interesting story graphically told. Aside from that you will be shown how sound pictures are made. I take pleasure in offering this show.

(Whereupon the auditorium was darkened and the motion picture shown.)

CHAIRMAN GRAHAM: Thank you very much, Porter, for that very interesting program and report. I think a display of this sort makes us think quite a lot. It gets us to wondering what we have been doing to advertise our business to the public. What we have been doing to show them what we have to sell. It might make you smile when you stop to think about it. There is one thing certain and that is we have not been doing enough. The average layman does not know what a policy of title insurance or an abstract means and it is up to us to show them.

Hugh Ricketts from Oklahoma has been working with the Oklahoma abstracters on getting ideas for a uniform abstract. Every abstract man uses a different form and it has been almost an endless job to get all these segregated and the best points incorporated into one uniform abstract. However, they have done it and Hugh is going to tell us about it. His paper was scheduled for 11:15 this morning and we have held him over until tonight for we did not want to hurry him at all.

Uniform Abstracts—An Accomplishment

HUGH C. RICKETTS

This association has diligently worked for public recognition of the abstracter as a professional man, on the theory that such recognition would be a long step in the improvement of his condition. The subject of this discussion however, must make its appeal primarily to the business conscience of the title man. In considering the possibilities of uniform abstracts, the abstracter is respectfully urged to recognize the value of proven business principles as they apply to the practice of his profession, or the operation of his business,—whichever he sees fit to call it. Let him be a professional man operating on business principles or a business man selling professional service. In either case he should be interested in a thing which has such great possibilities for improvement in efficiency in his office, as has the Uniform Abstract.

Without losing sight of the value of individualism, American business long ago learned the use of standardization. We buy automobiles of many different makes, in all of which numerous features are built to recognized and well established standards, yet each make of car retains sufficient individuality to be readily identified. The same thing is true of any number of manufactured articles of commerce. In the realm of professional service we find recognized ethical standards. The title profession has developed its own ethical standards to as high a degree as has any profession. We have joined in adopting recognized standards of professional ethics but on the strictly business side, we have been neglectful.

We speak of an Abstract of Title, yet the only correct definition of the term which can be given does not convey any impression concerning its looks or its specific contents. Legislatures have attempted to fix the price at which an abstract of title may be sold without defining the thing for which the price is fixed. No doubt the able law makers who have passed such laws could very readily furnish complete specifications for an abstract which would be acceptable to all examiners, but in their wisdom they have not so far seen fit to do so.

In the title profession we have had the experience of a rather forceful reminder from our customers that we were not up to date in all our methods. Certain of our customers wrote a Standard form of Mortgagee's Policy because we did not do so and then required its use. It was a fair re-

quirement as an aid to business efficiency. Our neglect in this instance has since been remedied by the adoption of the American Title Association form, but we regret that our customers were compelled to so forcibly remind us of the business value of standardization. That is not the only instance of the kind on record. More than twenty years ago a farm loan concern operating in the Southwest sent prepared forms on which its abstracts were made by the abstracters in the various counties in which it operated. Its business was of sufficient volume to make it a desirable customer. That concern, during the period in which it used these forms, obtained uniform abstracts. It is not on record that any abstracter who used these forms recognized in them the germ of any good.

American business, as a whole, has long been keen to discover and develop new ideas and quick to utilize them. Trade associations are based primarily on the value of the exchange of useful information. The old custom which recognized the trade secret as a valuable business adjunct, has given way to the modern plan of helpfulness to all. Concerns in the same line of business exchange plans and methods through the clearing house afforded by the modern trade association. The fundamental business reason for this change is the fact that competition is no longer between individual business concerns, but between different lines of business. The lumber man is not afraid of the other fellow in the lumber business nearly so much as he is of the brick manufacturer. Our danger of competition is not from the title company across the street, but from substitutes for our service. All of these substitutes which so far have been offered are unsound, and dangerous to title owners, yet have some appeal from the standpoint of facility and cost. Our duty seems clear. We must make our present sound title system so efficient and satisfactory to our customers that fallacies such as county made abstracts and the Torrens System will have no basis for a claim to any part of our business.

Trade associations have developed until now they occupy a prominent place in the affairs of our country. They speak with authority, for it is recognized that each one has facilities and information in its own field, unobtainable elsewhere. The recent un-

dertakings of the American Title Association, and the results obtained, stamp it as a successful trade association, entitled to the whole hearted support of every one interested in land titles.

We find, therefore, that standardization is a recognized and useful tool of sound business practice—that all possible improvements in our methods are not only highly advisable for present benefit to ourselves, but imperative if we are to be strongly entrenched against competition—that we have at our command, ready and anxious to be used, the necessary machinery and organization without which any attempt at standardization would be well-nigh impossible.

Admitting that standardization, properly used, is desirable from the standpoint of efficiency—that efficiency is desirable from the standpoint of self protection and that we are equipped to attempt its introduction to the title profession, how shall we proceed? Where shall we begin? Why not first standardize the general appearance and the contents of that most widely used form of title evidence in America, the Abstract of Title? The fact that of a thousand abstracts from a thousand counties, no two are made according to the same specifications, should not frighten us—it should be the challenge, the proof of the need, and the spur which drives us to accomplishment. Gentlemen, if we do not undertake this task, who will?

Not until very recently, since the American Title Association has developed strength and prestige, has any one considered it worth while to suggest such a scheme as uniformity in abstracts of title.

Since the abstract system is not used throughout the country, we cannot accurately speak of nation-wide standardization. Those states which use title insurance only, are not directly interested. Those states in which the ancient method of title searching by attorneys still prevails, will probably be developed as title insurance states, rather than pass through the abstract plant stage. The abstract system is used, however, over a very considerable territory.

Having made no survey, I have not formed an opinion as to the possibility of developing complete uniformity throughout this district, but am inclined to believe that a very considerable degree of standardization of prod-

uct and methods over the whole territory is possible.

Since we do not have uniformity in the laws of the several states, it would seem best, however, to first consider state-wide uniformity. So far as I am informed the only experience of this kind which we now have is in Oklahoma. This experience is very brief but seems to at least prove the feasibility of the plan.

On account of the supposed extreme individuality of the abstractor, many have thought that the most difficult step in attaining state-wide standardization would be to get the consent, not to mention the necessary support, of the individual abstractors of the state.

To get over this first big hurdle is not so difficult in a state which has developed an active, helpful state title association which has proven its usefulness and value to its members, by those things which it has already accomplished. Once a state association has developed the strength to make the individual members believe in it firmly and thoroughly, all that is necessary to reach any desirable objective, is intelligent direction and leadership. The Oklahoma Title Association is fortunate in that it has developed to the point where it can point to actual accomplishments for the good of its members and of their profession. You will please pardon references to my own state association, but I have been asked to tell you of the Oklahoma experience with the uniform abstract. I do not intend to appear to be boastful of our association. I have an entirely too intimate acquaintance with it to be bragging about it, I can assure you.

We have had an abstract contest as a feature of our annual convention for seven or eight years. Under the point system of grading, the largest number of points given for any one feature is on "method and manner of abstracting instruments." We have been each year, studying and comparing the work of the entrants in the competition. We have been gradually and unknowingly preparing our members for uniformity in "method and manner of abstracting instruments" as well as all other features of the abstracts. While it is doubtful if it occurred to any individual until long after these competitions started, they have undoubtedly been of wonderful educational value in preparing our membership for the idea of uniformity. Without this experience it is doubtful if our association would yet be ready to entertain the thought.

In order to pave the way for the adoption of a resolution establishing the necessary machinery to make a start toward adoption of a uniform form of abstract for the members of our association, the idea was brought out very completely at an annual convention. One member addressed the convention on the subject, pointing out many advantages and urging action. Considerable time was given to discus-

sion. In fact, more time was given to this one subject than to any other. It was not difficult to show that such a thing would be very advantageous, if it could be proven practicable. Under modern conditions in our state (and no doubt the same thing is in a measure true of most of the abstract states) the greater part of all of the title examination work is done by examiners who handle titles in many counties. Many of our mortgage bankers and building and loan associations have a very considerable and wide-spread trade territory. Since there is hardly a county which does not have some oil development, our oil companies must consider abstracts from all parts of the state. The examiner for the loan company or the oil company therefore, is the man who must be pleased, if the Oklahoma abstractor is to be a modern business man and give the best service possible. We had sufficient proof that uniformity in the product of our various offices was very desirable from the standpoint of these examiners by their reception of the Oklahoma Uniform Certificate, which is now a firmly established institution. From the very nature of the oil business and the wide distribution of our oil territory, the large majority of our abstractors have at some time experienced the sudden increase in volume of business caused by activity in the oil business. They know the difficulties of increasing production capacity to keep pace with increased volume of orders and the demand for quick service which is a necessity in oil lease operations. They therefore readily understood that it would be a tremendous advantage to be able to obtain additional help already trained to the use of a standard form. As it is now and always has been, an assistant in an abstract office may be very competent in his present job, but he needs a certain length of time in training to learn the forms and systems used in each new office in which he may work. The elimination of this useless waste and the possibility of improving the help situation, made a strong appeal to our members.

With these advantages of uniformity fully explained to the membership, and the association's very satisfactory experience with the uniform certificate foremost in their minds, the members unanimously adopted a resolution directing the incoming administration to proceed with the work and to report progress at the next convention. And so the committee went to work.

Having no precedents, no experience of other associations to guide them, it was necessary to formulate the entire plan of procedure. As a first step, each member of the association was asked to furnish a copy of his abstract showing of a warranty deed. When these came in, a composite was made by adopting each feature as used by the majority. The result was surprising. It was a remarkable efficient and practical abstract in a natural ar-

range, easy for the examiner to consider. It was all the more surprising when the samples submitted were considered. There were no two alike. In form and arrangement they were about as varied as possible.

Realizing that custom has had much to do with dictating many of the features of the abstract and also realizing that too great a departure from established custom could very well raise unsurmountable opposition to a suggested form, the committee felt that the composite form as developed, was the answer to their prayer for something around which could be built practical and acceptable specifications for a standard abstract form. This composite had other strong points in its favor. Many of the abstractors who submitted samples are very able men of long experience. Each sample was of the every day work of a going concern whose product was acceptable to its customers. It contained, therefore, the combined experience of many good abstractors; it conformed to the requirements of local custom; it required the smallest number of changes on behalf of the entire membership, and last, but by no means least in the minds of the committee who expected to convince the association of its merits, it was not exactly like any form then in use. No one could accuse the committee of favoring the form used by any certain member, and, since it was not designed by the committee, but was evolved as a composite, strictly by the rule of majority, the committee could not be accused of presenting for approval some pet form of its own.

Having arrived at a conclusion concerning the warranty deed form, it was found unnecessary to obtain samples of many other instruments as was at first planned. In fact the release of mortgage form was the only other sample called for. It was found that the warranty deed form was the foundation of all.

By this time the committee had evolved definite rules to be followed, which made their work more simple. It was borne in mind all the time, that the object was to produce a form of abstract, which, if followed in all particulars, would furnish to the examiner complete evidence of the record title, in such shape as to be readily examined and to be convincing as to its completeness.

It was at this point in the development of the plan that the committee discovered that the scheme of strict uniformity without deviation, as is necessary in the uniform certificate, was neither practical nor desirable if applied to an abstract form. The plan of drawing specifications with optional privileges as to certain items, but with very definite requirements as to the greater number of features, was therefore evolved.

It was found that local custom concerning some features was so nearly opposite in different sections of the state and so firmly established, that

optional methods were approved, either one being recognized as standard. For example, in certain counties, the examiners have long been accustomed to having all acknowledgments copied in full, while it is the custom in the rest of the state for them to be abstracted. The local abstracters in these few counties feel that the effort to change the custom would be far too great to be offset by the advantages of the adoption of the standard form.

Acknowledgments therefore, were required by the specifications to be abstracted in a prescribed form, or shown in full. The same thing was found to be true concerning releases of mortgage. One-half of the state abstracted them and the other half showed them substantially in full. Again the option was given. The form, if abstracted, was prescribed, and the full showing was permitted, if preferred or required by local custom.

The committee believed, and I think still believes, if the association is as successful in introducing the Standard Abstract as it has been with the Uniform Certificate, that it will be only a matter of a short time before all of these optional matters work themselves into uniformity by the voluntary change in method to one of the two permitted which proves itself the better in actual use in Standard Abstracts.

You will notice perhaps that the committee seemed to be doing a little side-stepping. But it must be remembered that their job was to produce something which must gain sufficient support to be adopted and approved by the association, when put before the membership in Convention. Very naturally it was hoped that every serious objection which could be raised would be answered and eliminated before going before the convention. The committee further believed that if they could refrain from making a decision on any point which could only be decided by personal preference and further, keep such points out of the discussion on the floor of the convention, there would be a much better chance to gain the adoption of a form the first year. Discussions of such points can easily develop enough heat to prevent the necessary calm consideration to which our project was entitled and which was absolutely necessary if it was to be successful. We had been through the experience of six years of wrangling over non-essentials in the attempt to adopt a Uniform Certificate. We did not know at the time that they were non-essentials, but we did very soon after we finally came to an agreement and adopted a form. We had a very real experience to teach us and we profited by that experience.

Having arrived at a decision as to what should be recommended to the convention as a standard form, the next step was to write it in such manner that it could be readily followed and be self-explanatory. It was hoped that a copy in the office would be all that any member would need if he wished to adopt the specifications in his work. After it was written, tests were

made until it was assured that one unfamiliar with the specifications could readily follow them. The result then became the committee report. Copies were mailed to the entire membership several weeks before the convention. The committee was again attempting to forestall any later accusation that it was trying to slip something over. What was wanted was full publicity. What was hoped for was an intelligent discussion which would suggest any necessary changes and so arrive at an agreement and the adoption of the Specifications without the delay of waiting another year for the next convention.

When the committee report was made at the convention, it was suggested to the membership that if a member was not in a position to immediately change the form of his abstract on account of a large volume of expensive supplies on hand, or for any other reason, it need not prevent him from voting for the immediate adoption of the Standard Form. It was pointed out that he could adopt it in his daily practice a portion at a time, eventually qualifying as a user of the complete standard.

Thanks to the confidence in each other, built up by the years of working together in the association, the members entered into the discussion in the most friendly and helpful spirit.

Rather to the surprise of nearly everyone present, the report was

adopted without change, and became the Oklahoma Title Association Standard Abstract form. It is to be hoped that it will one day be the required Oklahoma abstract form in universal use in our State.

Perhaps it may be of interest to some of you to know somewhat of the items covered in the specifications. In effect they provide a standard form which the abstract shall take so far as everything therein is concerned, with the exception of court proceedings. The size of the paper, the arrangement of the various instruments in the chain of title, the form in which each instrument shall be abstracted, these are all specified. A caption and neatly drawn plat with sufficient accurate information to enable the examiner to follow out and locate any description in the abstract, are required.

The committee found that specifications for the showing of court proceedings was a task of such an entirely different nature from its other work and would require so much time, that it decided to divide the work. A committee of the association is now working on this phase and is expected to report, with recommendations, at our convention next February.

It is recognized that the adoption of a standard form by a state title association is not in itself a complete accomplishment. The necessary complement is the adoption of the standard by the individual abstracters in their every day work. Again the strength of the organization of the state title association is important. In a strong association it will be found that there are a goodly number of progressive title men who recognize their responsibilities and are ever ready to do their part without the necessity of being individually urged. It should be the specific duty, however, of an official, or a special committee, to continuously work on the adoption of the use of the standard form by the members. In the Oklahoma experiment, no special work of this nature has as yet been done, but it is planned and will no doubt be carried on with vigor. A questionnaire was recently sent to the membership to ascertain the extent of the adoption of the standard. The secretary advises that eighty-four questionnaires were sent out and sixty-one replies received. These show that twenty members are now using the standard, fourteen expect to adopt it before the next convention, ten expect to adopt it as soon as present stocks of supplies are exhausted, four use a form which varies only slightly and only nine express no intention of adopting the standard. From this report it is apparent that the general adoption of the form is only a matter of time. With a fourth of the membership already users and over half having made the definite decision to become users, the success of the work of the committee in charge of the introduction of the standard form is already assured. And with this success there devolves upon the association a new and important duty. The standard
(Continued on page 37.)

Chairman, Abstracters Section 1931



ARTHUR C. MARRIOTT
Wheaton, Illinois

UNIFORM CERTIFICATE

(With United States Court Certificate)
Oklahoma Title Association
Adopted February, 1926

STATE OF OKLAHOMA, }
COUNTY OF TULSA, } ss.

The undersigned hereby certifies:

That the foregoing pages numbered from **One (1)** to **Twenty (20)** both inclusive, contain a true and correct abstract of all instruments filed for record or recorded in the office of the County Clerk (formerly Register of Deeds) of said County, including the records from the office of the Clerk of the United States Court for any recording district in which said land was located, affecting the title to the following real estate in said County and State:

Lot Twelve (12), Block Seven (7), Harvard Hills Addition to City of Tulsa, County of Tulsa, State of Oklahoma, according to the recorded Plat thereof.

That the acknowledgments of all such instruments are statutory except as otherwise shown.

That there are no judgments, transcript of judgment, foreign executions, probate proceedings, suits pending, nor liens of any kind affecting the title to said real estate in any of the courts of record in said county, rendered or on file against any of the following named persons, as appear from the records in the office of the Court Clerk thereof, except as herein shown.

We certify to names only as they appear in this chain of title.

That there are no judgments, suits pending, or liens of any kind, including income tax liens and bankruptcy proceedings in the office of the Clerk of the United States District Court for the Northern District of Oklahoma, at Tulsa, Oklahoma, which affect the title to the real estate abstracted herein, except as herein shown.

That, according to the tax records in the office of the County Treasurer, there are no taxes assessed against said real estate, either general or special, due and unpaid, nor any tax sales thereof, unredeemed; that no tax deeds have been given thereon; that there are no unpaid personal taxes against any of the above named persons, nor notices of taxes due the United States of America, filed in the Office of the County Clerk, which are a lien on said real estate, except as herein shown.

**No unpaid personal taxes vs parties herein abstracted for 1928 & 1929
General taxes certified to on preceding page.**

That the undersigned is a duly qualified and lawfully bonded abstracter, a member in good standing of the Oklahoma Title Association and the American Title Association, whose surety bond is in force at date of this certificate; **THAT THE UNDERSIGNED HAS A COMPLETE INDEPENDENT SET OF INDICES TO THE RECORDS OF SAID COUNTY**, compiled from the records and not copied from the indices of the office of the County Clerk, and that the searches covered by this certificate reflect the records of said County, and are not restricted to the indices in the office of the County Clerk, formerly Register of Deeds, thereof.

Dated at Tulsa, Oklahoma, this
at **7:00** o'clock **A.M.**

3rd

day of

October

A. D. 1930

INSIGNIA OF



OKLAHOMA TITLE ASSOCIATION

Guaranty Abstract Company

By

Wm. Self.

Assistant Secretary

Abstract No. **100998.**

Page No. **21**

We stand behind this complete certificate at all times—regardless of its age.

Specimen, Typical Entry, Showing Style Adopted for Oklahoma Uniform Abstract

No. 415770

Southwest Homes Corporation,

WARRANTY DEED.

Dated: October 4, 1929.

Filed: Oct. 7, 1929 at 4:51 P.M.

In the office of the County Clerk
within and for Tulsa County, Okla.

Recorded in book 874 page 186.

Consideration: \$1.00 and other
valuable considerations.

-To-

J. C. Creel, Jr. and Mary L.
Creel, husband and wife.

GRANTING CLAUSE: Grant, bargain, sell and convey.

DESCRIPTION: All of the following described real estate situated
in the County of Tulsa, State of Oklahoma, to-wit:

Lot Twelve (12), Block Seven (7) Harvard Hills
Addition to the City of Tulsa, County of Tulsa,
State of Oklahoma, according to the recorded plat
thereof.

WARRANTY: In Fee Simple, free and clear of all encumbrances
and warrant the title to the same.

EXCEPTIONS: No Exceptions.

(CORPORATE SEAL)
ATTEST: B. V. Raines,
Secretary.

SOUTHWEST HOMES CORPORATION,
By: H. E. Stewart,
Vice-President.

STATE OF OKLAHOMA }
COUNTY OF TULSA } SS.

Before me, Chas. B. Carden, a Notary Public in and for
said County and State, on this 4th day of October, 1929, personally
appeared H. E. Stewart, to me known to be the identical person who
subscribed the name of the maker thereof to the foregoing instrument
as its Vice-President, and acknowledged to me that he executed the
same as his free and voluntary act and deed and as the free and
voluntary act and deed of such corporation, for the uses and purposes
therein set forth.

Witness my hand and official seal the day and year above
written.

(SEAL)

Chas. B. Carden,
Notary Public.

My commission expires Sept. 19, 1931.

(Continued from page 34.)

form and its users must be protected. No doubt many suggestions for changes will be put forward from time to time, many of them meritorious. Permit the suggestion that it will be exceedingly important to continue the adopted standard unchanged for a considerable period. If it is to be changed at each annual convention of the association, it will very shortly lose what prestige it has gained, while on the other hand, if it is continued in use unchanged over a long period, it will become in truth the real standard and bring to the abstracters of the state ever increasing benefits.

One cannot work at such a task as the developing of the standard abstract without envisaging possibilities not at first perceived. What a wonderful future this standard abstract might have. What a help it could be in educational work, not only in the offices where the abstracter must now learn all, but in the schools where it would be entitled to go, once it had become firmly established and duly recognized. What a tremendous amount of time

which is now taken up in teaching the A B C's of the profession could be saved and utilized in teaching the higher branches. And what a boon it would be to the examiner. Gentlemen, the question arises, why on earth haven't we done it long ago?

The objection may be raised that the work of introducing uniformity in abstracts is useless because abstracts are doomed to become obsolete and to be superseded by title insurance. For many years forward looking abstracters have been expecting the advent of title insurance in their communities. They have been and are, ready and willing to help make the change. Many hopeful experiments in this line have failed for various reasons. Some have failed on account of insufficient knowledge of the business; some operated in too restricted a territory, some have had insufficient capital and others make the mistake of making the business insufficiently attractive to the local title man.

To you gentlemen of the title insurance section I would respectfully sug-

gest that until you develop improvements on the systems of local policy writing now offered in the abstract states, the large majority of titles will be passed on abstracts and examinations.

Present plans sought to be introduced in the abstract states will not, until they are modified, displace the abstract. In our part of the country, the abstract will flourish until title insurance evolves a method satisfactory to the oil industry. The abstract system is destined to be used to a considerable extent for a long while to come.

The story of the formulation and adoption of this first statewide Standard Abstract has been told for what it may be worth to other state associations who may contemplate taking the same step. No doubt many of the same problems which were encountered in Oklahoma will arise in other states. If we have been able to give you the answer to one such problem or to furnish the inspiration for others to undertake a like work, we will be very much pleased.

REPORT OF UNIFORM ABSTRACT COMMITTEE

Oklahoma Title Association

Committee Agreement—

SIZE AND STYLE. Requirements:

Paper 8½"x11", bound on the 8½" side at top of sheet, one instrument to be shown on a page (Exception—See Marginal Release). No printed forms to be used except typewriter type printing similar to type used for writing balance of instruments.

Recommendations:

White paper and black typewriter ribbons and paper identified as that of the issuing office by some neat and well appearing means, are preferred.

CAPTION. Requirements:

The showing, either full copy or abstract, of each record instrument must be headed by a caption set up as follows near top of sheet on left hand side (far enough from upper edge to leave binding margin) the names of Grantors are shown (nothing else), above the word "to"; directly below said word "to" the names of the Grantees (nothing else). On right hand side opposite first line of names of Grantors is shown the kind of an instrument abstracted, that is "Warranty Deed," "Mortgage." Next and immediately below, the words "Date or Dated," followed by date of instrument; next and immediately below, the word "Filed" is shown followed by date of filing. Next and immediately below, the words "Recorded in" followed by the Book and Page of record (name of recording office is omitted in all regular instruments. In special cases as where the County has been created out of more than one former subdivision and the instrument was recorded in one of such subdivisions the recording office is shown). Next and immediately below, the word "Consideration" is shown followed by the consideration as shown in the instrument.

Caption as above is shown on each recorded instrument shown in the abstract.

FILE NUMBER.

An instrument filed but not yet spread of record may be

identified by placing the filing number immediately above the caption near the center of the sheet.

ABSTRACTS OR FULL SHOWINGS,

Requirements:

Regular form Warranty Deeds, Quit Claim Deeds and Mortgages shall be abstracted. All other instruments may be abstracted or shown in full at the option of the Abstractor.

ABSTRACTING OF WARRANTY DEEDS,

Requirements:

Same shall be headed by the standard caption followed by, (1) granting words, (2) description, (3) covenants (followed by exceptions, restrictions or special provisions. NOTE—If there are no exceptions state, "No Exceptions"). (4) signatures and (5) acknowledgment. The form of showing these matters is left to the individual abstractor but the order must be maintained. If the indented paragraph form is used marginal guide words at the left side of the page must also be used. Signatures must be shown as they appear of record and seals of corporations shall be identified as such. Acknowledgments may be shown in full or abstracted, at the option of the abstractor. The abstract of acknowledgment must show the names of parties who acknowledge as they appear, together with date of acknowledgment, the name and title of official taking same, and the date of expiration of his commission (or omission of same indicated), and the word "Seal" if properly sealed, or appropriate words to indicate the omission of the seal if such is the case.

QUIT CLAIM DEEDS.

Subject to the same rules as Warranty Deeds except as to covenants.

RELEASES AND ASSIGNMENTS.

May be abstracted or shown in full. In either case the instrument is headed by the standard caption as herein-

before required. Abstracted releases and assignments must show everything descriptive of the instrument affected, the consideration and the words of conveyance. Signatures and acknowledgments are subject to the same rules which apply to abstracting Warranty Deeds.

MORTGAGES.

Are required to be shown exactly as Warranty Deeds, to and including the description. Next, the debt secured; next, special provisions and conditions, at the option of the abstractor; next, signatures and acknowledgments, which are subject to the same rules which apply to Warranty Deeds. The payment of mortgage tax is shown following the acknowledgment in the following form: "Mortgage Tax Paid \$....." A released mortgage may be shown more briefly, that is everything following the debt may be omitted.

MARGINAL RELEASES.

May be shown on the same page with the mortgage or on separate page fully identified with the mortgage released.

LEASES.

May be abstracted or shown in full. The abstracted lease follows the form for Warranty Deeds down to and including the description. Such special showings as are required follow the description. The abstracted instrument is finished with signatures and acknowledgments shown under the same rules as for Warranty Deeds.

GENERAL RULE FOR ABSTRACTED INSTRUMENTS.

All abstracted instruments shall follow the same general rules as to Caption, Marginal Guide Words, Signatures, and Acknowledgments, as are required for Warranty Deeds.

CAPTION.

Complete or supplemental abstract must have as its first page a Caption containing a clear, concise and accurate description of the real estate abstracted. The Caption of a supplemental abstract must show that the abstract is a supplemental and not a complete abstract. On a continuation a caption may be used or not, at the option of the Abstractor, except that in the case of a continuation on less than all of the land included in the original abstract, a Caption must be used.

PLAT.

Each Abstract must contain a neatly drawn plat showing sufficient detail as to dimensions, acreage of Government Lots, etc., to enable the Examiner to follow out any

description shown in the abstract. The Committee commends the use of small County Maps in addition to detailed plats.

ARRANGEMENT.

The various matters shown in the abstract shall be arranged in the order commonly called the Modified Chronological Arrangement. The fee title is the main title and is arranged in chronological order of conveyances. From this main title spring the various branch titles of mortgages, lease holds, etc., which completely carried out as far as they go, are in the abstract at the point in the fee title where the Instrument creating the branch title properly appears in the fee title chain. Releases and Assignments follow the instruments affected and such instruments as Powers of Attorney and Affidavits follow the instruments directly affected thereby. Money Judgments, Mechanics Liens and Suits Pending are shown last, because they are, or may be, temporary liens which may later be satisfied of record and then entirely omitted from the abstract by redating the certificate after a continuation search.

The Continuation or Supplemental abstract is arranged as nearly as possible according to the system for a complete abstract. Releases which release mortgages or other instruments which have been shown in the older portion of the abstract are shown first in the Continuation. Court proceedings will be shown in the abstract in the same manner of arrangement as recorded instruments, and the Court Deed growing out of such proceedings will follow the proceedings.

NUMBERING.

The abstract shall be numbered by pages with the number placed at the bottom of the page. The caption on a complete or a supplemental abstract shall be Page 1. When an abstract is continued the series of numbers started in the original abstract shall be continued in the continuation.

COVER.

The Committee recommends, but does not require, that the abstract shall be bound in a substantial cover.

COURT PROCEEDINGS.

On account of the many legal questions which arise in adopting a form for abstracting Court Proceedings and the importance of careful consideration before making requirements, this Committee does not feel that in the short time allowed for its work it can include recommendations for uniform abstracting of Court Proceedings. The Committee, therefore, recommends that this matter be the subject of consideration by a future Committee.

CHAIRMAN GRAHAM: Thank you, Hugh, for that very fine paper. It will be of interest to every one in this business; title insurance people, as well as abstracters. We will next

have the open forum discussion of "Legislative Regulation of Abstract Business." This discussion will be led by James S. Johns, Pendleton, Oregon. We all know Jim. I take pleasure in

turning over the chair to Mr. Johns. (Applause.) (Whereupon Chairman Graham retired and James S. Johns took the chair.)

Legislative Regulation of Abstracters

LED BY JAMES S. JOHNS

The idea of the American Title Association is to have a model abstract law in every state. We have drawn up what is called our "Model Abstract Law" form, which gives recommendations for legislative enactments in the various states. This was drawn up by the abstracter's section and most of

you are familiar with it. Briefly, this is what it contains: the requirement that before one can engage in the abstract business he must have a plant; he must put up a bond or deposit security guaranteeing that he will pay any loss which may be sustained from error on his part and he must have

some standing and responsibility in order to practice in the business of writing abstracts. Of course, the draft of this proposed law carries many other things in it, but briefly, that is what it ultimately amounts to. This bill was based on one used in North Dakota which has worked suc-

cessfully for many years. The one in Wyoming is similar to it, but one of the necessary clauses was left out and Wyoming found themselves in the peculiar position of having a good law and no board of governors or commission of any sort to enforce it. Now, they are remodelling that law along the lines of the "Model Abstract Law" and, I believe, offering it as an amendment to go through in the next legislature.

What is to be discussed about this matter is up to you abstracters. If you have any helpful suggestions we should be glad to receive them. I have heard remarks made by many to the effect they did not want to stir up their legislature. So many times a bill would go in the way you intended for it to be and when it was worked over by the law-makers and came out it was an entirely different bill than you had sent in. That objection has been raised quite frequently. They are afraid that the proposed legislation which should be and is intended to be protective might prove to be tragic to their business by the time the legislature gets through with it. For instance, maybe it would come out only requiring a bond and any stenographer who has a pretty face and a "sweet papa" to sign the bond could be a bonded abstracter. Now, that latter objection has merit. The former one has no merit, but the fact that we keep right after them to get what we want has merit. I know of one case in which the objector to going to the legislature at all is actively engaged in designing a title insurance law for the state. In other words his objection only amounts to this: If you are in the title insurance business have a law and if you are in the abstract business—don't.

Are any of you planning on introducing the bill in your legislature? Mrs. Jeffery, how about Kansas?

PEARL K. JEFFERY: We are going to present the bill in our January legislature. We practically copied the uniform draft of bill that Mr. Graham took around with him to the regional meetings and we are ready now to present it in January. We presume that it will go through for we have all the abstracters for the bill.

JIM JOHNS: Is there anyone else planning on any regulative legislation?

BEN O. KIRKPATRICK: We feel as though we have done a great deal in Oklahoma. Mr. Graham visited us and gave us some good advice on the legislative needs of abstracters. We have decided to introduce the proposed bill. All the abstracters in Oklahoma have worked wonderfully with us in this legislative program. Not only members of the association but non-members, too. We have every assurance of putting the law through. The real estate boards are all behind us. We have gone into every angle of it and worked from all sides so we will not be tripped up on any point and have it thrown out.

JIM JOHNS: That sounds mighty good, Ben. I can see we are going to have a good time in Tulsa next year with such a live bunch. Is there anyone else?

RUSSELL DAVIS: Nebraska expects to pass the bill at its next legislature.

JIM JOHNS: Will that be all the discussion? Thank you. I hope you will all work very hard at keeping up this regulative legislation.

CHAIRMAN GRAHAM: Thank you, Jim. The making of constructive laws has been of a very great interest to the abstracters for several years.

Especially the last two years. We have had quite a struggle in passing the law in Colorado. Very briefly, I would like to tell you what the situation is in Colorado, or was before. We were fortunate enough to have abstract plants in every county, but we had no bond law. A group of individuals or an individual could come in and make abstracts on a continuation basis. But, now, it is different. We issue a wide open invitation to all abstracters to come to Colorado if they want to. If they pass the rigid requirements for becoming an abstracter in our state they are entitled to be one. First they must have a complete abstract plant. They have to take off and index every volume in the recorder's office. It costs just about on the average of \$125.00 to copy one recorder's volume. You know how many volumes there are in the recorder's office and can get an idea of what the expense would be to copy them. The next thing they have to arrange to get a bond from a surety company. A personal bond is not acceptable. Then they have to appear before a board of examiners and pass a rigid examination. If they fail they have to wait six months before they can take it again. Provided you have met all these requirements you can set up for practice in the abstract business. By the time a man goes through that and has the capital invested that it would take we would invite him cordially.

Now a word about this legislative business. Don't let the idea that your legislature will not work with you stop you. That is all in your own mind. Go to them and work it out with them. I know from experience that you will get what you want in legislative protection if you just go right after it.

Regional Meetings

LED BY JACK RATTIKIN

It is getting late and I don't want to take up too much of our valuable time, but I do want to tell you what we think about these regional meetings. When you start talking about them you come close to home with us. These regional meetings have meant money in our pockets. They have drawn us into closer association with our competitor and have placed him in the frame of mind where he wants to help us and we want to help him, all for the common interest of making the dollars. I have prepared a little paper here and with your permission I will read it here. It is not very long and we will have time for the discussion from the members when I have read it. It tells you of what has happened since the last convention in San Antonio in the way of regional meetings.

Dick Hall, Jim Johns and Don Graham, have been hammering on the subject of Regional Meetings for many years and their efforts have produced wonderful results. By reason of the fact that they have put so much thought and so much of their time and effort behind this subject, we have now begun to realize the importance and necessity of Regional Meetings for the advancement of our business, whether it be abstracts or title insurance.

Like a good many other young attorneys of late years, I deserted the general practice of law in the latter part of 1927 to enter the title business, because I thought this business had a great future, and perhaps with a misguided ambition that some money could be made out of it. However, I think that my legal training has helped me to some extent in my feeble attempt

to grasp some of the problems, and I have learned that there are many, which beset this business. Therefore, I have diligently tried to ascertain the best and most effective method by which these problems might be solved.

The first meeting of the Texas Title Association I ever attended was in June, 1928, at Abilene, Texas. I went there more as a student to learn something about the new business which I had entered, and I learned that the most important thing to the title men, not only of Texas, but wherever they may be, is cooperation, through which they may arrive at a proper understanding of their problems.

Our executive secretary, Dick Hall, was present at the Abilene meeting and in my opinion, he made the most important speech in the whole meeting. The principal theme of his dis-

ussion was the value of regional meetings, and I gleaned from it that what the title men most needed, not only in Texas but throughout the entire nation, was a new awakening, and that the best medium by which this could be brought about was not through the annual meetings of the state associations, but through the regional meetings of the men in that association. The annual meeting of the state association is valuable, but it has been thoroughly demonstrated that the state association cannot reach a very large number of the abstracters of the state and, consequently, cannot convey to them the message that they ought to get; and the only means by which this can be done effectively is through the regional meeting.

Dick Hall has for years been trying to educate us on this subject and I venture to say that the work that has been done by him, Jim Johns and Don Graham in the holding of regional meetings in the states where they have worked, has been more valuable to the title men in those places, than any other agency, either state or national. However, it has been impossible for them to cover every state and it has been necessary that the local state organizations arrange to hold their own regional meetings. Wherever these men have gone, they have made the regional meeting a success. In the states where they have worked, standards of business have been raised, a greater cooperation has been had and revenue derived from the business has been considerably increased.

The holding of regional meetings has been attempted in some states without success, because of the lack of knowledge on how to conduct such meetings. Therefore, in order to remedy this situation, our executive secretary has prepared a prospectus on the planning and holding of regional meetings, which are available to the officials of every state organization. This prospectus was prepared after much study and after considerable experience had been had in holding these meetings, and according to Jim Johns, one of our most eloquent and able leaders in this work, it is the only effective method through which regional meetings may be held. Johns says that in order to successfully hold regional meetings, the officers of the state associations should strictly follow the plan as laid down by the national association. This plan provides for the division of the state into districts, where smaller groups can attend, thereby reaching the greater number of title men and creating greater interest in the things to be undertaken, by reason of their more or less direct and local nature. Therefore, these smaller groups can get together and frankly discuss the problems in their business and an opportunity is afforded for accomplishing the things that can not otherwise be handled. It has been said that regional meetings afford the best medium for the development, ad-

vancement and improvement of our business.

I am informed that the executive secretary has sent the prospectus for holding regional meetings to practically all state officials and that many of them have failed to follow the plan and consequently have had little success in the holding of these meetings, and because of this fact, many state organizations are still groping in the dark, so far as the advancement and improvement of their business is concerned.

Regional meetings wherever held have demonstrated their worth and have proven that they can make, not only the abstract business, but the title insurance business as well. The results of regional meetings have been astounding. Great benefits have accrued to those who have had the will and the back-bone to get behind them. So far as I know, regional meetings were never attempted in the State of Texas under the plan of the American Title Association until last year. Herman Eastland, Jr., our very able president, divided the state into fourteen districts, counties being grouped together as nearly as possible where their problems and conditions were similar. He selected a chairman for each district and gave him specific instructions about holding these meetings. You may be surprised to learn that out of the fourteen districts, only five held any semblance of a meeting. Texas is too large and the revenue of the association too small for the president or anyone under his direction to afford the time and expense to visit these various districts and properly supervise the holding of the regional meetings. This I believe is almost necessary and should be followed wherever possible. Even after you di-



JACK RATTIKIN
President, Home Abstract Co., Fort Worth, Tex.

vide your state into districts and appoint your district chairmen, it requires a lot of intensive work to get the chairmen to hold successful meetings. But in the five districts where these meetings were held in Texas, a wonderful spirit of cooperation was had. It was agreed that commissions and rebates should be discontinued. The prices for abstract work were standardized and in many instances were increased to such an extent that the abstracters were able to make a living and some return on their investments. In many instances forms were standardized and the cost of plant upkeep greatly reduced.

In Texas we have a new title insurance law which provides for uniform rates, rules and regulations to be promulgated by the Insurance Department. The regional meetings held by the companies of Fort Worth have enabled us to reach a common understanding as to the application of these rules and regulations and has made it much easier for us to educate the public in the use of title insurance instead of abstracts. By reason of these meetings we have also standardized our prices for abstract work. We have standardized our forms and have cooperated in every way to protect each other from persons who attempt to prey upon our business. In San Antonio, Texas, the title men meet once each week at a luncheon and they discuss any new problems that arise which may affect their business. The attorneys who examine the titles for the different title insurance companies pass on to each other any new rules or laws and the application of the decisions of the courts pertaining to any title problems that they may have encountered. There is no other place in Texas, where a more complete cooperation is had by the title companies and where a greater success is had in the operation of the title business, than in San Antonio.

Oklahoma has gotten considerably ahead of Texas in the holding of regional meetings and they can cite you to numerous examples of the benefits and increased earnings resulting from them; the same is true in many other states. I assure you, however, that Texas is beginning to wake up, and that we are planning next year to carry on an extensive campaign throughout the entire state in the holding of regional meetings. One of our fellow titlemen has become so enthusiastic about regional meetings that he has written the following poem, entitled "REGIONALS":

FIRST,

Ponder the predicament of Alex McNutt,
Who allowed his business to fall in a rut.

He saw not the value of modern "means,"
And soon found his credit forced to "extremes."

Alas and Alack!

THEN,
Consider the cause of the sad demise,
Of an abstracter known as Archibald
Wise.

A lawyer bragged on his abstract one
day,
So he quietly "folded," and passed
away.

Rest in peace.

AND,
Hark to the Hiatus of Josephus Green,
The "easiest" fellow that you've ever
seen.

He gave such big discounts, and had
been so long,
That his customers were buying his
work for a song.

Josephus! How could you?

NOW,
Behold what befell our friend John
Doe,
Who seemed destined for his full share
of woe.

Omitted a judgment, saw it too late,
There was nothing to do but just "pay
the freight."

'Sawful!

BUT,
Emulate the example of Percival Prim,
Who was chock-full of ideas, boiling
vim.

Attended the "Regional," kept up-to-
date,
And doubled his business, how sweet
to relate.

Attaboy, Percy!

Jack R. Smith,
Eastland Title Guaranty Company,
Cleburne, Texas.

When the subject of regional meet-
ings becomes so interesting as to in-
spire poetical outbursts such as this,
you can see that the title men are be-
ginning to wake up to the opportunities
that are knocking at their doors.

One of the greatest benefits to be
derived from a regional meeting is the
opportunity it affords title men in the
same town who have been enemies for
many years, to get together and for-
get their differences. In practically
every locality title men get the idea
that their competitors are giving com-
missions and rebates; that they are
cutting prices; when in truth and in
fact, it is the result of the mental
attitude of each of these men, think-
ing that the other fellow is doing it
and they start to doing it themselves.

In one of the towns near Fort
Worth, Texas, there are two abstract-
ers, both of whom are good men. Your
speaker happened to be district chair-
man at the time we held a regional
meeting in Fort Worth, and as such
I wrote these men letters urging them
to be present on a designated date, at
which time, the title men in our dis-
trict would discuss the various prob-
lems affecting our business, one of
which was the discontinuance of giv-
ing discounts and commissions. One
of these men wrote to me that he ex-
pected to be present and urged me to
induce his competitor to be there to
hear this discussion, especially on the
giving of rebates and commissions.

His competitor also wrote me prac-
tically the same thing, stating that he
was in hearty accord with the purpose
of our meeting, and that we would
have his cooperation in whatever we
agreed on. Neither of these men came
to the meeting. Each was afraid that
the other fellow might get some extra
work while he was gone. Both of these
men are still going on in the same old
way, giving away their profits by giv-
ing rebates and commissions and are
constantly becoming more distrustful
of each other. If they had attended
our meeting, they would now be lend-
ing each other every cooperation and
would have discontinued the practice
of giving commissions and rebates,
would have standardized their prices
and put them on a basis whereby they
could each earn a fair living and some
return on their investments. But in-
stead each have lost the opportunity
of improving their business which the
regional meeting afforded them.

The most important part of our
state program it seems to me, should
be the holding of regional meetings.
However, if we are going to have any
success at these meetings, we have
got to get the title men in each district
to attend them; and it is my opinion
that we should have a leader there like
Dick Hall, or Jim Johns, who has the
nerve to tell us our weakness and our
faults and how they should be cor-
rected.

Regional meetings have been con-
ducted to some extent in most of the
states, but have not been widely suc-
cessful except in those states where
they have been conducted on the Amer-
ican Title Association plan.

The title business is undergoing a
tremendous change. Title insurance
in a large number of states is becom-
ing stronger and more popular every
day, but it is largely handicapped by
the lack of a proper understanding and
a lack of cooperation on the part of
a large number of our abstracters.
Everybody wants to make more money
out of his business, and the only way
to make more money is for the ab-
stracters to get together at these re-
gional meetings and standardize their
prices, and standardize them high
enough to where they are sure they
can make some profit.

This is a day of organized effort. The
whole world of business is speaking in
groups. If there ever was a time when
the title men should be well organ-
ized and work together, it is NOW.
By means of the regional meeting, we
can get together and thrash out our
local problems. Our competitors will
be our friends. We will discontinue
giving commissions and rebates, and
instead standardize our prices. We
will standardize our forms and work
out other sidelines whereby we can in-
crease our revenue. The regional meet-
ing when conducted upon the plan as
outlined by the American Title Associ-
ation and with proper preparation and
a lot of intensive work will always be
a success and will make ours a more
profitable and responsible business.

Now, I want to see what some of
you fellows have been doing in the
states where we have held regional
meetings since the San Antonio con-
vention. In order to get this discus-
sion started I am going to call on Mrs.
Jeffery to tell us what they have done
in the State of Kansas.

PEARL K. JEFFERY: We have
handled it very much as you outlined
in your paper. We have divided our
state into several groups, appointing a
chairman for each group and have held
regional meetings by groups. There
have been ten in all with Mr. Graham
being present at each meeting. We
have tried to arrange our meetings so
a member of the executive committee
could be present at each meeting. We
feel that we have made wonderful
strides through these meetings. Many
of the abstracters have raised their
rates and this is one of the things we
wanted to get working. Too many of
us have been doing our work too cheap.
One of the chairmen visited every ab-
stract office in his district going over
the abstract uniform rates and we are
still working on that. As I said, we
have had ten regional meetings in all
with Mr. Graham being present at all
of them, giving all his time. We are
highly in favor of them and hope that
they can be kept up for there is no
other activity, in my opinion, that has
done as much good for us.

JACK RATTIKIN: Do you think
the regional meetings have resulted in
an increase of business in your state?

PEARL K. JEFFERY: They have at
least made it possible to have more
money for what we do. The rates
have increased enough that we have
a much larger delegation at the con-
vention. That is a good sign. I can-
not say that the business has increased,
this is a hard time to tell when there
is a general depression in business.
We get more money, I know that.

JACK RATTIKIN: Hugh, would
you tell us about Oklahoma? I have
heard that you have a good strong
organization down there.

HUGH C. RICKETTS: We have
had very good results of the meetings
had in Oklahoma. In our own district
we have every one very enthused and
eager to cooperate. In some of the
districts after the series of organized
meetings were over they have had
sort of a relapse. That verifies my
opinion that they should be followed
up. There is no doubt that they are
very beneficial to us and, as I see it,
the best way of getting organized co-
operation. There should be a regular
series of organized meetings covering
the entire state. The results we had
in most of the meetings were wonder-
ful. Many an abstracter has told me
he was in the business only because of
those meetings; they were broke be-
fore, but, now they are in the busi-
ness of making money. As far as
they go they are very good, but, I
maintain that they must be followed
up. You cannot hold one meeting, or
one series of meetings and let it go at
that. You have to sell them complete-

ly on the idea of standing on their own legs. If you have a good leader in the district who will take charge of pushing things along, it may not be necessary to keep after that district, but someone has to keep them pepped up.

JACK RATTIKIN: Did you have some outside man to conduct your meetings, or did you do it within your own state association?

HUGH C. RICKETTS: Yes, we had Dick Hall to help us and he was a dandy.

JACK RATTIKIN: Mr. Marriott, tell us about Illinois.

ARTHUR C. MARRIOTT: We have had fourteen regional meetings altogether in Illinois. I feel that we have had a good measure of success. I know we have ironed out many difficulties and have eliminated wrong practices and have stabilized prices to the extent that competitors have gotten together in the same counties and agreed to a regular stabilized price schedule. The attendance at the last convention was the largest we have ever had and I think that is a very encouraging sign. They all seem to speak nicely of the success of the meetings and personally, I am thoroughly sold on them and think we can sell the service to all our members when they know what they gain from them in a financial way.

JACK RATTIKIN: I think you will all find, if you follow the experience of these men during this last year, that when you go to the Tulsa convention in 1931 you will be making a lot of money, and you will have to make a lot more to be able to go to these meetings and progress. I know from our own experience in Texas that it has been a wonderful savings to all of us in actual cash to get together and work out our problems to the mutual advantage of everyone. We have been able to cut down expenses and it has been a great deal more pleasant to work so amiably together. I think these regional meetings mean everything to the title business. Don Graham has had a great deal of experience along this line. Let us hear from him.

DONALD GRAHAM: It is getting very late, but it won't take me a minute to tell you what I think of them. You all know I am sold on the idea and I can vouch for the state of Colorado being sold on them, too. We pay \$400.00 every year for our state association president expenses to hold a series of meetings all over the state. One-half of the state is covered in the Spring and one-half in the Fall of the year. Regional meetings are well worth while and really the life of the association. Never in the world will you have success with these legislative programs unless you have regional meetings to get together and thrash

out your problems and put over what you want, together.

JACK RATTIKIN: Is there anyone else who would like to discuss this subject?

JIM JOHNS: I believe that within a month or two months when the official proceedings of the convention come out and the members of the Oregon association read the figures given by the gentleman from Illinois, in which he said that it costs \$1.22 per page to make an abstract, the Oregon boys will hold another series of regional meetings and the prices will be stepped up again. We can't lose money, you know.

JACK RATTIKIN: I see Mr. John Henry Smith from Kansas City, Missouri. You should have something for us, Mr. Smith.

JOHN HENRY SMITH: I did not come here to make a speech, but I am most vitally interested in this business of regional meetings. I am a little more interested in title insurance than abstracts, but one is built on the other and, of course, they are very closely associated. We have a unique situation in Kansas City in that we have two court houses. We have one in Clay County, Missouri, and one across the river in Wyandotte County. Kansas City is divided against itself, it would seem. We made up our minds that it might be a way of making some money if we consolidated the western part of our territory into making abstracts, or in other words the portion over in Clay County, Missouri. We had heard a lot about regional meetings and one day it occurred to us to hold some sort of meeting and we called what could be a regional meeting and invited all our competitors in seven or eight counties all around us. We had found that the prices in all of these counties around us averaged from \$2.50 to \$3.00 a certificate—sometimes as little as 50c or 75c an instrument. We asked them what they meant by making a certificate of that sort for \$3.00, or \$3.50, writing certificates covering taxes and judgments and all the instruments. Suppose you have to run two or three names for judgments—what would you charge, we asked them. "That makes no difference, the price is the same, it does not matter how many names in the title." We talked that over and tried to change it and some of those fellows from around the other counties thought we had some ulterior motive in inviting them to that meeting and trying to upset their regular schedule of doing things. We had none, of course, except the keenest sort of desire to make some money. We told them that we were interested in that portion of Missouri and wanted to raise prices. At first we had the hardest fight on our hands you can ever imagine. When

a man wanted to loan money in any of those counties he would order an abstract from any one of a dozen and get as many different prices. One would charge \$6.00, another \$4.00 and still another \$3.00, or maybe \$2.50, for identically the same work. I told them that I did not think it made one bit of difference what they charged, if it was a fair price, allowing reasonable profit, they could get away with it, but the wide variance in prices would make them just a bunch of poor business men to be laughed at. There was no question in their minds after a while that we should all get together and work the thing out. We had eight or ten of those meetings and you should see the difference. It was astounding. One company even made enough money to give us a dinner—a real chicken dinner—and we discussed these things all evening. Now what do you think is the result. Nearly 100 per cent of those fellows today charge \$5.00 for a certificate, plus 50c for each additional name run, plus \$1.00 for each conveyance, etc. To these abstract men it is a revelation. They are an eager, happy group. They have learned how to make more money—more money for the same amount of work. We even educated them on subdivision work, for these fellows in the country were making abstracts for nothing, and I mean nothing, on subdivisions. They got together and established a rate for subdivisions. Now we can tell the sub-divider what we will charge him for an abstract rather than him telling us what he will give us.

Who do you think started all this regional business? Jim Johns is the father of it. He is an inspiration to have regional meetings. You can talk to any group of abstracters who know their stuff and they will say that Jim Johns has done more for this "damned abstract business" than any other man in the United States. (Applause.)

JACK RATTIKIN: Thank you, Mr. Smith. Now, I am not going to call on any more people tonight, for it is getting very late and we still have some other matters to take up. But, keep this regional meeting idea uppermost in your mind and see if we can not get some place with it. (Applause.)

CHAIRMAN GRAHAM: In order that you won't get restless I am going to tell you what we have next on the program. Our next speaker will be Harry M. Paschal who will talk to us on Plant Efficiency and after his address Mack Whitsitt is going to talk to us about money. We are going to have an open forum on it and I don't want any of you fellows to leave. I take pleasure in introducing Mr. Harry M. Paschal, from the Atlanta Title and Trust Company, Atlanta, Georgia.

Efficiency in Title Plant Operation

HARRY M. PASCHAL

I am going to get up here on the platform where you can see and hear me. Before I start to read this paper I want to tell you a few words about Atlanta, not the Atlanta you folks think about, but the greater Atlanta is the one I want to talk about. It takes in most of Georgia, some of Louisville and all of Houston.

As a part of my training in the title business, Mr. William J. Davis, the president of the company with which I am connected, has sent me to practically every state in the Union for the purpose of inspecting title plants and getting new ideas as to plant equipment, maintenance, etc.

This part of my training began back in the good old "boom" days, when the title business was good; orders were coming in so fast that the promise-date was sometimes three or four weeks in advance, and it was not necessary for abstract and title insurance companies to figure on the cost of operation, as the executive heads of practically all companies in the country knew that their annual income would be greatly in excess of operating expenses and dividend requirements.

Consequently our sole aim in life on these tours of inspection was to see how many innovations and improvements we could install in our own plants, regardless of installation or maintenance cost, that would simplify the work of the title examiners and escrow department, which have always been recognized as the productive ends of the abstract and title insurance business.

Now, as I see it, most of us are in the unfortunate position of having our overhead and plant maintenance expenses make a deep hole in our gross income. In other words, the snow ball has grown to such gigantic proportions that we hardly know what to do with it, except that instead of gathering snow, as it rolls along, it is gathering a big part of our gross incomes. In my judgment, unless a great many of the abstract and title insurance companies make drastic changes in their system of plant operation, they will eventually be overwhelmed with plant maintenance charges and overhead expenses. All of you are familiar with the basic system of abstract and title insurance plants. As a general rule abstract and title insurance companies maintain a force of workers at the county recorder's office, and thus obtain a daily take-off of all conveyances affecting lands. In some cities, where there are two or more abstract and title companies, the take-off expense is divided between the

companies, thus saving some of the expenses incident to the take-off. Some of the companies also take off wills, administrations, probate proceedings, homesteads, attachments, executions, etc., in fact getting a complete abstract of practically everything filed at the court house that could affect the title to any piece of property in the county. These companies are the principal sufferers at this time from what is known as "overheaditis."

The Title Insurance and Trust Company, of Los Angeles, California, maintains a very complete title plant, but its operating cost must be very great. Probably the most complete title plant in the entire country will be found in the little village of Newark, in the State of New Jersey, The Fidelity Union Title & Mortgage Guaranty Company, of which Mr. Edward C. Wyckoff, past president of The American Title Association, is Vice-President and title officer; you would have to see this plant to appreciate it; yet the cost of maintenance of this plant must be tremendous.

Two of the plants in Cleveland, Ohio, are very complete, and I believe that, on the whole, these two plants are the most efficiently operated of any of the plants which it has been my good fortune to see in operation. I refer to The Guarantee Title & Trust Company and Land Title Abstract & Trust Company.

Down in Atlanta, Georgia, we have a company of which we are very proud, the Atlanta Title & Trust Company. Yet we realize that our maintenance costs are out of proportion to our gross income.

All of the companies I have referred to above use the daily take-off and posting systems.

Now let us look in at a few of the companies which do not maintain these elaborate take-off and posting systems, and see what their experiences have been; for instance: The Merion County Title & Trust Company, of Ardmore, Pennsylvania; the Stewart Title Guaranty Company, of Houston, Texas; The Maryland Title Guaranty Company, of Baltimore, Maryland; The Title Guaranty Company of Rhode Island, of Providence, R. I.; and The Lawyers Title Insurance Corporation, of the City of Richmond.

Within the past ten years I have been in all of these plants, with the exception of the plant in Ardmore, Pennsylvania, and I have received some first-hand information about the Ardmore plant. And I venture the assertion that the companies I have named are today making more money, net (mind you, I said "net"), and

with fewer losses through errors or inaccuracies in their plants, than a great many of the big companies which maintain these elaborate take-off and posting plants. Now, the companies I have referred to above are not just small "mushroom" companies—they are big substantial companies—not, of course, with the capital assets of the three companies in New York, or the Chicago Title & Trust Company—but comparable as to resources with the companies in Cleveland, Ohio, Louisville, Kentucky, Richmond, Virginia, and Atlanta, Georgia; companies with capital, surplus, and undivided profits approximating \$2,000,000 each.

My friend, Laurie Smith, president of The Lawyers Title Insurance Corporation of Richmond, very appropriately covers this whole matter of plant maintenance in this one paragraph:

"The old school abstracter would unqualifiedly condemn our plant because not built according to his standard specifications. We take the position that a plant must be judged by (1st) accuracy and dependability; (2nd) speed and convenience to operation; (3rd) cost of maintenance.

"With reference to the first, I would say that our losses, due to errors or inaccuracies in the plant, have averaged less than \$100.00 per year. With reference to the second, we believe that examinations can be made as speedily and as conveniently as with any type of plant which has come under our observation. With reference to the third, our audit for 1929 showed \$10,630.57 charged to plant expense; for the year 1928, \$9,739.95. Figures for preceding years were lower, except in 1925, when we installed visible index lien records."

In our own plant in Atlanta, I have come across many things that appeared to me to be wholly unnecessary, and which are costing us money, and in a great many instances I have inquired of our plant manager (who, by the way, has been with the company since it was organized in 1897) as to the reason for this or that thing being done, and the reply is always the same: "We started out doing it, and have kept it up ever since." It seems to me that this is one thing that is wrong with the abstract and title insurance business today—that we have always done this or that in a certain way, and that precedent dictates that we keep it up forever.

I am frankly of the opinion that a great many abstract and title insurance companies would do well to consider the advisability of abandoning their take-off and posting systems and have this work done if, as and when

they have an order for examination of title on that particular parcel of land; their present plants, of course (which are now up to date) to be used as a basis for the examination. Most of the county recorders' offices now have excellent index systems, and I do not believe that the efficiency of some of the title plants would be very seriously impaired by the change.

We all have these conferences of executive heads to devise ways and means of increasing the efficiency of our plants, and to make them what is termed "fool-proof", that is, proof against errors of omission and commission, but these errors still continue to creep in, with the consequent loss of money. Would it not be a lot better if we spent the time we have been spending in conferences in making closer contacts with our customers, and thus producing more profitable business for the abstract and title insurance companies?

I called on the general counsel of a large insurance company in Boston about five years ago, with a view to having his company switch its business to us. This company had been in the mortgage loan field in Georgia for many years, but had been having its titles examined by an attorney in Atlanta, and complete abstracts furnished; and had not been requiring title insurance. In the course of our conversation this gentleman said:

"Mr. Paschal, there is only one reason that I know of why my company cannot do business with your company." When I inquired as to this reason he said: "The officers of title companies do not give these matters the close personal supervision which we think they should. The closing is left to a clerk, and the correspondence in most cases is conducted by a clerk in the title company's office." My reply was that my company had a rule, which had been in effect for a great many years, that every letter that came into our office had to be answered by an officer of the company on the date of its receipt at our office; that the closing of all loans and sales, was under the personal supervision of an officer, and that if this was his only reason, that could be very easily overcome. This business was turned over to us shortly afterward, and we have been handling it since that time. This example only emphasizes the fact that the rule we had adopted years before was a very sound one.

Again, while on the subject of contacts: Mr. Davis and myself recently made a trip to one of the large cities—principally a pleasure trip, but prepared to do business if we happened to run into it—and we called on several companies with which we had had considerable correspondence, but with

which we had never been able to do any business; and as the result of that trip and the contacts we made while on it, we obtained the representation of a large life insurance company, whose business we had been trying to get for years by correspondence, but without success, and have already received several thousands of dollars in examination and title insurance premiums. We just happened to be on the ground at the psychological moment, and it is human nature for a business man to do business with the man who is "on the ground".

I am fully aware of the fact that some of you are only waiting for me to finish to get up on your "hind legs" and tell me that I am crazy to suggest that any company abandon a system of plant maintenance which it has been using for thirty or forty years, and which has cost many thousands of dollars—and in some cases many hundreds of thousands of dollars; but if some of you who have this thought in mind will analyze your plants, and then analyze the real estate market and its future outlook, I believe you will reach the same conclusion that I have about the matter. At any rate, do this much: capitalize your plant at its replacement value at this date and see whether or not you can pay dividends on this capitalization.

In the event of the destruction of



EDWARD C. WYCKOFF
Elected Member of Executive
Committee

your plants, how many of you would rebuild according to the present system and scheme you now have and are following? Wouldn't all change our plans to a considerable extent?

In my judgment, the abstract and title insurance business is essentially a business of personal service, and a great many of us are not keeping this in mind in the mechanics of our work, and in dealing with our clients and customers.

CHAIRMAN GRAHAM: Mr. Paschal's paper is of such a radical departure nature that I am going to have breakfast with him in the morning. I think it was a very interesting paper, but my education has been along the line to build up your plant. Now, I am going into this and see if I can't use the idea. We will now finish the discussion about the dues schedule, so I am going to turn the meeting over to Mr. Whitsett.

DISCUSSION ON FINANCING OF ASSOCIATION

J. M. WHITSETT: Now the question is the same one. What are we going to do about money to run this organization? We heard yesterday and this morning that our income was not sufficient. The regional meetings have been discontinued and all activities curtailed. It is up to you, what is your pleasure?

ARTHUR C. MARRIOTT: Mr. Whitsett, ladies and gentlemen, we could discuss this thing all night and all of us probably be of the same mind, but in order to bring it to a head I am going to make a motion for I think we are ready to take a definite move of some sort on it. I move that the Abstracters section of this association go on record as being opposed to any change in the membership structure of this association which would ignore the state associations and change the present scheme of affiliation and that the executive committee of this association be instructed to prepare a suggested dues schedule which will in its judgment give the association sufficient funds to properly function, reporting its recommendations to that effect to the association as soon as possible.

RUSSELL DAVIS (Nebraska): I second that motion.

J. M. WHITSETT: All in favor of this motion signify by saying aye. All opposed by saying no. (There were no dissenting votes and the motion was carried unanimously.) Boys, I certainly want to thank you for this sudden and welcome action. I will see that the committee gets the report to you at once regarding the monies needed.

(The meeting adjourned at 11:45 p. m.)

Title Insurance Section

Thursday, Oct. 9, 1930

PRESIDENT STONEY: Ladies and gentlemen, I should like to have you come to order. This session is to be

devoted to the title insurance people and as Stuart O'Melveny is the chairman of that group I take pleasure in

turning the meeting over to him. Mr. O'Melveny.

Report of Chairman

STUART O'MELVENY

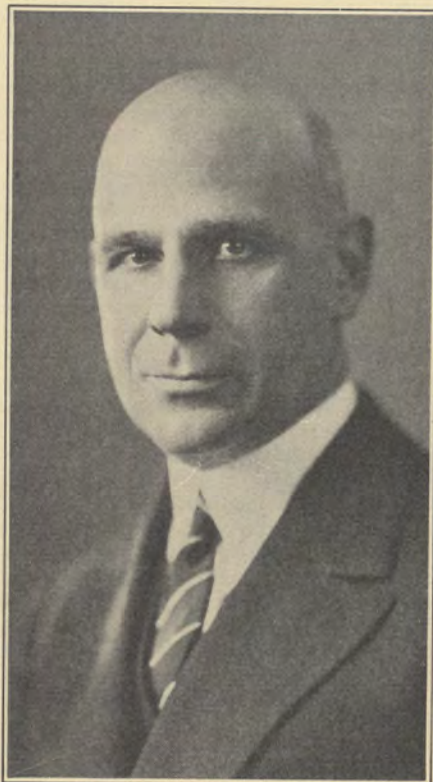
It has been customary at each convention for the chairman of each of the respective sections to make a report. Following the custom therefore, I wish to report concerning the activities of the Title Insurance Section of the American Title Association for the past year and especially concerning those matters with which I had particularly to do.

In my report, as chairman of the uniform policy committee, at the convention at San Antonio, you will recall that I spoke of the manner in which the American Title Association loan policy form was prepared. You will recollect that there was a meeting held in New York between the representatives of your association and the attorneys of some of the large eastern life insurance companies and I spoke of the good will which has originated from the meeting and of the feeling of friendliness which was manifested toward the officers of your association by the representatives of the eastern life insurance companies. This meeting inspired Mr. Edwin H. Lindow, the then chairman of the Title Insurance Section, to arrange for another meeting to discuss common problems. A luncheon in New York was therefore arranged to be held after the midwinter meeting of this year, and after the midwinter meeting adjourned most of the executive officers of your association journeyed to New York in order to participate in the luncheon and discussion which was to follow. The luncheon was very largely attended by representatives of the eastern and middle western life insurance companies. Time does not permit for me to list all of the persons who were there. Suffice it to say that there were such men as Mr. Frank Ewing of the Metropolitan Life Insurance Company; Mr. Harry H. Bottome and Mr. Charles M.

Swezey of the New York Life Insurance Company; Mr. Edward O. Clark of the Prudential Insurance Company of America; Mr. Moncure March, of the Equitable Life Assurance Society of the United States; Mr. John F. Rhodes of The Travelers Insurance Company; Mr. Roberts Tunis of the

John Hancock Life Insurance Company and many others. After a good luncheon we discussed mutual problems for a couple of hours and each of the representatives of life insurance companies was asked to speak concerning his experiences with title insurance and kindred matters. There was not very much criticism offered of our practices and, generally speaking, our guests seemed to be satisfied with our services and the form of policies which they were receiving. I believe that, while the discussion was not particularly pointed nor did it bring out many new ideas, yet the meeting was not without a benefit in promoting a spirit of friendliness between those present. The executive committee has decided since our arrival in Richmond that another such meeting will be held next year.

The A. T. A. policy form has, so far as I know, been meeting with a considerable amount of success. I may not hear as many criticisms of this form as some of the rest of you but I have not heard any more things said against this particular policy form than might be expected to be directed against any form which has been scanned and studied as much as this form has been. Its use has been spreading I believe. I know that with us we are writing it almost exclusively in place of the L. I. C. form. The Penn Mutual Life Insurance Company and the Provident Mutual Life Insurance Company of Philadelphia have adopted it during the last year, and the roll of life insurance companies which have approved and adopted this form is now almost complete. More however could and should be done by the member title insurance companies to spread the use of our policy form. The life insurance companies have approved its use. Now is the time for



STUART O'MELVENY
Chairman, Title Insurance Section,
1930, Elected Member Executive Com-
mittee, 1931

you to use the form wherever possible and on occasion to request its acceptance by your life insurance customers, politely, but firmly spreading the use of our own form.

Nothing has been done by the officers of your section with reference to coinsurance or reinsurance. The difficulties of establishing plans for coinsurance and reinsurance are very great. First of all the officers of your section have been unable to visit communities in which it might be possible to inaugurate plans for coinsurance. The promotion of these ideas is very difficult by correspondence, if not impossible. Generally speaking the smaller companies exist in communities where the risks are not so large and so are therefore able to serve their community with a limited amount of capital. In larger communities where the liabilities are greater there are larger companies able to write the larger liabilities. I have found in California where we reinsure one another as occasion requires that it is only a few times during a year that reinsurance is called for. It is apparent that when economic conditions require plans to be worked out for reinsurance and coinsurance that such plans will be worked out by the various communities or companies. So that while we have thought a good deal about these matters we have not deemed it advisable or the time propitious to do much with reference to them.

For eight years the officers of your association have attempted to have the Congress of the United States enact a bill permitting the United States government to be made a party defendant in order to relieve against the injustice with which mortgagees are confronted under the present state of the law. Mortgagees may find, when it is necessary to foreclose their mortgages, that there has been filed against the property a junior lien by the federal government for some debt due the United States by the owner of the equity in the property and for which the mortgagee was under no obligation either legal or moral. In such circumstances the mortgagee finds himself at an impasse. It is impossible for him to bring about a judicial sale of the property that would eliminate the cloud on the title created by the government's lien. He cannot remove the lien as there is no method by which he may bring in the United States as one of the parties to the foreclosure proceeding. He is therefore in effect defeated of his own right to foreclose unless he is willing to pay off the government lien, a debt for which he is in no way responsible.

The bill as sponsored by the officers of your association provided that the consent of the United States was given to be named a party in any suit which might be instituted in any state or federal court for the foreclosure of a mortgage or lien upon any real estate for the purpose of securing an adjudication touching any lien or claim the

United States might have on the premises involved.

During the last eight years great efforts have been made to pass this bill but in every instance it has been killed because it invoked the principle of permitting the government to be sued. Regularly introduced at each session it has never passed despite the fact that we have enlisted the support of many members of the House of Representatives and Senate, the American Bar Association, the United States League of Local Building and Loan Associations, the Real Estate Associations and others. Last year it passed but was pocket vetoed by the President upon the recommendation of Attorney General Sargent.

At the last session of Congress the lien bill was again introduced and passed the House as originally drawn. Senator Walsh of Montana and others desired to amend the bill and the bill as amended was passed by the Senate and reported to conference of the judiciary committees of both houses. The bill is to be taken up by this conference at the next session with the chance of the amended bill passing. The bill is still on the calendar and has lost none of its standing or status. It is hoped that it will be passed when Congress reconvenes.

Three years ago an attempt was made to introduce the so-called "Title Insurance Law," which would permit the Attorney General to accept title insurance instead of compelling him to examine abstracts of title in cases where the United States government was purchasing real estate. The executive secretary of your association was instructed to assume charge of the passage of the bill and do everything possible to have Congress enact it. The bill was prepared for presentation to the 70th Congress but was killed by the Attorney General and others in the Department of Justice because it would change the established order of doing things and the customs of the United States officials in purchasing property.

In April, 1929, a conference was arranged with the Attorney General, Mr. Wm. D. Mitchell, it being deemed advisable to gain his approval of the bill prior to its presentation to Congress. Mr. Mitchell accepted the bill as desirable and it was introduced at the last special session by the chairmen of both judiciary committees at the request of the Attorney General.

The bill as drawn provided that in all cases of the acquisition of land or any interest therein by the United States, where the written opinion of the Attorney General in favor of the validity of the title of such land is or may be required or authorized by law, the Attorney General might, in his discretion, base such opinion upon a certificate of title and/or policy of title insurance, in such amount as the purchasing authority might require of a title company.

Mr. Mitchell wrote letters advocating the adoption of the bill saying that

he believed the present system to be archaic and that it resulted in useless labor and long delay. He also stated that the legislation was needed to give the Attorney General in both purchase and condemnation cases discretion to accept evidences of title from title companies such as private concerns relied on and that the large volume of purchases and condemnations resulting from the public building program, the acquisition of lands for flood control, wild life refuges and other purposes had overtaxed the capacity of his department to examine and pass the title under the prevailing system.

The bill, however, met with much opposition and objection from various members of the House but, while the judiciary committee of the House was arguing about it, the bill passed the Senate without a dissenting voice. After a great deal of work on the part of the executive secretary and as the special session was nearing a close, this bill was one of fifteen agreed upon by the House to be voted upon its unanimous consent calendar, which was the last group of bills to be voted on prior to adjournment. The judiciary committee of the House at this juncture struck out the words "and/or policy of title insurance, in such amount as the purchasing authority may require." The committee felt that in view of the fact that the government could not be dispossessed of land once acquired, owing to its immunity from suit without its consent, that no necessity existed for securing title insurance in connection with the acquisition of real estate. This elimination permitted the Attorney General, in his discretion, to base his opinion upon a certificate of title of a title company but made no mention of his being permitted to rely upon a policy of title insurance. The supporters of the amendment served notice that they would object to the passage of the bill if the attempt were made to include title insurance as the bill was originally drawn and introduced, and such an action on their part would have prevented the passage of the bill on the unanimous consent calendar. After a hurried consultation it was therefore thought best by the officers of your association to let the bill go through in its amended form, which was done, and the bill passed by the Senate's accepting the amendments. It is therefore now a law and we have at least accomplished a part of our purposes for the Attorney General may now accept certificates of title. A new bill is being prepared, as I understand it, which will fulfill the original intention of the officers of your association and it is expected that it will be introduced at the next session of Congress.

At the last midwinter meeting in Chicago in January of this year, the executive committee passed a resolution calling upon the president of the association to appoint a committee to draft a questionnaire, which was to be sent to the different title companies in an effort to obtain data from them in

order to compile certain statistics with reference to the title insurance business. This committee was never appointed but Mr. Stoney asked the executive secretary to prepare the questionnaire and to let me see it before it was sent out. Mr. Hall and I did some work on drafting up a form which, when it was finally finished, was sent out to the members of the executive committee and the members of the advisory committee of your association. The questionnaire was in the form of an information statement on which each company was to indicate the number of mortgage policies written during the year, the number of owners policies for the same year, the amount of total liability assumed under each of the different classes of policies and the amount received as premiums therefor. The information sheet also called for data concerning the number and amount of losses incurred and the reasons for such losses. The members of the executive and advisory committees were asked to indicate their opinion as to whether or not it was advisable to collect this data at all and to criticize the form of the questionnaire. Each was asked to send his answer to me.

The replies of the members of the executive and advisory committees were not at all uniform. Some criticized the form of questionnaire and others did not want to furnish the information unless safeguards were provided for keeping such information confidential. Several members criticized the form of questionnaire saying that there is no relation between the amount of premiums and liability written for one year and the amount of losses paid in that year because the losses paid such year may be for policies written long previous. This is fundamentally true. We must admit that ordinarily current income is sufficient to take care of losses. A great many chances of loss have been eliminated by careful work on the part of title companies so that reserves have not come in for a great deal of attention. It was the purpose of the questionnaire to bring out certain facts concerning reserves and the necessity of reserves. Some states require reserves to be built up. Some do not. Some companies build up a reserve but most do not and it would seem to be the nature of our business that small reserves are only needed when contrasted with the large amounts of stated liability written. Most companies try to build up capital and surplus for advertising or other reasons, but such moneys are not considered as technical reserves. The whole conception of reserves is in chaos—the reason being that current losses are paid from current income and we all hope that money set aside for capital and surplus will never have to be touched. Therefore many companies do not set aside reserves as such and, believing that it is not necessary, do not pay much attention to the matter.

Another fact which makes obtaining

information difficult by use of a questionnaire is that there is such a difference in practices, in the methods of business, in the requirements of state laws, in bookkeeping and accounting that it is almost impossible to obtain a real analytical basic statement that will apply with reasonable fairness to all companies. An example may easily be found in the way property is handled when a loss makes its purchase advisable. Many times the property is purchased and the actual loss is not determined until it is sold. A company may write off the loss and carry the property at no value, in which case it will report the whole amount paid as a loss or it may carry the property at the amount of the purchase and report no loss at all.

This subject received the attention of the executive committee at any early meeting during this convention and it was decided for the reasons stated to abandon the circularization of a questionnaire at this time. There does not seem to be any particular need for gathering this information now and it would be expensive to collect the data. Just now we are all interested in decreasing, rather than increasing expenses and it will be soon enough to bring up this matter when times are better.

The title insurance business is certainly at a low ebb throughout the country. Some of the companies are not making money and others are only making a moderate return by practicing the strictest economy and efficiency in operations. We are at present in a period that makes it necessary for each of us to do many disagreeable things. Numerous employees have to be discharged and salaries have to be cut. All of the expenses of the company must be watched and new and efficient methods of operation should be inaugurated. It is in some ways not a bad thing that periodically we must do this. When there is a great deal of business and money comes easily, we are apt to let our organizations drift leisurely along with the tide of prosperity and a great deal of waste and extravagance is offset by returns sufficient to show a good profit. But when hard times come and there is not much money coming in, then we must change our methods of doing business. We must be eager to learn and inaugurate any method of doing our business which will save money. It is a time when we must learn the fundamentals of our business and work out the quickest, easiest and most efficient way of functioning. If one man can be made to do the work of two, this is the time to find it out and to put efficient, speedy and economical methods into operation. We must do away with waste and extravagance if we are to come out these days with any profits at all.

These are also times when it is best to be on good terms with our competitors. If we ever need standardization of prices we need it now. When business is plentiful a cut in a price here

and there does not make a great deal of difference at the end of the month, but in this period we must maintain a certain price for our commodity and stick to it, otherwise there will be nothing in the cash drawer at the end of the month.

It will of course be difficult not to unlearn these rules when better times come and slip back to easy ways and it seems to me to be one of the functions of your association to keep the rules learned in hard times before our eyes always because it is in them that success will be found. Let our officers during the next year or two find out what the different title companies have been doing during this period; find out what means have been employed at this time to save money and to stabilize prices and let us have these things emphasized during the next year or two and pointed out for the benefit of each and all. These practical methods of business administration are, it seems to me, just as important, if not more important, than many of the technical legal questions found in the papers read and I would suggest that during the next year or two particular emphasis be given to papers dealing with business administration and price stabilization now being practiced.

What the future of the title business is going to be of course none of us can foretell. The use of title insurance is increasing throughout the country little by little; our business is being respected more and more. One of the reasons why this is so is that we are respecting ourselves a little bit more. As we do things that improve our business we believe in it and the public believes in it correspondingly. Mr. Johns in the abstract section has done a good deal along these lines as has your executive secretary, and anything which betters the abstracter's position is helpful to the title insurance business generally throughout the country. This association is the clearing house for the interchange of ideas. All of us are interested in a common subject. By meeting together we can work out plans and problems in which we are all mutually interested; we can do things which dignify our profession; we can increase the use of evidences of title; we can increase the respect in which our avocation is held by the public. We must all unselfishly devote more time to the affairs of the association and continue to contribute to its support for if its influence is weakened we will only hurt ourselves and build up opposition to the business in which we are interested. If the influence of the American Title Association were allowed to lapse for a period of years, it would be much more difficult to reinstate and reestablish its influence than it will be to keep it alive. Let the influence of our association permeate the world of business in this country for our own good.

CHARLTON HALL: I would like to express my regret that the questionnaire has not been carried through as

planned. I understand that the Executive Committee has agreed that the idea should be dropped. I was very anxious to get results of that survey to check up on our own business. Didn't you get any figures at all that we could use?

E. H. LINDOW: We sent in one, and two years ago quite a little information was gathered by a questionnaire gathered by the section.

CHARLTON HALL: We answered this one and hired an auditor to go over our books and gather this information. I thought it was a fine thing. If we do not get some information to give to the state authorities as to what we need for our reserves and what they should correctly be we are going to find ourselves in a close spot someday. We need the information that questionnaire called for in our own business, anyway, even if we should not have it for the state authorities. I am very sorry you have discontinued it.

CHAIRMAN O'MELVENY: We went into that thing very thoroughly. I have given the matter a great deal of attention and some very serious

thought. Speaking of my own company, and I know of others who would be in the same predicament, it would take a man, or perhaps two men, every day to keep the records up for that questionnaire. It would cost several thousand dollars a year to collect the information. Spread out over the United States it would cost the members of this association probably \$40,000.00 or \$50,000.00 to gather this information together. The question is, will it be worth it to us? The Executive Committee decided the other night that it would not be worth it to us. That seemed like too much money and we decided not to do it at this time.

CHARLTON HALL: We keep those figures all the time anyway. We need that information for our own business. But we were anxious to find out what reserve would be set up after the results of the questionnaire were disclosed. Of course, if you do not keep these records you could not answer the questionnaire. I think you need those records for your own protection.

CHAIRMAN O'MELVENY: Well, at this time the Executive Committee thought it advisable to let it stand. I

realize that it may be a good thing, but right now we decided that it would cost too much for the good we could derive from it. The next thing on the program is the appointment of the nominating committee for the title insurance section. I am going to appoint the following gentlemen:

Mr. Kenneth E. Rice, Chairman (Illinois).

Judge E. H. Smith (New York).

James R. Ford (California).

John Henry Smith (Missouri).

Charlton L. Hall (Washington).

I am asking that these members retire now and get together their report as there was no time set aside for it. The report will be given immediately following the business session and before we retire for lunch.

CHAIRMAN O'MELVENY: There is one member of this association who has endeared himself to all of us with the re-incarnation of southern hospitality and his real southern chivalry. You all know him for the real good fellow he is. I take great pleasure in introducing Mr. H. Laurie Smith, our host, who will address you on "The Dreamer Had the Corn."

The Dreamer Had the Corn

H. LAURIE SMITH

Brethren, I take my text from the 42nd Chapter and 57th verse of the Book of Genesis.

"And all countries came unto Egypt to Joseph for to buy corn because the famine was so sore in all lands."

For the benefit of the younger generation it may be remarked that the text is from the Bible. I see that some of you old timers recognized it. You know, once upon a time, people used to read the Bible. It's a fact! Everyday, with an extra chapter on Sunday. That may seem incredible to us superior beings who are privileged by the tremendous upward sweep of the progress of civilization to obtain our mental pabulum from the comic strip and our cerebral stimuli from the tabloids. Of course, the old timers had one advantage over us—they could read. Yes, sir, and they used to read the Bible. They had to! No movies, no radio, no contract, no golf.

Speaking of tabloids, did you ever speculate on what the present version of some of the Biblical stories would be, supposing the Egyptians had been cursed with yellow journalism along with lice, vermin and other plagues. Imagine Town Topics subtle innuendo in recounting the finding of Moses in the bull-rushes by Pharoh's daughter. Or the Daily Mirror's version of

Joseph's virtuous resistance to the lures and beguilements of the fascinating Madame Potiphar. Can't you see the headlines? "Boy Friend Leaves Garment in Flight. Is Cast Into Prison." Personally, I have always been a little skeptical of the story. If a choice must be made, maybe it is better to be cast into prison than to be pursued by beautiful women. But human nature hasn't changed very much. Looking around, I see a lot of our gray Lotharios who have avoided incarceration for lo, these many years.

But returning to our text, we find the language very significant: All countries came unto Egypt to Joseph to buy corn. Why did they come to Joseph? Because the Dreamer had the corn. Why did all countries come to Joseph to buy corn? Because the Dreamer was the only man with the vision to stock his cellar and attic in times of plenty against the coming of the great drought and famine.

At the risk of losing the interest and attention of certain of the brethren, I must confess that I do not know the telephone number of a modern Joseph. The reception committee may be better informed. My interest in corn is purely rhetorical. The point I seek to emphasize is that Joseph had the vision to forecast changing conditions and the

intelligence to interpret the operation of economic laws under such changed conditions and the courage to back his vision and his interpretation.

When I was a boy, I had the great good fortune to hear that superb orator and peerless platitudinist, William Jennings Bryan, weave a magic masterpiece from the theme "The Dreamer Had the Corn." Up to that time my hazy impression of Joseph was as the progenitor of the modern clairvoyants who for two dollars will tell you all that you know and a lot that you only suspect. I was exalted and inspired by Bryan's masterful portrayal of the young Israelite, sold into slavery, dreaming dreams of the future needs of the nation, flaunted, mocked, derided, yet with inimitable courage holding fast to the course charted by his vision, until finally rewarded by the plaudits of a nation saved from annihilation—because the dreamer had the corn.

It was characteristic of Mr. Bryan that he did not follow the story through to its practical conclusion and moralize on what the dreamer did with the corn after he cornered the market.

For many years I never gave a thought to that aspect of the matter. I suffered from a youthful idealism which necessitated the privilege of

many years association with bankers, mortgage men and others of the financial fraternity to be converted to the accepted standards of business cynicism. One night I was reading the story of how a famous Chicago operator cornered the wheat market. He had the tiger by the tail but couldn't turn loose. I began to wonder how the dreamer unloaded his corn and read again the story of Joseph.

Gentlemen, what that guileless Jewish boy did to the wicked Egyptians must have served as an inspiration to many of our modern financiers. When there was no bread in all the land so that the land of Egypt and all the land of Canaan fainted by reason of the famine, Joseph sold grain for the people and their cattle—for cash! Did he take the cash and buy land or cattle or glad raiment, or stocks on the installment plan? No sir, Joseph brought the money to Pharaoh's house and retired it from circulation. The next year, the people having no money gave their herds and flocks in exchange for grain. The next year, the people having neither money nor cattle, gave their land and themselves into slavery in order that they might eat the grain which the dreamer had hoarded. Then Joseph put the whole nation except the preachers to work as tenant farmers on shares, he furnishing the land, the seed and the cattle.

Joseph had the vision to forecast changing conditions. Joseph had the intelligence to interpret the operation of economic laws under such changed conditions. Joseph had the courage to back his vision and his interpretations. Are we, who in a large measure are charged with the responsibilities of shaping and guiding the destinies of the title business through this amazingly transient era, displaying the vision, the intelligent interpretation, the courageous determination demanded by changing conditions?

Are we? Well, is everybody happy and satisfied? If not, what is the matter with the title business? Some may answer that the business cycle has swung into a period of depression which is inevitably reflected in decreased earnings for every business.

Even the Republicans admit a slight decline in values and a temporary lull in industry, but nothing like hard times. Oh, impossible under a Republican administration!

Of course, the present stagnant market for real estate and mortgages means hard times for the title business. That is elementary. But let us not fool ourselves. The patient was already sick. Lack of nourishment has merely lowered vitality and decreased resistance to the disease germs. What is the matter with the title business? Cut-throat competition, inadequate rates, unsound practices, the curse of continuations, the folly of re-issues, the crime of rebates.

These are but symptoms of the disease.

What is the matter with the title business? Gentlemen of the jury, I

speak the truth, the whole truth, and nothing but the truth. The answer is: *The Title Men*. We title men as a group haven't the vision to forecast changing conditions, nor the intelligence to interpret the operation of economic laws under such changed conditions.

Back in the dim mists of the Paleolithic period man was a timid, hunted animal, furtively grubbing for snails, trilobites and other delicacies of the season. When man learned that he could "bust" a ten ton dinosaur on the snout with a slingshot or bring down a sabre-tooth tiger by hurling a pointed stick, man entered upon a wonderful era—the most wonderful down to the present.

Man is of such incredible antiquity that the scientists dare not guess how many thousands of years he has been a speck of cosmic dust, moving blindly obedient to evolutionary laws up the sunbeam of civilization. Yet we who are here today are the privileged beneficiaries of more marvelous contributions to progress in the infinitesimal span of a lifetime than the aggregate accomplishments of all the preceding aeons.

We freely, frequently and tritely admit that we are living in a wonderful age, but what are we contributing to it? So far as the title fraternity is concerned, I must confess we appear to be a burr on the back of the dog trusting to Providence and the well-known activity of the dog to be carried somewhere.

Modern miracles of machinery and manufacture have revolutionized living conditions and, drawing together villages, towns, cities and states, are welding seemingly incompatible component parts into an homogeneous body.

Modern miracles of communication and transportation furnish this body the arteries through which pulsate, in ever quickened tempo, the life blood of finance and commerce.

Land, in the final analysis, is the basis of all wealth. Each new invention, new industry, new medium of communication or transportation, creates new uses for or demand upon the land. We title men, as guardians of the land, by our responsiveness to the demands of industry, commerce and finance, accelerate or retard the pulsations which determine the vitality and continuity of progress. Yet we title men, as a group, are intensely individualistic! Stubbornly non-cooperative, deplorably provincial.

Is that statement too harsh? Remember it refers to the thousands of title men all over this country and not to the selected membership of this association. Undoubtedly, the American Title Association has drawn unto itself the more progressive, cooperative, prescient element of the title fraternity. Yet, dare we take a poll of our own association? Would we not find such divergence of opinions and dissimilarity of viewpoints, such antagonistic aims and irreconcilable interests,

such cliques and factions with diametrically opposed policies and objectives, as to make us falter and grow disheartened at the task of amalgamating such incompatible elements into the strong, united instrumentality, so imperatively essential to the health and progress of the title business?

It is not remarkable that there should be such lack of unity in our own ranks, when we consider the fundamentals of the business. The first step is the making of the abstract. There must be something about the tedious, exacting requirements of plant building, of the transcription and comparison of instruments, that develops in the average abstracter an intense individualism and lack of cooperative spirit. I cannot pay too high a tribute to the fidelity and zeal of the high type abstracter in maintaining his work to the highest standards. I cannot so freely eulogize his business ability, but that is out of my province. The abstracter knows what is the matter with his business. If he does not, Jim Johns will be glad to take off his coat and elucidate—and how!

The second step is the examination of the abstract and the rendering of opinion as to the validity and sufficiency of title disclosed by the abstract. The average title examiner is temperamentally conservative and technical, with innate reverence of form and precedent and with hypersensitized perception of error.

The third step is the insurance of the title. Outside of three or four large cities, title insurance is so new that it has not developed a distinctive type. One finds bankers, trust officers, mortgage men, building contractors, and lawyers managing title insurance companies. The type, so far as a type exists, is executive, placing its faith in sound judgment and rather impatient of the technicalities and intricacies of the fundamental title operations. Why consume valuable time with a discussion of the types of men who make up the title business? Because the trouble with the title business is the title men. An ox, a mule and a tractor make a strange and ill-assorted team. Pulling in opposite directions, the tractor may exercise greater motive power but soon bogs down, trying to drag the ox and the mule. Pulling together, they can move a tremendous load over seemingly insurmountable obstacles. No profession, business or industry can rise higher than the level of its leadership. The title business has evidenced but scant leadership in developing unity of purpose and concert of action in moving forward to definite objectives.

For many years it has been obvious that the old methods of evidencing land titles were inadequate to meet the demand of modern business. For several years, every trend has pointed to the insured title as the next stage in the evolution of title protection. Yet how few title men have attempted to visualize the scope and effect of this up-

heaval of the old order, already well under way. How few title men have attempted to interpret the effect of this transition upon their own business or to adopt their businesses to the new order.

For more than fifty years title insurance men held the view that it was impractical for a title company to insure titles, unless the title company owned an abstract plant covering the property to be insured and based its insurance upon an abstract built by its trained employees and an examination of that abstract by its trained examiners. Only in large cities could a satisfactory return be earned on the capital required for a title insurance company. Therefore, title insurance, like grand opera, was a luxury reserved to the great metropolises. Since these pioneer title men represented powerful and successful institutions, their judgment was accepted as final. As a matter of fact the pioneer title companies, in order to earn larger returns on their capital, engaged in trust and mortgage activities at a time when the American public was first becoming conscious of the fact that corporate responsibility was superior to individual responsibility. The pioneer title companies, as trust companies, reaped a golden harvest, but since their trust and mortgage activities were competitive to the principal sources of title business, title insurance became a mere department or casual by-product. The fallacy that title insurance should be limited to the territory covered by the abstract plant of the insuring company has been fully exploded. It is theoretically possible to insure titles to real estate anywhere in the United States. But before this becomes a practical reality existing facilities must be converted to new uses, present theories of acquisition must be revised and new marketing methods evolved.

We title men, like Joseph, must forecast the operation of economic laws under changed conditions.

Will title insurance be extended to rural sections as well as urban centers? For farm mortgages by non-local lending institutions, yes. For local buyers and lenders, not for many years. The fact that there are no annual premiums and few repeat orders places a prohibitive acquisition cost on the bulk of rural business. How big must a town be to offer an attractive field for the extension of title insurance? The town must be sufficiently large and progressive to attract life-insurance companies and non-local institutions seeking mortgage investments. Will title insurance companies spring up in the smaller cities over the country? Probably, so long as capital can be attracted to ill-advised ventures by local pride or professional promoters. Abstract companies will aspire to blossom into title insurance companies with about the same probability of success as they would experience if they should determine to become life or fire insurance companies.

Will the development of title insurance be statewide, national or regional in scope? The idea is very prevalent that a little insurance company should confine its activities to its home state. Apparently, this view point had its inception in the fact that many of the early title companies were so limited by their charter powers. In some cases, shrewd and selfish interests, through political intrigue or by demagogic appeals to timorous and credulous groups of title men, have attempted by legislative enactments to foist a Chinese Wall policy upon the title business. Such legislation compels retaliatory legislation on the part of sister states to the great economic loss of the offending state. Favored interests may gain a temporary advantage but the folly and futility of such a policy is apparent to the student of the development of life, fire and casualty underwriting in this country. The territory of a title insurance company is that area within which it can economically produce and efficiently administer a satisfactory volume of business with proper ratio of acquisition and operating costs. Such territory has no relation to state lines.

There appears to be no fundamental reasons why title insurance companies should not extend their activities over the entire country. Yet, because of the practical difficulties to be overcome, the prediction is offered, for what it may be worth, that the development of title insurance will be regional rather than national or statewide.

Time does not permit the development of supporting reasons. Those interested may find, in a study of the inauguration of the Federal Reserve Bank system and the reasons for its division into Regional Districts, powerful arguments supporting the forecast of regional title insurance.

Is the abstract to be eliminated? Of course not. Title protection is essentially and necessarily based on careful and conscientious search and compilation of the records by skilled and competent abstracters. The issuance of abstracts as evidence of title will undoubtedly be eventually eliminated, for various reasons. The first and most cogent reason is that an abstract, as evidence of title, is worthless. If a customer wanted a loaf of bread, it would be foolish to wrap him up a quart of wheat. Of course, the wheat can be converted into flour and the flour into bread, but the demand is for the finished product. Until the chaff is winnowed out and the grains of truth ground between the millstones of legal analysis and legal construction and bolted into fine white flour from which all foreign or extraneous matters have been eradicated, the abstract isn't fit for human consumption. When title insurance has baked the flour into the loaf of complete title protection, all wrapped up with a guaranty of purity and safety, the customer is satisfied. He ought to be! Look what he is getting for

a nickel! The second reason why the abstract is destined to be eliminated as evidence of title is that the abstracter must quit putting abstracts into circulation or starve. He has been selling his wheat and giving away the farm on which it was raised, thereby killing his chance of selling another crop!

Perhaps, the customer, owning the abstract, may permit him to do a little work, as a day laborer, getting it ready for the next purchaser. Why does the abstracter cling so persistently to a system which obviously spells his eventual economic ruin? Partly because his egotism demands the satisfaction of demonstrating the superiority of his product. The inferiority complex which makes him cringe to his clients and accept inadequate pay for highly skilled work must find some outlet. Mostly, he clings to the old order because he is too dumb or too damn stubborn to try to understand how he can sell his wheat and keep his farm.

Is the abstracter destined to be eliminated? I think not. Reports over many years from the famine areas of China and India have shown that human beings may be ground and beaten down by economic pressure to levels inconceivably lower than accepted living standards and still survive on roots, bark, leaves, insects and rodents. I think the abstracter will survive. Of course, the drought has been hard on vegetation, but grasshoppers and locusts are plentiful.

The abstract, and therefore the abstracter, is an essential and indispensable part of title protection. But the abstracter, if he is to preserve his independence and improve his economic status, must revitalize his mental processes and must modernize his product and selling methods.

Is the title examiner destined to be eliminated? Yes and no. It is not so much a question of elimination as change of status. The title examiner who is employed by life insurance companies or other large lending institutions to read abstracts will cease to function in that capacity almost as rapidly as title insurance facilities are made available in abstract territory, for the very simple but effective reasons that the executive head and the counsel of the mortgage departments regard their investment funds as held in a fiduciary capacity, to be protected by every reasonable safeguard and secondly, that they cannot justify to their directors or stockholders the continued burden of detail and expense when title insurance will eliminate the detail and afford complete protection, without cost to the institution. The title examiners so displaced will probably be transferred to other legal duties or find employment with title companies.

In many states, notably in the South Atlantic area, the title attorney functions in the dual capacity of abstracter and title examiner, basing his certificate of title upon examination of the

court records. Such attorneys, as are able to establish a title insurance connection, will continue to function with increased prosperity until the burden of examination due to increased lands transfers, makes this system impractical and leads to the establishment of abstract companies.

In those states where the abstract built by an abstracter from an abstract plant is examined by an attorney engaged in the general practice of law, the situation is very difficult. It seems deplorable that there should be further curtailment of the field of activities of the legal profession which has already suffered such encroachments by corporate invasion. But the present system is inefficient and uneconomic. The work of the independent examiner will gradually be taken over by salaried examiners employed by abstract companies. The process will be slow because the abstract companies are dependent in large measure upon the attorneys for business and because the public is not informed that complete title protection at no greater cost could be afforded under a more efficient system.

May I inject a Strange Interlude?

This association must enlarge its vision or diminish its membership. The association is sorely in need of increased financial support. It is imperatively essential to the security, sound development and prosperity of the title business that its association should be adequately financed. Will that increased support be forthcoming until its policies are more definitely established; its purposes more distinctly enunciated and its objectives more clearly understood? Is this association an eleemosynary institution to collect funds from a prosperous group to improve the economic status of a less fortunate group? Is its purpose to vainly seek to perpetuate archaic and obsolete methods in face of the rising tide of demand for modern service and protection? Has it as an objective the establishment of a defensive alliance in favor of a privileged group by stimulating artificial barriers to legitimate competition?

The great body of the membership of this association is motivated by sincere and generous purposes to improve the status of *all* its constituent elements.

When this association, with broadened vision, projects a program, wherein the abstracter, examiner and title insurance man may, in unison of purpose and concert of action, move forward to a definite objective with equal opportunities and mutual advantages, then liberal financial support is most certainly assured.

Such a program probably must look towards the enlargement of the scope and functions of the abstract company and its alliance with a title insurance company which will afford insurance facilities without the insuperable burden of earning returns on the capital required to insure titles. The abstract company will not only make abstracts, but also examine the titles and issue the policies of its affiliated title insurance company. New sources of revenue will be opened to the abstract company through compensation for acquisition of title insurance, through handling settlements in escrow and through abstract business originated by the title insurance company through its contacts with the large users of title insurance.

Personally, I visualize regional title insurance companies, maintaining regional escrow, survey and appraisal departments, and offering, through affiliated abstract companies, the complete service which will advance us towards the goal desired by all title men—ready fluidity or negotiability and marketability of real estate and mortgage securities.

Whether the vision ever materializes or not, there can be no doubt that the changes taking place in other business sound a warning we may not safely continue to ignore.

These changes are so intimately interwoven with our daily life that they cannot have escaped observation but some of us have eyes and see not, ears and hear not.

Remember when you used to hire the little bay pacer and the shiny side bar buggy on Sunday afternoons to take your girl out riding. You remember the livery stable keeper spoke harshly and disparagingly of the advent of the automobile. Where is he today? Running a Saunders U-Drive-It, hiring Fords to one armed morons. Where is the grocer who used to send sixteen blocks to deliver a loaf of bread and a can of salmon and who extended credit with such serene

optimism. He was certain no foreign chain store could take away his trade. Well, where do *you* buy your groceries—provided you have the cash?

Why, you would hardly know the old town. What's become of the theatre where we used to sit in the peanut gallery and hiss our favorite villain? It's one of a chain of movie palaces owned by a New York corporation. What became of the actors and vaudeville artists? They are playing talkies in Los Angeles or running Tom Thumb courses. What became of the musicians? Oh, they are selling radios. What are these magnificent, glittering, stucco Taj Mahals which adorn the approaches to our exclusive residential district. Palaces of some of our local sultans? Hardly—the names have a foreign sound! Texaco, Conoco, Amoco, Socony.

What has become of the old time tobacconist who obligingly stocked our favorite smoking tobacco and expatiated lovingly on the merits of a clouded amber bit. He is senior clerk on duty at the red-front United Cigar store which marks the center of pedestrian traffic.

What has become of the old-time pharmacy, with its urns of red and blue and green as window ornaments? Why, it's a combination soda-fountain, lunch counter, notions store and beauty parlor. Does the old pharmacist own this handsome emporium of trade? He does not. He didn't have the gumption to modernize his business. He is a drug-clerk in a cubby hole on the rear mezzanine. The store is owned by a Chicago syndicate, which doesn't even know the name of the town but identifies the store as No. 1473.

Can you think of any commodity or service which is a part of your daily life which has not experienced vital changes within the past twenty years? What do these changes signify? The title business cannot remain static. It must modernize its operation, its product and its marketing methods. If we have not vision we surely perish, but if we have the vision to forecast changing conditions and the intelligence to interpret the operation of economic laws under such changed conditions and the courage to back our vision and interpretation, then surely we shall be rewarded with corn in abundance, dry or liquid measure.

CHAIRMAN O'MELVENY: Gentlemen, will the nominating committee now retire and get their work done? I am going to call for their report at this meeting before adjournment for luncheon. I do not blame you for

wanting to hear Laurie Smith's address. It was very wonderful and has only served to endear him more to us. The next address on the program is entitled "Uniformity and Standardization in Title Insurance Policies" and

is to be given by one of our very good friends. I am pleased to introduce Mr. John R. Umsted, Vice President, Continental Equitable Title & Trust Co., of Philadelphia, Pennsylvania.

Uniformity and Standardization in Title Insurance Policies

JOHN R. UMSTED

There is one great advantage of being at the bottom of a program. There has been somebody else who has presented most of the things you were going to talk about, thereby relieving you of a lot of trouble and time.

The address we have just listened to is so replete with logic, good sound advice, pictures of existing conditions, and just priceless humor, that those of us who might have come here with a critical attitude could be nothing but converts after hearing that address. I have been in the beneficial position of just sitting along the side lines and hearing all these wonderful things. I am reminded of that very humane line once spoken by Bobby Burns, which is the best thing I know for a critical mind.

"O, for God the gift to gae us
To see ourselves as ithers see us."

That has been shown to us pretty thoroughly during this meeting. There were a few speeches that have made us turn around and look at ourselves. The addresses made by Richard Hall, James E. Rhodes, McCune Gill and Laurie Smith's have put us to thinking. We need counsellors to come to our defense so we may make some answer to the charges of inefficiency which have been hurled at us and to the charges that progress is not being made. The large delegation sent to this convention from all over the country is the answer to the latter charge. Pennsylvania cities sent thirty-one individuals to this convention. Pennsylvania, the creator of title insurance, and these men have come here for no other purpose than to learn and get new ideas, just to go back home and better their service. There is no doubt that we are making progress. This sort of convention could not go on year after year unless we were. It has been suggested that we, as a body, should put up \$100,000.00 a year. And for what? What protection would we get? It is for the ultimate purpose of protection. But, for real protection, we must have something to give that is just a little bit better than our competitors. Our sale must be based on superiority, it must be backed up by the fact that we have something just a little bit better than our competitors. Have we? Do we give better titles than can be obtained under Torrens? Do we? I will try to answer. Sure—we do. We are going to spend \$100,000.00 and we are going to have protection that we will be proud of. But, cannot it be said,

"Torrens Certificate is good protection?" What is a Torrens Certificate? I will attempt to tell you. It amounts to a registered title to property to be able to make it liquid, the same as a certificate of stock, bond or a bank note. It is true that we cannot do that with a policy of title insurance and we do not pretend to do it. Title insurance amounts to a property examination made by a title company and guaranteed by them, which is, in other words, an examination by a title company and a guarantee of indemnity, protecting the man who buys a home and wants to live in it.

He wants to raise his children in that home and on down the line. The man whose father had lived in the house for thirty years could not be talked into selling the place at any price. He does not need liquid possession. All he needs and wants is a guarantee that he has a secure possession of his property. He wants a title policy behind it and wants to know that we will stand behind our product. Because it is more difficult to collect losses Torrens certificates are not acceptable in all quarters. There are reasons other than that, too, but they are widely recognized in a great many places as making your real estate more liquid.

Now, as I see it, that is the talking point for title insurance. Make your policy so acceptable, that real estate will become a real liquid asset. First we must aim at some uniformity. And, may I ask, how we are going to get uniformity or obtain even a shade of it when we have such differences in every locality. In one community we have this need and another that need, but we could reach some sort of uniformity. Marketability is insured in some states and not in others; possession is insured in some states and is not in others. We find assessments excepted in some states and not in others; accuracy of description and too many things to mention, which tend to disrupt any kind of uniformity. Many forms of policies have been presented and we thought we had arrived at a fair state of uniformity for a mortgagee's policy. It seems, however, from Mr. Rhodes' and other speeches that in some states we are using "LIC" form and in some "ATA" form and in others we are using neither. If you would take the trouble to study those forms you will find there is not much real difference in them when you get down to the situation of public concern. Personally, I would take any of the forms as

studied by the association if I were buying property. They all aim to give you indemnity against any loss which you may sustain by reason of your title not being what the title company reports it to be. What more do you want? Moral assurance accompanies that; a careful examination behind it made by the best title minds and lawyers and they guarantee you that you are safe in your possession of that property.

I believe that it has been said that money should not be wasted on indefinite policies and practices, but, I believe in the officers of this association who are enabled to make the expenditures of the money of the association, spending a goodly portion of it on working on an agreement of uniformity, both as to policy and practice. It has been worked on for some years and still we have not reached the degree of perfection we would want. This thing cannot be done in a day. The country cannot be educated in a year. It is going to take a long time; we all realize that. There are some sections of the country who are more or less uniform in their insurance and they have come here to this fountain of knowledge to learn how it is handled in other states. These men have been ready and willing to lend a helping hand to all others in the business who are struggling for uniformity. They have worked out problems and know the answer to them. The problems come from all over the country. They are not the same in every place. I think it would help the cause very much if the officers in charge of uniformity would study these problems as they arise and refer them to the community which has had the same problem and settled it. The one who has had the experience usually can furnish the answer to the problem at hand.

I see that I am off my track all together and having abandoned my subject have said just what has come to my mind. I had wanted to say a few words about marketability. Marketability has been a very mooted question in all title insurance sections. Personally, I never could see the value of it. I do not know what anybody expects in the way of insurance of marketability. A man who makes a bad bargain in buying a piece of real estate and wants to get out of it takes his contract to a clever lawyer and asks him, "can you find a flaw to let me out?" The lawyer looks over it and usually finds something. That would make the title unmarketable and then the fellow

would not have to live up to the bargain. But the lawyer won't say that you are subjected to financial risk in taking this title. Where, therefore, is the benefit of companies insuring against unmarketability? I cannot see where it means very much, other than insuring against a possibility without any liability of claims or encumbrances, liquid in some kind of money form. There is no more reason to insure against unmarketability than a fire insurance company insuring against inflammability. They insure against loss by reason of the building burning but they do not insure you against the fact that the building is inflammable. I hope that before the matter of marketability is definitely put into a uniform policy that it is given serious thought.

Mechanic's liens is another feature of a uniform policy which is going to be hard to work out. In those states where it is a statutory part of the law that mechanic's liens be filed, of course mechanic's liens can be insured against without undue risk. In those states where there is no provision made for filing them the title companies do not care to take the risk and you cannot blame them. There is no reason for it if you make it an integral part of the contract itself, when you are in the position of not being able to insure against them with reasonable safety.

If they are to be excepted however, I think they should be placed in the policy as a regular exception. The fine print exceptions many times gives protection to the title company, but

hides defects from the customer. I think a mechanic's lien protective clause should be called to the attention of the customer so he can make things safe for himself. If there is one it should appear in the bottom of the policy and the exception placed under schedule "B" should be immediately called to the customer's attention.

I think that we should simplify our forms as much as possible, broaden our coverage as far as possible and have uniform fixed products that we can offer the public and something that they will understand and be pleased with. Give them a policy of title insurance that is insurance. The security of title insurance with the definite policy, definite protection and definite practices behind that policy.

We have proven in the State of Pennsylvania that the public likes it. We are the only state in the United States that has neither abstracts or certificates. The smaller towns are taking up title insurance and it is a very workable, very satisfactory situation. And, what's more, the customer is satisfied, for he does not come back with complaints and all losses are promptly met. That is another thing we should watch. Our losses should always be met. A paid loss does more to create good will for our business than anything else.

I feel, that we of the American Title Association should, everyone of us, interest ourselves in this matter of a definite form of policy, definite form of contract and definite practices under that contract. But, can we do it? I think we can and the officers

of this association should dedicate themselves to the service of providing just that at the earliest possible day over the entire country so that when you are asked by your neighbor to give him the definition of the title insurance furnished by the American Title Association you won't feel like a ship without a rudder.

Before closing I want to pay my tribute to the wonderful hospitality that this hostess city of Richmond has shown to us. I came from Philadelphia, the city which created title insurance, into this wonderful city of Richmond, so rich in hospitality and historical loveliness. They have retained their personal rights in this city, too. They do not allow encroachments and unwise interference and voice their disapproval to the extent that every bath room in this hotel contains a cork screw. (laughter) I wish the city of Richmond God Speed. I have a very great warmth in my heart for this city for it gave me my wife, who is a native daughter, and I love it for that. A wonderful reception has been accorded many in this city and they have kept up their reputation with their reception to us. I thank you.

CHAIRMAN O'MELVENY: Mr. Henley will lead the discussion on "Equipment Conditional Sales Contracts." I take pleasure in turning the floor over to Mr. Benj. J. Henley, Executive Vice President of the California Pacific Title and Trust Company, San Francisco.

Equipment Conditional Sales Contracts

BY BENJ. J. HENLEY

I believe that the "Equipment Conditional Sales Contract" is a subject which can be discussed very well in an open forum meeting and I want all of you to freely participate in this discussion. Mr. Laurie Smith has pictured very graphically and clearly the trend of modern business and with most of those things of the business with which we are familiar. This conditional sales contract matter is practically new to most of us. It is a product of the more modern age. Now, one of the most recent factors along this line is the "Pee Wee Golf Course." That is a brand new factor in the equipment situation and one which automatically associates itself with title business, and title insurance. Especially with leasehold insurance. We have learned a great deal about this particular situation in only a few months, for their growth has been very rapid. They have sprung up all over vacant lots and on top of theaters and

buildings everywhere. Since the new era of conditional sales contracts there are thousands of places where you can buy equipment at \$1.00 down and \$1.00 a week. It presents a problem to the title company covering these features. We find now instead of buying an article outright, which goes to make up our daily living and contributes so much to our happiness, that most everything is bought in this manner. Business houses are equipped to handle such transactions on a real business basis.

When an apartment house is constructed the contractor or builder purchases many of the most important elements upon the conditional contract basis. You probably have never thought of it, but the fire escapes of such buildings are often bought on this plan, the electric fixtures, refrigeration and almost anything that is an actual necessity. In most states, I believe, those contracts are not re-

quired to be recorded. In some states they do have to be recorded to give constructive notice of their existence. These contracts are so worded that the property does not pass title to the purchaser until paid for. We find then an article which actually goes to make up a property upon which you are writing title which has not been paid for and will not be for months, or maybe years. Title is still vested in the seller. Because of the difficulties that have arisen and the losses that have been incurred, we are now asked to write title insurance covering these contracts and insuring against loss arising from these contracts.

There have been some cases in San Francisco where we have been requested to insure title to personal property. A great deal of the fixtures going into a house are classed as personal property, yet when they are fastened or affixed to the property, there is a question. Are they personal

or real? I think it is an important factor of the new demands in the title business and I think that we should discuss it thoroughly and so far as possible instruct our membership upon the methods which should be followed for those cases requiring that protection be given for this type of risk. If we are to consider seriously the challenge Mr. Smith has flung at the title profession in his address this morning we must meet and provide some protection for these contracts. The question is—what are we going to do about it?

The practice California has as to the issuance of "ATA" form of policy without any exceptions to possible conditional sales contracts is not entirely satisfactory to us as to the extent of the risk we are taking. These articles have become a part of the buildings themselves. Trade fixtures and wall beds and things removable, without definite injury to the building itself may not be classed as such, but articles which cannot be removed without actual injury to the property cannot be classed as personal property any longer.

When we are closing an escrow we make a careful search and investigation of these contracts to determine what portion of the building has been purchased under such contracts. When the building is an apartment house we usually find that the wall beds, fire escapes, etc., have been purchased under such contracts and the title has been retained by the seller. I am going to ask some of you to tell us your custom. Mr. Wyckoff, what do you do in New Jersey?

E. C. WYCKOFF: It is my belief, and our practice, that as long as the conditional contract of sale contains the right of removal and retains title in the seller we cannot easily guarantee against such a risk. All of our courts have held that old rule good which says the fixtures are determined to be personalty or realty by their availability of removal. It has been aired by almost every kind of conditional sales agreement covering every sort of fixture. On the other hand we feel that we owe some service along this line to our client. They depend on us, or the title companies, for service and we make examination of the records and report conditions just as we find them. We feel that under the laws of our state we have no right to guarantee title to that property if it is covered by conditional sales contracts. The best we can do is to report the condition to our client.

In the mortgage end of our business we protect ourselves in our mortgage as best we can. We guarantee the mortgagee, which in reality is the title company. We have inserted into the mortgage itself a declaration made by the owner which covers a good part of this feature. All of our mortgage applications make the condition that the owner shall purchase nothing on conditional bill of sale. In those ways we have tried to force out the danger

of conditional sales. In our section of the country it is really dangerous. Electric lights and fixtures and things of that nature have been removed. We are endeavoring to protect the buyers of our mortgages as to the danger of this element but we are not as yet attempting to insure the owner against this.

CHAIRMAN HENLEY: Mr. Stoney, could you give us something more on California?

PRESIDENT STONEY: I cannot see that we are very safe in insuring against loss by reason of them. It seems to me that it is one of those things to receive some attention from legislation. There are a growing number of people vitally interested in these conditional sales contracts and it is something we need to take action on. I have been terrified more than once, but have not gone into it deeply.

CHAIRMAN HENLEY: Mr. Getman, will you tell us what your company does in New York?

ANSON GETMAN: In New York we have an act which classifies personalty and segregates it from fixtures which are realty. Therefore, we have a fairly satisfactory condition, for we are at least covered by an act of the state legislature telling us what is and what is not personalty. They are divided up into three classifications. The first and second classes are subjects of conditional bills of sale that become realty when installed. These articles are those which are not removable readily. The third class is not the subject of conditional bills of sale as

realty, but remains personalty. In that class falls such articles as gas stoves and articles which are simply blocked in and can be removed without actual injury to the property. These contracts are recorded and indexed against the property and can be easily found when a search is being made. We have not made a practice of insuring against personalty in any case and make exceptions in the policies of any conditional sales contract which has been indexed as personalty. This last winter there has been an amendment to the conditional sales act. This was occasioned by the complication of realty and personalty covered in the way I mentioned. Courts in the last two years have rendered many decisions. It has not been worked out to the entire satisfaction of all concerned.

CHAIRMAN HENLEY: In New York, Mr. Getman, when the contract is recorded does the purchaser take the property without reservation on this point? What if it is not recorded?

ANSON GETMAN: The seller must record his contract or he is out. The mortgagee is protected against any unrecorded contracts.

CHAIRMAN HENLEY: That is a little different situation than prevails in most states. In California it is not necessary for the seller to record his contract. The purchaser receives the real estate subject to the rights reserved in the contract whether it is recorded or not. When the property which is the subject of the conditional sales contract becomes a part of the real estate the Supreme Court has not clearly construed the subject of whether or not the right is reserved. Mr. Daly, will you tell us about Oregon?

WALTER DALY: Contracts in Oregon are not recorded but are filed under a special act. Our copyists take them off and they are posted to our books if the description is given. It is not compulsory that the description be given and many times they could be missed. For instance, when a refrigeration machine is sold the salesman signs the contract and puts in the general location of the property, corners, streets and roads. But there is no way that the property can be located in many cases. The law should be amended, at least to the points of showing the legal description. We do not insure against them.

ANSON GETMAN: New York law protects not only as to description, but as to the owner. The conditional sales contract salesman must not only ascertain the name of the legal owner, but also the legal description.

McCUNE GILL: I think that purchase money mortgages are used more generally than conditional sales contracts. They are just as effective and a great deal more satisfactory from a title standpoint. We have had an acute situation and have met it by assuring ourselves that we were pretty safe after all. We have an inspection chart which must be filled out by our



BENJ. J. HENLEY
Elected Chairman, Title Insurance
Section 1931

inspector and after it is filled out we accept it, even if there is nothing of record. The purchase money mortgage idea seems to me should be urged in the place of conditional sales contracts where it can be done. The whole thing can be worked out by proper indexing, of course, after the laws are so worded to require recording.

CHAIRMAN HENLEY: Is there anyone else?

HARRY M. PASCHAL: Mr. Chairman, we have had considerable experience with conditional sales contracts in Georgia. I know of one case recently where the seller went onto the premises and tore out the sprinkler system when the purchaser failed to pay for it. When we are making an examination of the property on which an apartment house is being built, has been or is to be built, we will without request make examination of the chattel mortgage records. The contracts of conditional bills of sale must be recorded in Georgia to constitute notice. The description is shown and they are indexed against real property records as well as under the chattel mortgages. We had a case not long ago in which a furnace was torn out of a building. There has been no decision in our courts as to whether or not it could be done, but it is being done. We have a pretty serious situation staring us in the face and I think some very serious thought should be given the subject.

E. C. WYCKOFF: I would like to say that up until recently when an amendment of our mechanic's lien law went into effect, the seller had the right of the lien or the right to re-

move the goods. But, now he must take his choice, either the right of lien or the right to remove the goods, but not both. His choice is put right in the conditional bill of sale.

CHAIRMAN HENLEY: Is there any more discussion? If not I will declare the discussion closed. Thank you, Mr. Henley. We will now have the report of the nominating committee. Mr. Rice, will you give your report, please?

Report of Nominating Committee Title Insurance Section

KENNETH E. RICE: Mr. Chairman and members of the American Title Association, the nominating committee wishes to report that we have chosen the following gentlemen as the officers of the Title Insurance Section. Benjamin J. Henley, Chairman.....

.....San Francisco, California
Leo S. Werner, Vice chairman.....

.....Toledo, Ohio
James E. Sheridan, Secretary.....

.....Detroit, Michigan

EXECUTIVE COMMITTEE

Wm. H. McNeal, New York City, N. Y.
E. B. Southworth, Minneapolis, Minn.
John R. Umsted, Philadelphia, Penn.
Wellington E. Barto, Camden, New Jersey.

H. Laurie Smith, Richmond, Virginia.

CHAIRMAN O'MELVENY: You have heard the reading of the report of the nominating committee for the title insurance section. What is your pleasure?

HENRY R. ROBINS: I move that we accept the report of the nominating committee and instruct the secretary to cast a unanimous ballot for the nominees.

HARRY C. BARE: I second the motion.

CHAIRMAN O'MELVENY: The motion has been made that we accept the report of the nominating committee and the secretary be instructed to cast a unanimous ballot for the nominees. There has been a second. All in favor signify by saying aye. All opposed by saying no. It is unanimously carried and so ordered.

The meeting is adjourned for luncheon in the auditorium and we will reconvene here at 2:30 this afternoon to resume our work.

(Whereupon the meeting adjourned at 12:00 o'clock.)

PRESIDENT STONEY: I am going to turn the meeting over to your vice president, Ed Lindow.

MR. LINDOW: The next order of business is the subject which was to be presented for discussion on Friday morning. We have a very full day on Friday and thought it would be advisable to have the discussion on "Full Coverage Policies" at this time. There are so many points of vital interest to all of us concerning these full coverage policies that we concluded they should be discussed the first day so some of the matters coming up might be thrashed out during the convention. Mr. Charlton L. Hall of Seattle, Washington, will lead the discussion and I take pleasure in introducing Mr. Hall.

Full Coverage Policies

LED BY CHARLTON L. HALL

CHARLTON L. HALL: This is to be in the form of an open forum meeting to discuss forms of insurance, and particularly full coverage forms and to find out whether or not we are all issuing them, and if so, under what conditions. As you all know, we have had various forms of policies. We all have our printed schedule "B", have issued our policies and sold them with this exception. Some of our customers objected to this printed schedule "B". These customers were largely those who were not near our office and most of them the large life insurance companies lending money on mortgages through agents over the country. These life insurance companies made demands for a more iron-clad form of policy and one was developed. It is commonly known as the "L. I. C." form, or the "Life Insurance Company" form. In most cases where title

insurance is written, I believe, we have been giving the life insurance companies this particular form of insurance in accordance with their demands. In our company we are still using it and have not taken up the new "ATA" form. I would like to explain the reason for it before we start this open forum meeting.

In our state we are subject to strict supervision by the insurance commissioner. Our rate schedule is also subject to regulation by the commissioner and we are not to deviate from the schedule as filed with him until a corrected one has been filed and the insurance commissioner's office has approved it. The mortgage rate is lower than the purchaser's rate and we are 'stuck' on the "ATA" form until we can work it out with the Commissioner. The second reason is that we do not believe that title to the fee simple

should be shown when only the mortgagee is being insured. It may be construed to mean that the owner of the fee is being covered by this form of policy, when in reality he is not.

Those are the principle reasons why we do not issue the "ATA" form of policy in the State of Washington.

BEN HENLEY: Charlton, I think you are wrong on your theory about the vesting of title in the fee holder. The policy merely shows the owner, it does not insure him.

CHARLTON HALL: I know, Ben, he is not insured. However, it does vest the title as of the day of the issuance of the policy. The "LIC" form does not do that and our company prefers it. We are afraid it might be used by the purchaser in place of a purchaser's policy, which would come at a higher rate.

BEN HENLEY: I fail to see where

a purchaser could use it to any advantage. It does not show the subordinate liens. To my mind it could not be entirely relied upon as showing anything except the superiority of the lien being insured.

CHARLTON HALL: You probably are right, but as I said before, we must file our schedule with the insurance commissioner and are not permitted to deviate from it until the new schedule is approved.

In order to issue protection against parties in possession of mechanics' liens our company takes a bond from the loan agent. However, this is done when the firm is responsible and we feel fairly certain of its stability. They also furnish us with a map made by a surveyor, showing locations of buildings on the property and they also guarantee us that the parties in possession have no interest in the property other than as a tenant from month to month, or whatever it is, and have no claim whatsoever. As to mechanics' liens, they guarantee us that the building will be completed, all the bills paid and no mechanics' lien filed, and if so they will pay them. We take this bond from the local loan agent and insure the property for the mortgagee. We do not practice this in all localities over Washington, for we are pretty particular who we take these bonds from.

I am going to call on different representatives from other states so you can hear what they are doing elsewhere. First I will ask Mr. Henley, from San Francisco, to tell us how they do it there.

BEN HENLEY: I should like to say first that we issue the "ATA" form and not the "LIC" form where we can avoid issuing the "LIC", in spite of the fact the "ATA" contains the vesting and the "LIC" does not.

In our procedure we do not require a bond, but do require all the knowledge that is contained in the bond, or which the bonding company would necessarily have to have before issuing the bond. We get all these facts ourselves. We insist upon a survey in every case and it must not only show the boundary lines of the property, but all the improvements. We have a form of inspector's report which is designed to obtain all the information necessary to take care of parties in possession and mechanics' liens. Our own inspector goes out to the property and investigates these matters. It might be desirable to point out to you that in California mechanics' liens are prior to any lien which might become a matter of record, if the delivery of the materials is made, or the work done on the property, prior to the recordation of the lien instrument.

Our inspection report has been very carefully considered and it contains all the information we need to insure against mechanics' liens or parties in possession, if it is properly filled out. One of the features is: The inspector ascertains from the parties in possession the name of the owner of the

property as they view the situation. Also, that they state their interest in the property. By those two questions the parties in possession show whether they have any adverse claim to the property. If the property is an apartment house the inspector uses his own judgment. It usually is impractical and totally unnecessary to interview every tenant. The report requires that all work under construction be shown, also, any paving, curb, gutter or work of that nature, is to be noted. If the property is unimproved, that is to say, in cases where the policy is being written to cover a construction loan and the property is just a vacant lot, the report must indicate whether or not any material has been placed on the property. This is vitally necessary, for if there has been the material man's lien is ahead of the mortgage or trust deed, whichever the case might be. I think those are the outstanding features of the investigation we make on the ground. If there are any building restrictions the inspector obtains a copy of those restrictions. In the "ATA" policy we ignore zoning ordinances.

Our premium for the issuance of this form of policy is increased 20% of the regular owner's fee. To briefly state what our rates are and how we arrive at this full coverage policy fee, I will say that we have an owners premium and a continuation premium, the latter of which is in effect a mortgagee or beneficiary premium, applying only in the event the one making the application for the continuation pre-

mium has had a policy insuring the owner for the full value of the property, unless it is in connection with an encumbrance and we are insuring the new encumbrance holder only. This rate is, in effect, a mortgagee's and beneficiary's rate and is one half of the regular owner's rate. Therefore, if we were issuing an "ATA" for \$10,000.00, and the owner wanted no insurance, the charge would be \$65.00, plus \$13.00, which is the 20%, and if the property is already insured it would be one-half of \$65.00, or \$32.50, plus the additional premium. There is a minimum of \$10.00 for this additional full coverage premium.

I think that, in a general way, covers the subject as to the way we handle it in San Francisco.

CHARLTON HALL: Mr. Sheridan, will you give us an idea of the procedure in Detroit?

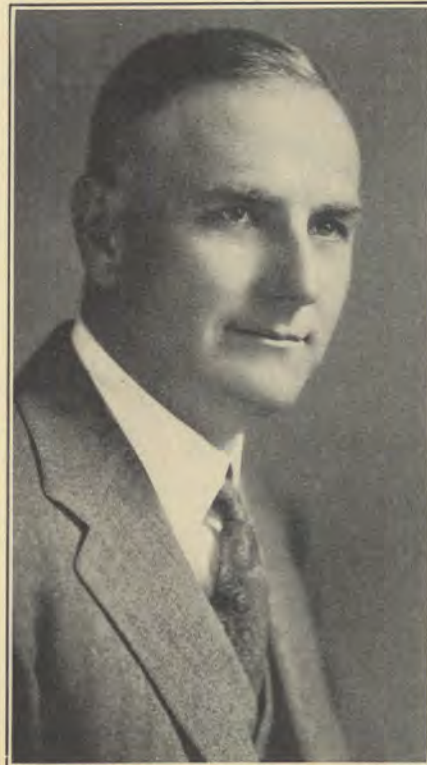
JAMES SHERIDAN: We are giving everybody the "ATA" form of policy. Our procedure is almost identically the same as that outlined by Mr. Henley as being used in San Francisco. We differ in one instance; we have furnished with the survey two photographs of the buildings. We do not rely entirely upon the judgment of the field inspector. Our rates are, in the final analysis, about the same, except we go at it in the inverse order.

We issue a regular owner's policy, insuring the property for its full value with the improvements, then we endorse on the owner's that it is subject to a certain mortgage policy, setting out the number. We issue this form of policy to them for an amount less than we would if no mortgage policy had been issued.

We have not used the "LIC" form since the "ATA" form was adopted. As I see the point raised by Mr. Hall, I do not think it could be vital, or our committee would not have endorsed the form. I am a salesman and I want to say this to the association. I think there is not one thing in the world as hard to sell as it is to sell a big company title insurance. I have in mind a big life insurance company. It is one awful job to try to tell them what all the various forms stand for let alone sell it to them, and I know the adoption of a standard full coverage policy form will be a big step towards popularizing and increasing the use of title insurance.

CHARLTON HALL: I wonder if our former President Wyckoff would tell us how he handles the "LIC" or the "ATA" forms of policy.

ED. C. WYCKOFF: Before I get into the discussion I would like to say that we do not issue the "LIC". The "ATA" form was adopted by the American Title Association and they requested that we use it. I did not even think about issuing the "LIC" form after that. To me, it was the uniform policy of this association and we have issued it since its adoption. We have found that it is acceptable wherever the "LIC" form was accepted. All that we have had to do when we get an order for a "LIC"



CHARLTON L. HALL

General Manager, Washington Title Insurance Co., Seattle

policy is to substitute the "ATA" and send it on. I felt that the adoption of the "ATA" form avoided the necessity of using anything else. When we drew up this form it was with the aid of the big life insurance company attorneys and we adopted it on the basis they would accept it in all cases. I was not aware they had gone back on this agreement. I do not think you will find they have if you just substitute the "ATA" policy when a "LIC" is mentioned.

In our company we had used the same form of policy for forty years. It was a combination policy, either a mortgagee's or owner's, with the conditions taking care of the situation whenever it was a mortgagee's policy. When the American Title Association adopted this uniform loan policy, out of respect to this association we have discarded the form that had served us so many years and have used nothing but the "ATA" form for every life insurance order that has come to us.

As far as we are concerned, it is not necessary that we take any extra bonds. We have not had to take any extra precautions in issuing this form. We gather together the facts just as we always have and they are passed upon in the regular way. It has put no additional burden upon us. We have always made a survey and inspection and I do not believe we face any greater hazard issuing the "ATA" policy than our regular form.

CHARLTON HALL: Mr. Henley, while I think of it I want to ask you if you would issue an "ATA" policy to a purchaser, insuring him, provided he paid the additional premium.

BEN HENLEY: We have in some cases issued such a policy, but we would not do it where we were not thoroughly acquainted with the facts and knew the party to be responsible. It could not be done as a practical matter.

HENRY J. FEHRMAN: Speaking from a life insurance company standpoint, may I say that we accept either the "LIC" or the "ATA" form, but the "ATA" policy is always preferred.

CHARLTON HALL: Mr. McNeal, would you please tell us what you do in New York City?

W. H. McNEAL: Speaking from the viewpoint of the New York Title and Mortgage Company, we operate on the same basis, practically, as the other large title companies of New York City. We have a combination form of policy which covers both the fee and the mortgage. That form of policy has been in effect for a long time and is recognized by all the companies as the regular form of policy used in what we call Greater New York. Our National Title Insurance Division has not given up the use of the "LIC" form. Our main reason for this is that before the adoption of the "ATA" form the "LIC" form was in wide circulation and we have not seen fit to change it at the present time. We feel that there is resistance enough right now without agitating it with another form of insurance.

I agree that most of the large life

insurance companies have approved the "ATA" form and accept it wherever it is given to them but, along with our hesitancy to introduce anything new at this time, we have looked at the expense side of the matter. It is another item in the operating expense which, we did not consider, should be worked out at this time.

From a standpoint of price we write title insurance and the title service is rendered through the local institutions over the country. Those institutions are agents, or smaller title companies, who need underwriting, or co-insurance, or re-insurance, and agents who are mere abstract companies. We charge so much as our fee, per thousand, and what they get over and above that is none of our affair. What we charge is based upon what we believe to be an adequate and just fee. We underwrite for \$2.50 per thousand on owner's policies up to \$25,000.00. For the next \$25,000.00 it is \$2.00 per thousand and anything above \$50,000.00 is \$1.50 per thousand. For the mortgage rate we charge \$1.75 per thousand for the first \$50,000.00 and for each additional thousand, \$1.25. Those prices are uniform throughout the country and are varied only when title insurance is written as re-insurance, or co-insurance where the title companies working in conjunction with us are willing to share part of the burden of risk. When we take an order for insurance covering property in California, or say Michigan, or any other state in the Union, we, as far as possible, handle that order through the local people, with the understanding that we are to get our \$1.75 or \$2.50 per thousand, and they are to make such charges as are needed in their community. We have no way to determine what the title insurance is going to cost our client until we have ascertained from the company we are working with what their charge is going to be.

So far, working on this basis, we have met with a large degree of cooperation from the local companies. We have also enjoyed being able to give our client what he wishes. I know of no complaints which are made, or can be made, in reference to the rates. For it is the service which our clients have requested and demanded.

CHARLTON HALL: Thank you, Mr. McNeal. I believe the time has come when all the remote communities need title insurance and title insurance service should be provided some way. We are trying, in our small way, to establish this service in the State of Washington where it is not already provided or there are not adequate companies in those counties. Mr. McNeal, does not your mortgage rate contemplate the issuance of the "LIC" policy?

W. H. McNEAL: It is always the same as we have it. We have seen no reason for its being decreased or increased, except as I said, in cases where the local company is willing to share the hazard.

CHARLTON HALL: What protection do you get against mechanic's

liens, parties in possession, or other encroachments?

W. H. McNEAL: Through our application we determine who is the owner, who is in possession and whether tenants or owners and whether they have a right to possession. We require a survey on all property that we insure, except on what is known as residential property, or regular "Lot and Block" property, unless there are some restrictions and then we require a survey on that property the same as others. Of course, we cover ourselves under Schedule "B" and if the client does not want facts that would be disclosed by a survey excepted in schedule "B" we make a survey, regardless of what kind of property is involved. We have definite instructions regarding mechanic's liens which we ask to be carried out. If the building is not completed at the time the policy is requested and the mechanic's lien period has not expired, we require a completion bond to be issued by a surety company.

CHARLTON HALL: We should like to hear from Wave Waggoner about the way they do it in Los Angeles.

WAVERLY WAGGONER: In Los Angeles and the surrounding southern counties we have what is known as two rates, the owner's and beneficiary's or mortgagee's. The first being used where we insure the owner and the latter where the holder of the encumbrance is insured. The "ATA" policy is issued altogether by our company where a loan policy is issued. There is a 25% additional fee charged for this policy, which includes the inspection. If our inspector reports no overlaps or adverse features we issue the policy without a survey. However, if a survey is necessary we make an additional charge for it. When the loan is what we term a "construction loan" there is a 75% additional fee made. This form of policy insures against mechanic's liens and carries an extra hazard. Our inspector goes onto the property the morning the deed of trust or mortgage is filed and makes a thorough inspection to see that no material has been placed on the property, or no work done which would be a lien against the property. Any work done after the deed of trust or mortgage is placed on record naturally is subsequent to the recording and creates a subordinate lien which cannot effect the first encumbrance and we do not worry about that.

CHARLTON HALL: Mr. Whitsett, how is it done in Tennessee?

J. M. WHITSETT: I reckon we do about the same as the rest of them. We issue the "ATA" policy in every case possible. If the building is completed we take signed releases from everybody who has done any work at all on the construction of the building. When it is not completed we require a completion bond, which insures us against any claims. Like most of you, we make an inspection of the property.

CHARLTON HALL: Mr. Gill, could you add something to this discussion?
McCUNE GILL: Mr. Chairman, I

could add this. We proceed upon one theory only and this is it. First, we give the customer what he wants and then we charge him what we want. We are convinced that most of them do not know what they want, but we are willing to give it to them if they are willing to pay for it. That goes especially for attorneys. You could give them a choice of twenty or thirty forms and they would change them all.

Since the "ATA" has come into effect we sell "ATA" policies only. It doesn't make any difference what they ask for they get the "ATA". They may pretend they are not satisfied, but show me many people who know the difference. In our particular community we are only doing a small percentage of title insurance business. We do record insurance, largely a certificate of title business. That puts us in the worst possible class of thieves and highbinders as far as the public is concerned. You know what I think about this business, I think all of us are engaged in obtaining money under false pretenses. We are high class confidence men until we find a way someday to issue title insurance that will be title insurance and have absolutely no conditions in it at all. None of you can sincerely deny that the insurance we issue now is not insurance at all. The word is a mis-nomer. Granting that there are extra-hazardous instances where there is a chance of loss, I think that we will not ever be totally welcome by the public until we have dropped all the conditions and stipulations that relieve us of responsibility. We should insure against everything and protect ourselves in any way we feel necessary, but insure against them and charge commensurately. All the public knows, generally, is that they are buying a piece of property, or are loaning some money on property and they want to know that their investment is safe. Nine times out of ten when we give them the policy and they walk out of the office they never look at it again and they rest in the assurance that they are insured. Then when something happens they get the policy and come into your office to see what you are going to do about it. You start rummaging through the conditions and stipulations to show them where you are not responsible in that particular case and inform them they are not insured against it. Is it a wonder they have no confidence in us?

I think we can give complete insurance and protect ourselves in various ways. You know that in almost every case we can determine the property lines without a survey, and in those doubtful cases a survey could be made. If there is something we are afraid of we could require surety bonds. The matter of zoning could be easily handled. Real title insurance is the ultimate goal and it is up to us to hedge around ourselves complete protection, but give the customer insurance and not a mere fake, and charge what is necessary to make some money.

Getting back to the "ATA" policy form I would like to say that I have

heard numerous people at this convention say that they do not get orders for the "ATA" form, but continue to get "LIC" requests from the life insurance companies. I think that is because these companies have prepared a form letter for ordering title insurance and have never changed the "LIC" to "ATA". When one of those letters comes into our office we just enter the order for an "ATA" and let it go at that. We have never had any comebacks on it yet.

CHARLTON HALL: Thank you, Mr. Gill. Walter Daly, what can you say for Oregon?

WALTER DALY: We have a peculiar situation in Portland as to mechanic's liens. We issue the "ATA" form of policy for many of the companies lending money in our part of the country. The peculiar situation as to mechanic's liens in our state is that all repairs or subsequent liens for the upkeep of the property, take precedence over the mortgage on the property. That applies to buildings, but not to the land. When we issue the "ATA" we do not know how long we may be subject to trouble, for repairs done five or ten years after the mortgage is placed on the property takes precedence over it. We issue the "ATA", however, for the life insurance and mortgage companies in our community and charge them more money for it. We are aware that most of our trouble is in poor legislation and we are going to try and correct this mechanic's lien situation. It is a hazardous thing when a lien which is incurred years and years after your lien can take precedence over yours.

VOICE: You had better get busy with your legislature, Walter.

WALTER DALY: I agree with you.

CHARLTON HALL: I know that I have not called on all of you gentlemen, but I should like to have volunteers.

ERNEST M. WEAVER: I suggest that the legislative committee of the American Title Association get busy and improve some of these laws.

CHARLTON HALL: Your suggestion is well taken. Is there anyone else?

S. A. MAYO: We differ somewhat from Oregon. Mr. Daly said the liens applied to the building, only, and not the land. We would lose the house and land both in Louisiana on mechanic's liens that might come five or ten years after the mortgage. It would be a very difficult thing for us to insure against mechanic's liens.

CHARLTON HALL: That is a bad situation, too. Is there anyone further who would like to discuss the matter?

JOHN R. UMSTED: Mr. Hall and gentlemen: Pennsylvania comes before you with clean hands and pure heart. We cover everything. Adverse possession, mechanic's liens, encroachments and all such matters. We write insurance that is insurance. We call for a survey before issuing the policy and if there should be a loss from something we did not insure against by reason of getting out under the printed con-

ditions and it turned into a substantial loss, we would make good in Pennsylvania.

I think our Pennsylvania policies are more comprehensive than any of the policies before the public. We include unmarketability of title. This form was adopted by our Pennsylvania association and differs very little from the "ATA" form. We do not think of the "ATA" as differing very much from the "LIC". To my mind they are practically the same policy, with the exception that was brought up at the beginning of this discussion, and that is, the "ATA" vests title and the "LIC" does not. But so long as the owner in fee simple is not insured in either of them, I fail to see where that makes any difference.

Our rate schedules are apparently better than in most other places. We get $\frac{1}{2}$ of one per cent for owners and $\frac{1}{4}$ of one per cent for mortgagees. Owner insurance ends with the party named in the policy as the owner and the party insured. Mortgagee insurance carries on down through the assignees and insures the holder of that mortgage, regardless of how many intervening holders there may have been.

We believe when we give a policy to our customers, they can be assured that it is conceived to protect them and if they have a loss we are ready to stand back of it.

CHARLTON HALL: Our time is running a little short and before we take up too much time among ourselves I would like to call on Mr. James E. Rhodes, of the Travelers Insurance Company, Hartford, Connecticut, who is an old friend of ours, to give us his version from the standpoint of the insurance companies.

JAMES E. RHODES: I want to say that the discussion has been very interesting and what has interested me most has been the remarks of Mr. Gill, for they coincide, exactly, with my ideas regarding title insurance. I do not view title insurance like some of you, not from the standpoint of how many phrases might be added to it, or how many words inserted that would offer a way out of difficulty, but from the standpoint of how good a service can be rendered to the large users of this commodity. Particularly do I view this situation from the standpoint of the large life insurance companies and you all know that they are for better and better insurance to cover their loans. I have had the honor to be associated for a quarter of a century with the life insurance business in some capacity or other, so naturally I would be able to see the situation from their viewpoint. We are now entrusted with the responsibility of taking care of \$120,000,000.00, so if you want me to qualify for the expression of an opinion regarding what the life insurance company needs in insurance to protect this money, I shall request that you accept that statement as my credentials.

If my remarks may seem desultory to you, you will know that was because I was taken entirely unawares.

I have made no preparation for any speech. I want to say, however, that I am going to approach and have approached title insurance from the standpoint of a person whose business in life has been spent in other lines of underwriting and in connection with the administration of claim affairs and general affairs of the largest multiple line of the world. In approaching the study of title insurance, and I have been studying the subject for several years, one of the first things I started in to do was to attempt to classify title insurance in the underwriting family, for I stand distinctly for title insurance as insurance. You can call it "Guarantee," "Certificate of Title," or anything else, but what we life insurance men want is the protection of an insurance policy, whether it is labelled insurance or not. All we ask is that you provide a real insur-

ance service for the protection of our investments.

I want to say right here that the life insurance companies will never require the impossible. I was interested in what Walter Daly said about the situation in Oregon. I want to say to him that in my honest opinion no life insurance company or any other user of title insurance, can, in all fairness ask Oregon, or any other state where that situation exists, to insure against future mechanic's liens. I know that my company and any company with which I am familiar would waive the right to be insured for such a lien and would only require that no liens were in existence at the time the policy is written. It would be no fairer for the life insurance companies to ask you to cover future mechanic's liens than it would be to ask you to insure against future taxes, or street improvements.

My experience with you has been very pleasant and I believe you are in position to render a full and complete service to your customers. I know you are working toward a real policy of title insurance and the sooner it covers every possible angle the better we insurance companies will be pleased. We are handling other people's money and must be careful that any investment we make is fully covered by insurance.

CHARLTON HALL: Thank you, Mr. Rhodes. We appreciated your talk. The meeting will now adjourn.

AFTERNOON

CHAIRMAN O'MELVENY: The next address on the program is to be given by Mr. W. H. McNeal, Vice President of the New York Title and Mortgage Company, New York City.

Ever Present Opportunity

WM. H. McNEAL

If by appearing on the program of this Convention I can assist in sending you home with some feeling of encouragement to pursue with renewed determination the tasks with which you daily strive, I shall consider it a great privilege. I meditated long in developing a title suited to the theme of my remarks as I had outlined them in thought and, by searching through the material at hand, I found that someone more perspicacious than I had developed the title for me and wrote at some length in a recent issue of the Christian Science Monitor under the heading "Ever Present Opportunity." The subject was so well handled that I adopted the title, and I wish to quote therefrom briefly as follows:

"One of the commonest beliefs entertained by mankind pertaining to success is that opportunity is limited. A common saying is that opportunity knocks at the door but once. Shakespeare, modifying the thought slightly, puts these words into the mouth of Brutus:

'There is a tide in the affairs of men,
Which, taken at the flood, leads on to
fortune;

Omitted, all the voyage of their life
Is bound in shallows and in miseries.'

"Through their acceptance of this limiting belief, millions of persons live in a state of fear that they have lost their opportunity. As a result of accepting the conclusion that the golden occasion has slipped by, in numerous instances they have gone down to failure. Furthermore, they may have re-

garded as foolish and visionary idealists, deliberately evading or ignorant of the supposedly stubborn facts of daily experience, those who have

dared to challenge this strongly entrenched superstition."

Success seems to presuppose as a prerequisite the availability of and contact with opportunity. Shakespeare, speaking in the language of the sea, compared the flow of the affairs of life to the run of the tide which we all know is continuous and unflinching. Many of us, reading Shakespeare's lines, have construed them to mean that there is but one propitious moment in which to launch our bark, and failing, we are bound forever "in shallows and in miseries." The drydocks of human lassitude are filled with the wreckage of unrealized hopes only because of our failure to sense the ever-flowing tide of opportunity which, if cognized in its onward roll, would lead us on to fortune.

Opportunity is not a thing to be possessed or handled, to be bestowed or taken surreptitiously; it is rather a state of mind which prepares men to realize and grasp the good which is ever available to one ready to break up the smooth continuity of existence that he may grasp the broad, more comprehensive ideals which lie at the very foundation of moral or material success.

An analysis of the belief of lost opportunity will show conclusively that it is the selfish man or woman who suffers most from it. In fact, the sincere desire to serve is a complete and effective remedy for the disease for, through the open door of service, opportunity continually stalks.

Who here can trace the degree of success to which he has attained, to



WILLIAM H. McNEAL
Vice President, New York Title
& Mortgage Co.

one great and encompassing opportunity which either overwhelmed him or which he luckily embraced as it passed his way? Who here cannot trace his success to the ever ready impulse to serve, or his failure, to the lack of it? By viewing service in the perspective we can prepare ourselves far in advance for the receipt of those emoluments which will come to us clothed in the habiliments of opportunity. Therefore the opportunity which is ever present is the opportunity to serve—not as a hireling or slave, but in the interest and welfare of one's business and of society in general, doing that which is in the line of progress or for the common good.

The great industrialists envisioning the awakening of Europe are preparing far in advance to serve a people awaiting the coming of a new age. Financiers are preparing for a new era which is being brought about by the establishment of international good will and understanding. Countless millions are spent in the development of new ideas which when moulded into realities are regarded by the on-looker as opportunities springing from thin air. As a matter of fact, they result from forward looking and forward thinking, born of a broad conception of helpfulness and good will to one's fellow man.

It is for us, in our own line of business, to envision the future and prepare for what is before us. The opportunities that come to us will result from what we plan, and how we plan. Ground swells develop into breakers only by the action of beach or storm. Were it not for the resistance of earth or wind, they would roll calmly on with measured pace forever. We must make our opportunities by stirring ourselves out of the lethargy of time-worn customs and practices, and by keeping abreast of advancing thought. Shall we, as titlemen, stand quiescent while our trade or profession is hacked about and undermined by those who have progressed beyond our time-honored customs and are clamoring for modern practices? The leaders in the real estate fraternity who are agitating a new system of title registration are not convinced that such new system will meet their every need, but they do know that a change is long past due and they have seen little effort on our part to bring about reform. I, for one, am not afraid of the Torrens System. It is a part of the statute law of several of our states, but it has never thrived where there has been a broad-gauged unselfish title service furnished by private effort. If we as titlemen are too selfish, too arrogant, too shortsighted, too ignoble in our attitude toward our customers or competitors, and if we are too self-satisfied within ourselves to see our errors, then we should make room for the march of progress lest it over-run us and trample us to earth.

I chanced upon a poem recently entitled "Four Men at Table" which depicts the attitude which keeps many

of us within our shell of self-righteousness. It reads:

"It chanced upon a winter's night,
safe sheltered from the weather,
The board was spread for only one,
yet four men dined together.

There sat the man I meant to be, in
glory spurred and bootied,
And close beside him to the right, the
man I am reputed.

The man I think myself to be, a seat
was occupying

Hard by the man I really am, to hold
his own was trying.

And though beneath one roof we met,
None called his fellow brother,
No sign of recognition passed—They
knew not one another."

We are living in an age of progress, an age of cooperative effort, if you please. Some will say it is rather an age of politic and economic upheaval. Even so, the result will be the same. The strife in which the peoples of the world seem to be engaging is not a selfish strife, but one in which each person, each community, each nation is engaged for the betterment of the whole. The efforts of a people to better their condition cannot be stifled and, though these efforts may assume fantastic forms, they will resolve themselves into sane ideas and lift the structure of society to a higher level. The United States, with troubles enough we sometimes think to sink her into oblivion, is in fact the inspiration which fires the peasant of other lands with hope, and the thinkers of the old world with ambitions to emulate her form of government. Thought need not run riot to visualize the day when the European peasantry will be on the plane of our American farmers; foreign labor will earn the equivalent of the American wage, and capital and industry will vie with us for supremacy; tariff walls will be obliterated from both sides of the Atlantic and world trade will be narrowed down to an interchange of commodities which cannot be supplied by respective home industry.

Adverting to the subject pertinent to this gathering, let us for a moment look in retrospect to what the financial and industrial conditions of this country were twenty-five years ago. Had we gone to sleep then and awakened now, would we recognize it as the same country? Most assuredly not! Let us look at it in retrospect from a title standpoint. Up until five years ago we would have awakened to the same old abstracts, the same old title plants, the same old style of lawyers' opinions and the same old titles only longer and more complicated, and above all the same old lack of service. Can we blame a progressive public for going Torrens-minded, legislation-minded, or even absent-minded on title subjects?

We have made some progress during the past five years in the development of service and protection to the public, but we have yet so far to go that it is pitiable to contemplate the day when the public can get what it wants and what it is entitled to by way of service

and security. During this period the public mind will ferment, turn Torrens, conjure up legislation, convulse and revolt, but if titlemen are true to their trust, steadfast in their determination to perfect their business to a point where *Service* is the watchword, they will have won the public confidence, completely overhauled the title business, and established themselves on a new foundation.

I am but one of many who have given thought to this problem. I do not know that such radical ideas as I am going to express here today have been advanced but I do know that they have not been put into effect except in one community to a limited degree.

In our business we should not permit ourselves to think from day to day. We should carry our basic thinking ten years in advance of our daily work and build to a future goal. Are we, as individuals and as an association of titlemen, going to develop a business which will command the confidence and respect of our several communities—a business designed to serve the public in a scientific manner and as a gainful occupation, or will we be satisfied, as in the past, to be parties to a disorganized, disjointed, haphazard, so-called profession? The public, except in a few communities, has not known the benefits of an organized title service. How can we expect it to be satisfied, and why should we expect it to do otherwise than as an unsatisfied public will do—look to the Government to set up machinery to ameliorate the ills that it suffers. When private enterprise fails in its efforts to fill a need or when it abuses the privilege of serving, there is always a cry for governmental relief, and in the title business that cry finds expression in a growing demand for the Torrens system.

If it were not the Torrens system, it would be some other system entirely foreign to our interests because we have not pointed the way. The Torrens System will not fill the needs and demands of the public. Once it is installed, politics draws its mantle tightly about it and uses it as a reward for party loyalty and from then on it becomes the spoil of the victor. It is no more designed to give service than is any other political arm of local government. In the very nature of its operation, being political, it could not act as trustee or escrowee for the transfer of funds. It could not contract or be contracted with in private transactions. It could not act as closer of deals because, being a public servant, it could not be by law clothed with such authority. Its scope cannot include jurisdiction over federal records nor those of municipalities. It is strictly a land registration system and is impotent to render comprehensive service. As stated, I do not fear the Torrens System, but what I do fear is that we will fail to put our house in order in time to forestall the wrath of the public.

What shall we do to put our house

in order? The title business has always been manacled by duplication of work. It is carried on without system, without coordination, and most certainly without cooperation among those engaged in it. Jealousies prevail among the craft, fear keeps operating costs up because competitors will not cooperate, and in some instances within my knowledge rates for abstracts and title work are cut below operating costs in the hope that competitors will be frozen out.

Title information comes from a common source. Where there are two or more companies, partnerships, or individuals operating in any given county, they each maintain court house crews, each maintain title plants and, although the personnel of each operator is competent, neither will accredit the work of the other, fearing that dynamite has been planted. Often each knocks the other. In the last analysis the business of each is dependent upon the character of service rendered and the integrity and individuality of the executive staff. Is the general public interested in who does the court house work? Not at all. Then why not consolidate the various court house groups into one unit for the joint service of all? Maintain one title plant under joint ownership. Reduce office space to the needs of the executive force. Conserve supplies, plant management, clerical force, and storage.

To further detail my plan, I recommend that wherever there are two or more operators in a given zone, and this will apply to so-called attorney states where two or more firms of attorneys do the title work of the community, a cooperative movement be inaugurated to eliminate duplication of work, waste of material, and burdensome overhead, through the formation of a corporation with appropriate powers, the stock of which to be owned by the several individual companies or units doing the same character of business and who look to the same common source for their title information. Let the initial allocation of stock and the initial subscription to working capital be apportioned according to the number of orders booked by each member unit over a given period. Select out of the group of court house men a competent staff whose work is dependable, and install them as employees of the new corporation, with a manager responsible to the officers for producing the work at the least expense and as well for the correctness of the work turned out. Instead of maintaining the plant in expensive space on Main Street, it could be housed in cheaper quarters, yet with quick access by 'phone and messenger. The various units now being owners in common of an enterprise which is to be the sole source of title information, the plants of the various units should be housed under the same roof for convenient access in the common cause, only one of which should be added to and kept up to date. Such company should establish a schedule of rates to be charged stockholding companies only

—rates for abstracts, rates for title reports, rates for tax searches, judgment, federal court, and lien searches and a charge for special service so that each unit would have the exact character of service desired and would support the organization in proportion to the benefits received.

Thus instead of two or more companies maintaining two or more complete organizations, they would develop greater efficiency of service by concentration of effort, conserving manpower, eliminating court house congestion, plant expense, and incidentally make it harder for competition to gain a foothold.

Such an organization, well manned and well managed, would be an ideal one to perform all of the duties incident to a county recorder's office. The alert abstract or title plant is the first to deal with an instrument after it is filed. The photostatic process, which is now recognized as giving permanent record, the instrument could be reproduced in duplicate, one for the county and one for the title plant. Indexing and binding such copies for the county would be simple for the title expert. County records could be laid upon the shelves of the recorder more accurate and at less cost to the county than is now done, and here again duplication of work would be eliminated to the benefit of both public and private interests.

Some will say that this is visionary and impossible, but I contend that nothing in the line of progress and economy is impossible, and the public can be educated to demand more efficiency and less politics in the conduct of its business if we who have the knowledge will set up the necessary machinery.

In one city of the United States the initial program of this plan has actually been accomplished. There were nine title companies each operating individual organizations. They pooled their interests and centralized the search work in one plant. Today when any one of the nine companies gets an order for a title, it refers the inquiry to the central plant from which comes a title report as good or perhaps more accurate than it would have produced through its own force. Is it necessary to produce figures to prove that the aggregate of operations are produced more economically under this plan than they were produced under the old system of multiple forces?

Such a plan would put the title business on a new basis. Be your business abstracts or title insurance, this form of economy will work. You will have, in the main, better looking business offices and you will be on better terms with your competitors. You can establish real service for the real estate man, the lender, and the banker. They like service and don't you forget it. Make your office headquarters for the closing of deals, be equipped with title reports, familiarize yourselves with title requirements

and with the provisions of the contract of purchase and sale so as to be a real factor in bringing about a meeting of minds. Train your customers to use your facilities, and if your facilities are adequate and your service has a smile in it, the Torrens officials will grow long beards while waiting for business.

And last, but not least, it is necessary to work. Opportunity may be ever present but inertia successfully hides it. Believe it or not, business conditions throughout our fair land are distressed. Those of our customers who are able to continue business operations are on a tension and as never before they want service.

The old brand is not good enough. They have to work harder for what they get and they want quick returns; therefore it is up to us to put muscle and brains behind our work—make it snappy and above all efficient.

Let me close with a colloquy which expresses my thought in this regard:

Said the little red rooster, "Gosh all hemlock, things are tough,
Seems that worms are getting scarcer,
and I cannot find enough,
What's become of all those fat ones
is a mystery to me;
There were thousands through that
rainy spell—but now where can
they be?"

The old black hen who heard him
didn't grumble or complain,
She had gone through lots of dry
spells, and lived through floods of
rain.

So she flew up on the grindstone, and
she gave her claws a whet,
As she said, "I've never seen the time
when there wasn't worms to get."

The rooster vainly spent the day,
through habit by the ways
Where fat round worms had passed in
squads back in the rainy days,
When nightfall found him supperless,
he growled in accents rough,
"I'm hungry as a fowl can be. Con-
ditions sure are tough."

He turned then to the old black hen
and said, "It's worse with you,
For you're not only hungry but you
must be tired, too."

I rested while I watched for worms,
so I feel fairly perk;
But how are you? Without worms
too? And after all that work?"

The old black hen hopped to her perch
and dropped her eyes to sleep

And murmured in a drowsy tone,
"Young man, hear this and weep,
I'm full of worms and happy, for I've
dined both long and well,
The worms are there as always—but I
had to dig like hell."

CHAIRMAN O'MELVENY: We enjoyed your address, Mr. McNeal, thank you. I am going to turn the meeting over to our good friend, Elwood C. Smith, Chairman of the Title Examiners Section who will conduct the balance of the program.

Title Examiners Session

CHAIRMAN SMITH: I would appreciate it if Mr. McGune Gill and Mr. Andrew M. Sea would come up here and sit beside me. They are the other offi-

cers of this section and have worked equally as hard in the work accomplished. Mr. Gill and Mr. Sea, will you please come up? (Whereupon Mr. Gill

and Mr. Sea came forward and took chairs by Chairman Smith.)

Address of Chairman

ELWOOD C. SMITH

Gentlemen, one of my duties when I am at home is to preside over the Probate Court, the court of the dead. My experience during the past year rather leads me to fear that I have almost had the same experience as Chairman of the Title Examiner's Section. I am not attempting to copy our friend, Jim Johns, in making that statement, because I know I could not successfully do that and neither do I mean to give offense to the members of this section. I do feel, however, that at least one member should have had a subject which he wished discussed and asked us to have it presented on the program of this section.

The newspapers of the nation have contained many articles about the somewhat recent amendments to the laws of New York which will materially aid in making real property a more liquid asset and simplify the sale thereof. One of these changes in the law is of outstanding importance, to not only the title examiners, but to the entire title profession. This amendment was the work of our valued member, Mr. Henry R. Chittick, of the Lawyer's Title and Mortgage Company of New York City, one of the leading title experts of the United States. The American Title Association and the New York State Title Association were highly honored by the selection of Mr. Chittick as a member of a commission selected by the Governor to investigate and recommend as to the advisability of a revision of the real property law, the personal property law, the decedent estate law and the other statutes of the State of New York as the Commission may deem advisable for the purpose of modernizing and simplifying the law relating to estates and the systems of descent and distribution of property, the advisability of establishing a unified system for the devolution of real and personal property and to prepare proposed legislation for such purpose.

This commission consisted of four of our surrogates, several prominent

lawyers and others of similar standing. The commission performed a notable work and, in my opinion, the best thing they did was to write into the laws of the State of New York the section drafted by Mr. Chittick, which reads as follows: "DECEDENT ESTATE LAW."

"Statutory power to take possession, mortgage or lease real property in absence of valid power in will for such purposes; when construed and how exercised. 1. Notwithstanding the absence of a valid power therein, every will of a person dying after August thirty-first, nineteen hundred and

thirty, shall be construed to give to the executor of trustee, who has duly qualified, the power to take possession, collect the rents, and manage, and to sell, mortgage or lease, all of the real property, and any interest in any real property, owned by the decedent at the time of his death, and such power may be exercised by the executor or executors, or by any administrator with the will annexed or by a successor or substituted trustee. 2. Such power to take possession, collect rent, and manage, and to sell, mortgage or lease, shall not be exercised however: (a) where the will expressly prohibits the exercise thereof; (b) or as to such real property as the will expressly provides shall not be sold, mortgaged or leased; (c) and shall not be deemed to include such real property as has been specifically devised to any one person not under disability at the time the sale, mortgage or lease takes effect, or to any one corporation capable of taking the same: (d) except that the power to take possession, collect the rents, and manage, and to sell, mortgage or lease, may be exercised, in the case of property devised and within subdivisions a, b, and c of this subsection, where such power is necessary for the payment of administration expenses, funeral expenses, debts or transfer of estate tax, upon approval by the surrogate pursuant to the provisions of article thirteen of the surrogate's court act."

Title examiners and title men in New York will no longer be met with troublesome writs which contain no power of sale or which contain a provision purporting to be a power of sale but which may or may not be valid. Every state in the union could well write that notable piece of legislation in its statutes and it did seem to me that title examiners throughout the entire country would seek information in regard to this.

We are having a worthwhile convention here this year and absent members will read the proceedings



ELWOOD C. SMITH
Chairman, Title Examiners Section,
1930, Elected Member Executive
Committee, 1931.

with great interest and benefit. I sincerely hope that every officer and employee of every title and abstract company and every abstractor and title examiner will carefully read the paper presented by Mr. Waldo C. Hodgdon yesterday, because it is a clear and concise chart of the course to be pursued in furnishing evidence of title to all mortgagees. I expect to see to it that a copy reaches all of the title examiners in our company and readers, and may even hand copies to our legal advisory committee.

In conclusion, I venture to express the hope that the financial program of this association will be extended from time to time and the budget increased so that we may be in a position to present various perplexing legal problems to some competent real estate lawyer retained by the association for that purpose.

We were to have two papers for presentation today. The first: "Who Owns the Streets?" to be presented by Mr. Guy M. Woods, Associate Solicitor of the City of St. Louis, who is unable to be here, so we will have to forego the pleasure of hearing the address. The second: "Dangers of Title Insurance After Foreclosure," will be presented by our own legal authority, Mr. McCune Gill, vice president of the Title Insurance Corporation of St. Louis, and Vice-chairman of this section.

I do not know who owns the streets in St. Louis and now may never know, but I did find out that the local automobile drivers own the streets in Baltimore and Washington while driving down to this meeting. We are sorry you are not to learn who owns the streets and will be compelled to worry along keeping one eye to the right for drivers who are in a hurry for at least

another year. The subject is an interesting one and we trust that Mr. Woods can be induced to present his paper at some future meeting.

I am going to appoint the nominating committee for the title examiner's section at this time and I want them to retire immediately as they are to present their report at this session. I will appoint Mr. Henry Fehrman of New York City and Mark M. Brewer of Oklahoma and Mr. O. I. Rove of Milwaukee.

It gives me great pleasure at this time to introduce our Vice-Chairman, if it can be said he needed introduction, Mr. McCune Gill, vice president of the Title Insurance Company of St. Louis, who will address you on the "Dangers of Title Insurance After Foreclosure."

Dangers of Title Insurance After Foreclosure

McCUNE GILL

When I came to Richmond I knew that I would find many things here to interest me, or any set title examiner. This city is known for its antiques and if an examiner of titles isn't an antique, pray tell what is. One of the obliging local title men took me around and showed me many things of interest. I saw more things of historical value than I have ever seen before. We went to the interesting recorder's office and the state library where there are one million documents of very great historical value and also in the recorder's office and at this library one may see the wonderful work they are doing to preserve these rare old documents by binding them between transparent sheets of Japanese silk. While there I was told of the private life of some of these historical characters. I was told how the Revolutionary War started; it was caused by that lawyer and title man, Patrick Henry, because he refused to put stamps on deeds. I can figure that out to a point of understanding, for I know just how he feels about it, or rather felt about it.

Now, getting down to the Dangers of Title Insurance After Foreclosure. Fashions do change. Even fashions in titles. Just now Foreclosure Titles are quite the thing. In fact they have been very popular since last spring. And all up-to-date minute examiners must learn about the new styles. Most of our mortgage policies contain clauses automatically converting the coverage into an owners' policy after foreclosure. This means that an examiner must be just as careful in passing defects for mortgage policies as for any other.

One frequently hears the remark that a certain hazard can be passed because there is not so great a chance of loss on a mortgage policy. This is true to a certain extent. There is always the equity holder who must defend and

lose before your payout begins and so the hazard (and the charge) are less. But when foreclosure takes place, your protector is gone. The accuracy of your examination is put to the test. The examination of titles for mortgage policies should always be as thorough as for owner's policies. The form of this automatic conversion clause should be carefully watched. If there is any personal element in determining those whom we will insure, the conversion should go no farther than the original obligee. But if, as some contend, the "fire bug" element does not apply to our kind of insurance, that is, if there is no greater risk in insuring one owner than another, then, of course, we can safely allow the policy to run on indefinitely, or at least to the heirs of the note-holder, as some companies do.

One effect of the foreclosure conversion clause is important, practically rather than legally. This clause tends to make further examination and the charges therefore unnecessary. It might be well to insist that the conversion to an owner's policy will take place only after examination to date, disclosing no additional hazard, but carrying a slight honorarium.

So much for policies issued before foreclosure. Now let us consider new policies to be issued where the title has just been derived through foreclosure. Here we find a decided increase in both moral and legal hazard. The increase in moral hazard is rather obvious. When an owner voluntarily sells his property he doesn't often seek to get it back; nor does he go about searching for possible defects; and if he did, courts would look un-



McCUNE GILL
Elected Chairman Title Examiners
Section, 1931

favorably on his claim. But, when property is taken away from an owner, contrary to his volition, as in a foreclosure, the situation is reversed. He often tries to recover it; he and his attorneys are earnestly seeking flaws in the proceedings, and the courts are anxious to listen to even the most far fetched excuses for setting aside the sale. The increase in the legal hazard following a foreclosure is also a factor that we examiners must not overlook. All of the proceedings, whether an exercise of a power of sale, or a suit in equity, must be scanned with the greatest care. An actual default must be established. All possible owners or lienors, whose interests are to be cut out, must be parties. In most States this includes remaindermen, and in some even creditors, not to mention hundreds, sometimes of junior note holders. If unknown or absent persons are served by publication, the hazard increases greatly. For courts seem happiest when defeating substituted service. Waiting periods must be observed and the sale conducted with meticulous care as to statutory or case law details. Time for appeal and rehearing must be guarded against and actions for fraud sensed in advance. And we must continually remember that the odds are against us, and not in our favor, as they usually are.

Foreclosure during receivership or bankruptcy should be based upon a consent of the receivership or bankruptcy court. At least this is the rule in many jurisdictions. Bond issue sales without the consent of all the bond holders are particularly dangerous because of the fact that one set of bondholders not infrequently tries to freeze out the others, with a resultant trail of litigation. Participation or debenture issues are especially dangerous. Junior encumbrances, that are "rubbed out" by the foreclosure, not infrequently revive if the title gets back into an interested party or prior owner.

The validity of the mortgage itself

is, of course, the prime importance. Thus, corporate mortgages call for iron clad resolutions by directors and even stockholders. Church and club issues are particularly dangerous because of factional dissensions. We passed a mortgage on a Greek Church once, and three separate sets of officers were discovered, other than the ones who signed our mortgage. Each claimed that theirs was the only real thing and loudly called on the Metropolitan or Greek Pope to sustain them.

Mortgage by foreign corporations that are junior to local debts or where the corporation is not locally licensed, mortgages to foreign trustees or to interested trustees that cannot sell, usurious mortgages, extended mortgages, and mortgages barred by limitation, present many problems when we must pass title through their foreclosure.

Homestead foreclosures are a problem unto themselves. One of our clients tried to foreclose a vacant lot in another state and found that the owner had been parking a few automobiles thereon. So it was his business homestead and the mortgage and its foreclosure were void. Other states have similar problems. A joint mortgage of husband and wife is customarily necessary. Hence if she wasn't his wife, which sometimes happens in these modern days, you have a total loss, and not merely a dower, to face. And even the slightest defect in an acknowledgment may be fatal in homestead cases, although comparatively innocuous in mortgages on non homestead property.

So you see, the changing styles bring new zest to the life of the title examiner and his company. And the present fashion of foreclosure gives us something more to think about, and to guard against.

CHAIRMAN SMITH: I am sure you all will agree with me that Mr. Gill's

address has been beneficial to us, very beneficial. The next in order is the report of the nominating committee. Mr. Fehrman will you please give that report at this time?

Report of Nominating Committee

Title Examiners Section

HENRY FEHRMAN: Mr. Chairman, and members of the American Title Association, the members of the nominating committee have considered the names very carefully and have nominated the following officers for the title insurance section of the American Title Association:

McCune Gill, Chairman, St. Louis, Missouri.

Harry M. Paschal, Vice Chairman, Atlanta, Ga.

Paul W. Gordon, Secretary, Springfield, Illinois.

EXECUTIVE COMMITTEE

C. S. Hale, St. Louis, Missouri.

Andrew M. Sea, Jr., Louisville, Kentucky.

O. D. Roats, Springfield, Massachusetts.

Wm. Byrnes, Philadelphia, Pennsylvania.

Ed F. Dougherty, Omaha, Nebraska.

CHAIRMAN SMITH: I would like to hear an expression from the members regarding this report.

ED. C. WYCKOFF: I move that we instruct the secretary to cast a unanimous ballot for names contained in the report and the nominations be closed.

WM. F. NEWTON: I second the motion.

CHAIRMAN SMITH: You have heard the motion and the second. Those in favor of this motion signify by the usual voting sign, aye. Those opposed, no. (There were no dissenting votes and the nominees were declared elected.) It is so ordered.

(The meeting adjourned at 4:30 p. m.)



TITLE INSURANCE OPEN FORUM

Friday, October 10, 1930

CHAIRMAN O'MELVENY: Gentlemen, it is quite a bit after 9:30. Please come to order so we may get down to business. Before we start with the regular program I want to announce that the executive committee has decided that the mid-winter meeting will be held in Chicago, February 6th and 7th. We also appointed a committee at the executive meeting this morn-

ing to study the Mechanics' Lien laws with a view of making a report at the mid-winter meeting.

Is there any unfinished business to be taken up before the regular program starts? If there is not we will go right on. I didn't see how there could be after the various sessions held all over the hotel last night. (Laughter.)

The first order of business this morning was to hear a report, or rather have a discussion, on "A Title Underwriters Board." That discussion was to be led by Mr. Waverly P. Waggoner, President, Security Title Insurance and Guarantee Company, Los Angeles, California. Mr. Waggoner has left the convention and asked Ben Henley to lead this discussion.

Title Underwriters Boards

Led by **BENJ. J. HENLEY**

BENJ. J. HENLEY: I attended my first meeting of the executive committee this morning. My first impression was that they are all pretty good at passing the buck. The very first thing when I got in there I met Waverly. He hurriedly rushed up to me and said, "Here you take this paper and read it for me this morning, I have to go in a hurry and cannot possibly be there." If this is a sample of the executive committee I see I have to learn some new tricks.

First, I should like to explain that there are two boards of Title Insurance Underwriters in California. One in the northern part of the state and one in the southern. The South includes all of the territory south of of the Tehachapi range of mountains and the North everything north of this range. The state of California seems to be divided that way in the minds of everyone. From the standpoint of persons living in San Francisco and around San Francisco Bay, Northern California is all of that property north of the Tehachapi range of mountains. To people living in Los Angeles, the whole state of California is Southern California. (Laughter.)

The Northern California board of title underwriters has been functioning for many years, but the Southern California board has just been going about a year. They have fourteen or sixteen counties under the schedule. I am going to read a portion of the articles of their board so you may see the construction. The articles of the northern board are very similar.

Now, I am going to read you the few remarks Mr. Waggoner has put down to start this discussion with.

"My apology for not at least attempting to prepare an interesting

paper is that I did not know I was on the program until after arriving at Richmond, and then did not wish to miss the sessions in order to make the attempt.

As this assignment is to lead a discussion, it would appear to be only necessary for the leader to make a few remarks, start a discussion and then sit back. We proceed on that theory.

The term "Board of Title Underwriters" seems to suggest reinsurance, however, if reinsurance is a function of any such board, its operation will have to be explained in the discussion by some one familiar with it.

The purpose and objects of our own board can be best explained by reading certain articles from its Constitution.

ARTICLE 2

Purpose

The functions of the Association shall be:

To promote the mutual interests of the member companies and the public.

The encouragement of improved methods in the handling of title problems.

The study of ways and means to increase the sphere of usefulness of title companies.

To aim to eliminate chances of misunderstanding between its members or between any member and its customers.

To study and devise ways and means of educating the employees of title companies and of promoting their general welfare and happiness.

To aid and assist in the development of this state and its political subdivisions.

To assist in securing the passage of only such legislation as will promote

the interests of our citizens, giving special attention to laws that have for their purpose the protection of rights in real property.

To study, devise and put into execution such practices as would promise to furnish the most equitable working basis in our dealings with the public.

To improve, simplify and make more uniform the manner of examining titles and the forms in which evidences of title shall be written, and strive to reduce the costs of operation to make possible the establishment of the most equitable scale of rates to be charged.

To offer rewards for the detections and convictions of persons guilty of forging title instruments, falsifying the public records or perpetrating frauds in connection with real estate transactions or the title business.

Through the Board, the member companies are now using uniform policy, preliminary report, and mechanic lien endorsement forms as well as several miscellaneous report forms, all at uniform prices. Much of our procedure has been standardized and more uniform practices are being adopted at each meeting.

The Board is justifying itself and I believe the public, as well as the member companies, are more satisfied with the title business than they were before its organization, to say that it has met with no opposition from the public and has operated 100% for its members would of course be untrue, however, I feel perfectly safe in saying that there are fewer "discontents" among our clients now than formerly and while misunderstandings have arisen between member companies they have all been openly discussed and adjustments made that strengthened the tie which holds such an organization together.

The success of any Board lies of course with its member companies. If every one strives to comply with the spirit of the Constitution in the application of the Board's rules, success is assured. If on the other hand any member attempts to so interpret rules as to gain an advantage over its competitor members, the Board will be a failure or at least only a partial success.

In all lines, certain outside interests will, for their own personal gain, unfairly use one competitor against another, usually to the material disadvantage of all competing companies. It is my belief that one of the greatest advantages of a Board, is that when clients make statements, based on fancy or on half truths, indicating that a competitor company is willing to do something you have refused to do, the matter can be openly discussed with the competitor company and if agreement is not so reached, referred to the Board where a ruling may be made that is usually fair both to client and companies. The client while he may be a little annoyed because he could not name his own price or because he could not bluff some company into passing a title which he knew was at least questionable, nevertheless has a much higher regard for the title business. He feels that where we agree we must be right, while if we disagree, that none of us know and accordingly he will decide for us.

From our experience I think that a Board properly organized and operated is a fine thing for everyone.

Mr. Henley has much more experience in Board operation than I. It would be most interesting to hear from him.

MR. HENLEY: The idea of a board of title underwriters originated in New York City. When I attended my first meeting of the American Title Association I was vitally interested in a board of title underwriters for California and asked the executive secretary about it. He told me to talk to Fred Condit, for he knew more about it than anyone else. I asked him and our board is copied a great deal from the New York City board. We adopted a set of rules and regulations that have been very beneficial to us and especially in dealing with clients. In the old days before we had any rules a client could go on a shopping tour for prices and also to get his legally clouded titles passed.

I cannot be too emphatic in my recommendation that boards be formed. They do so much to bring together the ideas of all the heads of title companies and the business progresses so much more rapidly. With two boards in California we have even succeeded in working out many problems. I might just mention one of them, which has been accomplished since these two boards have been organized.

You have heard some discussion about uniformity at this convention.

You have heard of the many different forms in use in the various states. The California situation was similar to that. We have some fifty counties in California and in every County I dare say there was a different form being used. Since the Southern California Board of title underwriters has come into being they have discarded the form of title evidence known as the guarantee and issue policies only—and not just any old policy form, but on the Southern California board of title underwriters form, which is used exclusively by all the members of the organization, to the total exclusion of all others except the "ATA" form. Just the standardization of policy forms alone has justified its existence.

I do not know just how many forms are being used in the United States, but I believe that a standard form could be worked out. I know that there were possibly fifty forms in California when this underwriter's board movement started and we have accomplished wonders along this line. In my opinion, some day we will have a uniform policy and a uniform rate schedule. The Southern California Board has published a uniform rate schedule which is now published and circulated among its customers. Each escrow officer or real estate man knows just how much his insurance is going to cost him before he ever goes to the title company. Before this schedule went into effect the price was unknown to the customer and he could go to every title company in town and get a different price from each one.

Our schedule in Northern California is a little higher than in the South, but it is uniform among our companies. Our practices have been closely abided by and we have had a constructive growth through the organization of the board.

Is there anyone who would like to discuss this matter?

Mr. Condit, could you tell us something about it?

FRED CONDIT: I cannot recommend anything better for drawing the members into closer association and for making the practices of the various companies uniform and increasing the efficient services of title companies in a community. We have enjoyed untold success with our board in New York. In fact, we wonder what we did before it was started.

HENRY R. CHITTICK: Cooperative effort has accomplished some legislation in New York, beneficial to realty owners and interests. You are more or less familiar with the two principal measures. I might comment on the experience to date. With reference to the new Estates Law of the State of New York (which went into effect September 1, 1930) that up to the present time no questions had arisen which had reached the courts; there has not been time.

With reference to the New York Lien Law, which went into effect October 1, 1930, the title companies have made changes in the forms of building

loan contracts and mortgages to meet the provisions of the act.

BENJ. J. HENLEY: Is there anyone else who would like to discuss title underwriter's boards? I have something to tell you about our budget in California for a new venture. I was supposed to tell this at the abstractor's session the other evening, but it was not needed, or they didn't have time for it.

We have started to form what might be called a Title Insurance Laboratory, or a Laboratory of Title Insurance Problems. It is to be a permanent executive organization for the title insurance companies and is maintained by the association, state title association. Our budget for the work is \$17,000.00 a year. We have chosen a very capable lawyer, Mr. Edward Landels, who is a title attorney, and have established offices for him in Los Angeles. Here is what we expect to accomplish. One of the principal things which Mr. Landels will concern himself with is a legislative program. He has been two months working on a protective legislative measure and at the January session of the legislature it will be presented.

Another one of his duties is to settle legal questions arising between the different title companies as to the opinion of their legal departments in the construction of certain law, or their interpretation of the law.

If necessary, he is to make a decision and send it to all the association members and they are to abide by his decision. It may seem a difficult thing to do and something that may not work out, but the members are all obliged to air their difficult legal problems to him and his decision is to go out in pamphlet form to all the member companies. That way remote problems that do not come up daily will be decided and all the legal departments over the state will act the same upon them. It will eliminate the wrangle our clients have with us over our legal practices. They chide us about one company making one decision and another company a diametrically opposite decision. It is not good for the business.

It is the duty of this man to attend all the meetings and advise the members when needed. To counsel with the legal departments of all member companies when called upon and many that are too numerous to mention.

The ultimate purpose, of course, being to work out a uniformity in legal problems. One construction of the law for the entire title business. One place where we can go and get a final decision upon which to base our actions and know that all the other companies will act accordingly. We are delighted with the results of it and before we have been going much longer I know we will realize the value of it, even more than now.

Is there anyone else who would like to talk to us? If there is not I will declare this discussion closed,

Title Insurance for Leaseholds

HUGH M. PATTON

Leaseholds, until comparatively recently, have not been used extensively because of the unfamiliarity of the public with their advantages and the hesitancy of mortgage lenders in making loans on their security. But today leaseholds are becoming more popular and their valuation more accurate and mortgage loans are made upon them more and more frequently by banking institutions for the purpose of financing improvements on the lands leased.

By reason of the infrequency of leasehold estates heretofore, the title insurance companies have not until quite recently given much attention to the insurance of such estates, the legal effect of policies covering a leasehold, the measure of damages should the title of the lessor fail, or the insurable interest of the lessee, i. e., the minimum or maximum amount of liability for which a policy will be written.

In Pennsylvania we will not insure a purchaser for a less amount than the purchase price he is paying for the property. In the case of a mortgage the policy will only be written in the full amount of the mortgage. In the case of leaseholds, however, we have no such easy standard of measuring the amount in which the policy should be written and to which we should apply our insurance rates.

Should the policy be written in the amount of the aggregate rental for the entire term of the lease, the assessed value of the lands for tax purposes, the market value, or an amount equivalent to the expense the lessee is to incur in putting the demised premises in order for his occupancy, i. e. cost of improvements, moving, installation of trade fixtures with the further probable cost of procuring and removing to a new location in case of the failure of the title to the lease insured? I understand that the New York Title Board, in its schedule of charges, provides for regular rates on the aggregate rental, not including renewals, or if this sum is more than the assessed valuation, then the regular rates on the assessed value with the further requirement that:

"Where a leasehold requires the erection of a new building, the cost of the improvement shall be the minimum amount of the insurance."

No fixed rule for basing charges for such policies has been adopted in Pennsylvania. I am not aware of the various schemes for fixing rates for policies on these estates in the other states or among the other Companies of my

state. Our company has issued policies in the amount of the aggregate rents, some in the amount of the assessed value, others in the amount of the cost of improvements to be made by the lessee, a few where to one of these amounts was added an arbitrary sum to compensate the insured for loss by interruption of his business and cost of finding and conditioning a new location, and still others in the sum of the estimated loss which might be incurred by the assured. The question has been raised as to whether there should be a reduction in rates for the short term leases.

I should very much like to hear your views as to the proper basis of fixing the amount of insurance to be written on a leasehold estate and the present policies in this respect in the several localities of the country. Personally I incline to the view that the cost of improvements with an added sum to cover costs which would be incurred by interruption of one's business on failure of the title of the lessor is the more equitable and reasonable basis on which to fix rates; for certainly the rents for the unexpired term cannot be the measure of loss, nor does the assessed value of the land have any relation to the loss to be incurred by the insured. I also believe

that the same basic rate and rate per thousand on the liability assumed by the insuring company should be applied to short term leases and that the adjustment, if any, in these cases should be in the scheme by which the minimum amount for which the policy will be issued is determined. I should like also to suggest the possible increase in the value of the lease as an added element of loss against which the insured might well ask for protection.

It seems to me that we have been neglecting a very fruitful source of revenue in not encouraging lessees to insure their estates and in not disseminating information as to the risks an owner of a leasehold estate runs in not procuring title insurance on such investments. At the present time the growth of the chain store business offers an opportunity to increase our revenue by encouraging tenants to take title insurance even on leases running for short periods, as should the title of the lessor be defeated, in almost every case the lessee would suffer a loss in the consequent interruption of his business and removing to a new location. It has been my experience that once a business has been convinced of the advantage of title insurance it never departs from its use.

Second only to this need for education is the imperative need for a uniform basis for computing the minimum amount in which a policy will be issued. As the matter now stands each locality, and probably more often, each Company has its own scheme of arriving at this figure and quite often the customer arbitrarily fixes the amount of insurance he purchases at a small sum knowing that the Company will exercise as much care as though a larger amount had been applied for and therefore getting protection for a less premium than the title company should justly receive. Without such an established basis we are like a Republican in Virginia or a Democrat in Pennsylvania, our vote means nothing. A uniform minimum amount, based of course on the terms and value of each lease, it seems to me could now be more easily established because of the wide scope of the operations of the chain stores and similar businesses taking leases.

The matter of policy among the several companies in these respects I well understand to be a delicate subject. I am reminded of the story of the young lady admiring one of George Bernard Shaw's objets d'art who exclaimed, "Oh, isn't it nice!"

"Don't say 'nice'," remonstrated



HUGH M. PATTON
Vice President, Union Fidelity Title
Insurance Co., Pittsburgh, Pa.

George Bernard Shaw, "It's a nasty word."

"Don't say 'nasty,'" retorted the caller. "It's not a nice word." We must, however, face the matter squarely and quit the policy of the kettle calling the pot black.

A teacher asked Jimmie, "what is cowhide used for?" "To hold the cow together" replied the lad. Just now the title insurance business needs a little cowhide which might be supplied in part at least by increasing the use and popularity of title insurance of leaseholds.

I am going to call on volunteers to discuss this subject. Is there anyone to tell us what they do about leasehold insurance?

PIERCE MECUTCHON: We have issued a number of leasehold policies and make the total rental basis for computing the amount of insurance. We have been writing these policies for about three or four years.

HUGH M. PATTON: Anyone else?

FRED CONDIT: We have been issuing leasehold insurance for about four or five years and have a little different rate schedule than either of you gentlemen, both of whom are from Pennsylvania. One of the objections we received against it was that the total amount of the rents made the insurance run too high, our rents running pretty high in New York City. So, to encourage leasehold insurance we made it one-half of the fee of a mortgage policy rate. It has encouraged the use of this kind of insurance and we are pleased with the revenue. You can figure out what a \$200,000.00 lease would bring us at even one-half of the regular rate. I believe it should be encouraged for it is a lucrative business and answers a real need for a certain kind of insurance.

J. HENRY SMITH: Do you consider a ninety-nine year lease as personalty or realty?

HUGH M. PATTON: We consider it as realty in our state, Pennsylvania.

J. W. WOODFORD: Our schedule in Seattle is as follows:

Leasehold estates for a period over ten years shall be valued for owner's or purchaser's insurance at not less than the total of the rental for the full period, not including renewals; if such valuation exceeds twice the assessed valuation of the property on the current tax rolls, then upon such valuation; when the lease requires the erection by the lessee of a new building, the cost of such building will be added to the rental, as hereinbefore specified.

Leasehold estates for a period of ten years or less shall be valued for owner's or purchaser's insurance at not less than one-fifth of the rental for the full term of the lease.

For insurance on an assignment of the unexpired term of a leasehold estate by the lessee or his assignee, when title insurance on such leasehold has

been effected prior to the assignment, the valuation shall be the consideration of the assignment; if no prior insurance has been effected covering such leasehold, the valuation shall be computed as provided in the foregoing paragraphs.

BENJ. J. HENLEY: We have adopted a practice by both the Northern and Southern California Board of Title Underwriters which is quite different from your practice. We consider any lease over fifty years as insurance of the fee. If it is less than fifty years we take the actual rental of 10%; for instance, if the actual rental is \$2,000.00 we would charge \$20.00. If a five years' lease we fix the value at one-tenth of \$20,000.00 and charge one-tenth of the total fee.

I appreciate the fact that it is purely arbitrary and it would be well if we could work out some sort of basis upon which to intelligently base our insurance.

HUGH M. PATTON: Is there anyone else? I shall declare the discussion ended if there is not.

CHAIRMAN O'MELVENY: Mr. Nelson, the next scheduled speaker, has not yet appeared and he cannot be located in the hotel just at this moment. This is not the time noted on the program for the invitations for the 1931 convention, but I see these Oklahoma fellows waiting to extend their invitation, so will be glad to be invited at this time.

Invitation of Oklahoma for 1931 Convention

MARK BREWER: Mr. Chairman and ladies and gentlemen of the convention. Last February, at the meeting of the Oklahoma Title Association in Ada, Oklahoma, the membership of that association determined that we would invite the American Title Association to meet in the State of Oklahoma for their 1931 convention. Both Oklahoma City and Tulsa were clamouring for the convention. Tulsa won out, however, and I was some saddened for I come from Oklahoma City, yet I am happy to come before you to extend to you the invitation to come to Tulsa for your 1931 convention.

I might say for the Oklahoma Title Association that it is one of the best associations, we believe, in the American Title Association. We have something like 120 members and they were all at the convention. In five minutes we raised \$3,000.00 and had \$1,500.00 more subscribed to entertain you when you come to Tulsa.

I have in my pocket some thirty or forty telegrams from abstracters and title men all over Oklahoma, all wanting you to come to Tulsa. We are asking you to come and we are sincere in our invitation. We really want you.

Ben O. Kirkpatrick is from Tulsa and he is sitting right here ready to

welcome you too. He is my associate on the convention committee and is just as eager to have you come as any of the rest of us. I am going to have him issue his invitation to you at this time. Mr. Kirkpatrick.

BEN O. KIRKPATRICK: I am here on behalf of the City of Tulsa, the Chamber of Commerce, the Real Estate Board of Tulsa, the Tulsa Property Owners Division, and many others, too numerous to mention. We all extend to you a hearty invitation to come to Tulsa for your 1931 convention. If you come to Tulsa you will be shown the finest time you ever had. We are planning some novel features for your enjoyment. I should like to have time to read you all the telegrams I have received, inviting you to Oklahoma, but time forbids that and I can only read you a few. (Whereupon several telegrams were read.)

If you come to Oklahoma, to the City of Tulsa, we will all say to you: "American Title Association, here is the key to the City of Tulsa."

This year you have been entertained in one of the oldest cities in the United States, and it has been a treat to go around and see the things of historic interest and the old antiques which are so alluring to all of us. If you come to Tulsa you can say you have been entertained in the newest city in the United States. It is alive with eager workmen, busy at putting up a city. It has grown at a dynamic pace.

I was looking at a picture of a building in the auditorium supposed to be in Tulsa, for it was displayed on our advertising chart. A fellow asked me what building it was and I told him inasmuch as I had not seen it yet it probably was put up the day after I left (laughter). That is just how fast Tulsa is growing. It is a beautiful city and we want you to come in 1931 (applause).

WM. H. McNEAL: As a former Oklahoman, and where I was first authorized to practice, or rather offered to practice, law, I heartily endorse the nomination of Tulsa as our 1931 meeting place and move that the nominations be closed (applause and cheering).

JAMES W. WOODFORD: I want to tell you that I had a sign in Oklahoma that said "Attorney," but I was practicing economy and not law. I lived in that country many years and I know they will show us a good time. I second Mr. McNeal's motion.

(Motion duly put to convention, carried unanimously and so ordered.)

CHAIRMAN O'MELVENY: I am going to turn the meeting over to our new President, Mr. Ed. Lindow. He needs no introduction (applause).

PRESIDENT LINDOW: Under the heading of unfinished business, I will call for the report of the Resolutions Committee. Mr. Mack, will you, as chairman of this committee make your report at this time?

Report of Resolutions Committee

J. L. MACK, Chairman

Ladies and Gentlemen of the Convention:

Your Committee on Resolutions offer for your consideration the following:

WHEREAS, our friend and valued member of this Association, Richard F. Chilcott, Vice President of the Title Insurance and Guaranty Company of San Francisco, a pioneer in state-wide title insurance, and who for the past decade has appeared on our programs at our State and National Conventions, has been called to his reward, be it resolved that:

Not only this Association but the public at large has suffered a great loss and we do hereby express our heartfelt sympathy to his bereaved family.

WHEREAS, C. A. Wilkins, of Independence, Kansas, one of the organizers of the National Association and pioneers in establishing the business in the Middle West, has in God's providence been called home, therefore be it resolved that:

In his passing each and every member of the Association feels a loss and we would therefore acknowledge this loss and express our deepest sympathy to his bereaved family.

WHEREAS, Jesse P. Crump, of Kansas City, Missouri, one of the Association's pioneers, early officers and always an active member and participant, has been called beyond; now be it resolved that:

In the death of Mr. Crump the Association has lost a most valued and helpful member, and we extend our sympathy to his bereaved family.

WHEREAS, Clarence H. Kelsey, of New York City, a member of the Advisory Committee and one of the most interested men in the Association, and in the Association, its activities and constructive measures for the management and strengthening of the title business, has passed to his reward, be it resolved that:

This Association has suffered an irreparable loss and do here express our deepest and sincerest sympathy to the bereaved family.

And be it therefore resolved that:

These Resolutions be spread upon the Minutes of this Association and that our Executive Secretary furnish to each of the bereaved families respectively, a copy of the Resolution conveying our sympathy and expressions of appreciation.

WHEREAS, W. E. Furlong, of Milwaukee, Wisconsin, who seldom failed to attend any of the sessions and perform constructive work in his capacity as an authority on land title law, has passed from the visible plane, be it resolved that:

His going has left a vacancy in our hearts and we therefore desire to ex-

press our appreciation of his life.

WHEREAS, our hosts, the Lawyers Title Insurance Corporation and the Title Insurance Company of Richmond, have spared no expense or effort to give us a most enjoyable and happy time; not only providing most generously and thoughtfully for our comfort and entertainment, but adding thereto the characteristic courtesy and hospitality of the City of Richmond. Be it therefore resolved that:

We extend to our hosts a vote of thanks and let this be so broad as to include all of the Entertainment Committees and especially the Ladies Reception Committee, who so thoughtfully and delightfully provided for the pleasure and comfort of our ladies.

And whereas, the Jefferson has been very kind in looking after our comforts, be it resolved that:

We extend to the Management our thanks.

And whereas, the Real Estate Exchange did provide cars for our sight-seeing trip and did so skilfully guide us through the city to our pleasure and delight, therefore be it resolved that:

The Executive Secretary write a letter to the Exchange, expressing our appreciation.

And whereas, Walter B. Kester, of Chicago, Illinois, Executive Secretary of the Mortgage Bankers' Association of America, delivered to us a most valuable paper on "Mutuality and Responsibility in the New Decade";

And Waldo C. Hodgdon, of Boston, Massachusetts, Assistant Counsel, Manager Abstract Division, of John Hancock Mutual Life Insurance Company, delivered a most helpful address on "Title Troubles of a Lending Institution";

Be it therefore resolved that:

We express to these men our appreciation and our thanks, and that our Executive Secretary be directed to write a letter to each of these men, conveying our appreciation.

Whereas, our Executive Committee has been most helpful, giving of its time, money and talent for our benefit and advancement, be it resolved that:

We express to this Committee our appreciation and thanks for their labor in our behalf.

And whereas, our President, Donzel Stoney, of San Francisco, has made us a splendid executive, giving much of his time and talent at his own expense to make our Association a success; now therefore, be it resolved that:

We express to him our gratitude and thanks.

And whereas, our Treasurer, J. M. Whitsitt, President Guaranty Title & Trust Co., Nashville, Tenn., without pay has been on his job during the year and has been very helpful in securing the necessary revenue to make our "wheels go round," be it resolved that:

We extend to him a vote of appreciation.

And whereas, our Executive Secretary has, as in the past, been very vigilant, aggressive, persistent and

helpful in making possible much that has been achieved during the past year, be it resolved that:

We extend to him here and now our heartfelt appreciation and thanks.

And be it further resolved that:

Our Executive Secretary convey to all of the benefactors heretofore mentioned, our appreciation and thanks in an appropriate official letter.

Submitted by your

COMMITTEE ON RESOLUTIONS,
J. L. Mack, Chairman.
San Bernardino, Calif.

Now, that I have read all the resolutions, I move their adoption by a standing vote.

STUART O'MELVENY: I second the motion. (Unanimous)

M. P. BOUSLOG: I have a resolution to amend our articles of Constitution and By-laws. I have it written out here and I am going to read it to you.

Amendment to Constitution and By Laws

Amendment to Section 3 of Article IV "DUES," by adding the following at the conclusion of said Section:

The Executive committee of this Association may revise the schedule of membership dues to meet changing conditions in the financial status or budget requirements of the Association, and any such revision shall become effective with the fiscal year next following the year in which the revised schedule shall have been made.

Mr. M. P. Bouslog of Gulfport, Mississippi read the above proposed amendment and moved its acceptance. Fred Condit of New York City seconded the motion and it was carried unanimously.

Resolution—Taxation of Real Estate

Mr. E. C. WYCKOFF: Mr. President, I have a resolution here I would like to present, which was authorized by the Executive Committee this morning.

"Whereas, the American Title Association is vitally interested in any phase of the economic condition of the country which affects real estate and activities therein, and

Whereas one of the vital problems of the owners of real estate is the question of taxation, and

Whereas under the present taxing systems throughout the United States the present burden of government is placed inequitably upon realty; in some states reaching as high a proportion as eighty-five percent of all taxes raised according to information coming to the association as disclosed, and

Whereas this seems to be an undue burden upon real estate, and

Whereas at this time an investigation of this subject is under way by the National Association of Real Estate Boards and others:

Therefore, be it resolved that this convention authorize and direct its officers in co-operation with the National Association of Real Estate Boards and other associations who have jointly undertaken the work, to make a study of the question of taxation through a special committee to be appointed by the president and report back to the association as to what ac-

tion should be taken by this association in this matter."

Upon motion duly made, seconded and passed, the resolution was unanimously adopted.

PRESIDENT LINDOW: Ladies and gentlemen, it is with pleasure that I

announce the next speaker on the program. It is a tribute to our association to have him come all the way here to speak to us. I heard him at Detroit and I know he has a message that we as title men should be vitally interested in. I take pleasure in presenting Mr. Herbert U. Nelson, Executive Secretary of the National Association of Real Estate Boards.

Present and Future Trends in Real Estate Development

HERBERT U. NELSON

By sitting in my room in this hotel last night and hearing some of the weird noises going on and the hilarity accompanying them I can readily apprehend that you do not care to have your proceedings run on indefinitely (laughter). Therefore, I will waive all preliminaries and beg leave to assume that by my presence here to speak to you the good will of our association and our desire to help your business in any way possible is taken for granted.

I assume all of you are dependent, as we are, on the real estate business. I wish I had more good news to share with you—but a fact's a fact and I will not attempt to conceal the truth.

I want to tell you first that we maintain in Chicago an index on the real estate market of forty states that we have selected. We took the year 1926 as the model year, or the year to base our statistics on. It was taken at the request of the Department of Commerce for many other statistics were being compiled with 1926 as the beginning point. On that basis the index discloses that for the past two years business has been going down pretty constantly. It reached 68% in July, figuring that July, 1926, was 100%. Since then it has been a little better—in fact so much better that now it has reached the point of 71½ per cent. That's the most encouraging feature for two years. We get reports from various parts of the country that show the sale is a way down—others up fairly well. Ben Faast of Wisconsin, who does an extensive farm land business says that in his territory there has been a definite pick up in farm lands. In Hutchinson, Kansas they report conditions to be better. Mr. Botsford of Des Moines, Iowa, says farm lands are beginning to move in Iowa. The survey indicates that interest toward farming is returning and farm lands are moving better than anything else. I also note that in the

smaller communities there is a better and more stabilized condition than is found in the very large cities.

We have had a difficult time, very, for the last two years. There are few instances where anyone has made any money, generally speaking.

As we, who are associated together in serving real estate owners, look out on the real estate world today we see some new features that should be very encouraging. An optimistic view point, and a very sound one to my mind, is taken by Henry Ford. He says that it is during the period of slack business that we should lay foundation for future prosperity.

As we look about us I think we find a lot of new ideas stealing under the

survey that promise well. There are some rather unique ways that property is being used. I do not know whether you noted the report of the Department of Commerce which shows that there are 25,000 miniature golf courses operating in the United States, with an approximate investment of \$125,000,000.00. This new development may be just a passing fancy and we do not feel satisfied with its temporary nature, but it contains an element of promise. It is one of the new ways of making use of real estate. We are told that 800 such courses opened in one month in the City of Los Angeles. It may be that this new business will never be solid and stable, but we are forced to take cognizance of it.

We will be interested to watch the growth of some of the newer kinds of business. We are compiling a list of new uses for real estate and I have listed some thirty-six different new uses and am trying to check as far as I can the volume of income that is derived from these uses and if it is an adequate amount for the property involved. In this new era there have been many old conventions of business completely discarded. We cannot just re-adjust ourselves without slowing the wheels of progress a little.

At our real estate convention held in Toronto recently there was a great deal said about subdivisions and the systematic planning of cities. The Home Builder's Division recommended that a city block should be between 1500 and 2000 feet in length, and drew up a resolution that when planning subdivisions in the future that no city block be laid out that was less than 1000 feet in length. There have been some new ideas developed with respect to the planning of land. The era of house and garage attached has made a demand for wider and shallower lots, which, of course, means a longer and narrower block. People do not need such deep lots.



HERBERT U. NELSON
Executive Secretary, National Association of Real Estate Boards

The automobile question has brought new planning into our city building. We are finding an ever increasing need of protection to both automobile passengers and pedestrians and the necessity of separating them as much as possible is great. As an example of an idea to work out this problem we have a radical experiment going on in a little town in New Jersey called Radburn, which is being laid out and built by the City Housing Corporation of New York. I am sure you have heard of it and many of you have seen it, no doubt. It is the most radical step we have taken in keeping the pedestrian walks separated completely from the vehicular traffic.

The houses all face the center of the block and the walks are in the center. Cars do not go in there for the streets are on the outside and the cars are parked at either end. The streets are used entirely for automobile traffic. It is very economical in the use of land and I was delighted with it when I visited it recently. What we need is fewer little short and choppy streets and more real arteries of traffic. Our cities have grown up rapidly and carelessly and we have not paid much attention to the conservation of real estate. You find vacant lots everywhere and our cities are sprawled out all over the country. This is not the situation in foreign countries. They do not have the economic waste that we have.

Your own executive secretary, Richard Hall, and I had the pleasure of going to Niagara Falls to a convention of trade associations. We were privileged to talk to executive secretaries and directors of many building material associations. They expect that their associations will be eliminated in the next few years. They are working very hard to find new processes for building homes more economically and are putting research men in the field to find new methods and materials of building—primarily toward reducing costs—but it will automatically make possible the building of homes much simpler and eliminate many of the building material people. In other words, it will come more on a factory made plan. The home building will be revolutionized in the next ten or fifteen years and, I believe, to the advantage of the multitude.

There is a movement in the direction of an economic service in home building. They realize, as we do, one very serious situation in our field of home building. That is the fact the cost is too high and entirely out of reason for the average earning power.

In a recent analysis made by Dr. Wilford I. King, it was found that more than 80% of our population had an earning power of \$2,000.00 per year, or less. And in almost any city a home sufficient for their needs would cost all the way from \$6,000.00 to \$9,000.00. That is not commensurate with good economic standards. Now, in order to reach the greater percentage of people with homes, building ma-

terials must be made cheaper. It is for that market the builders are ever on the alert to develop new and more economic methods. To be economically sound a home should not cost more than two and one-half, or at the outside, three times a man's yearly earnings.

We find a number of large industries who are not primarily in the business of home building turning toward the new call of the day. There are steel companies experimenting with steel houses. It does not seem plausible, but for many years, ages in fact, steel has been necessary for construction work. We still use the same methods for home building that has been used for thousands of years. But, the trend of the new age is to apply to this field the technology American business made so effective.

If we will look into the field of real estate financing we will find that it has been gone into by people whom we have labelled as being in an entirely different business. Sear, Roebuck Company and Montgomery Ward Company for instance. They have thrown down a challenge to the home institutions of the United States. The average buyer of a home has to buy it on time and the method of financing is improperly done. The average length of the mortgage is two or three years. When the man signs the contract he knows that he will not be able to fulfill it, unless there is a miracle. There should be some way worked out for long time payments so a man could pay out without the necessary expense and time of re-financing. With the present system his whole purchase is made on the hope of being re-financed.

We need more facts about our business. The old saying of "supply and demand" still governs the business world. In order to know what the supply and demand are, however, we must have definite, specific facts regarding our community. We are working through my association to get some statistics on what we term as vacancy and occupancy surveys, so we may be apprised of how much of the real estate in any one community is actually being used and how much is surplus. So far we have some thirty states cooperating with us to get these surveys. They are made annually in most places, but semi-annually in others. Mr. Arch Coleman, the First Assistant Postmaster has written us and issued a communication to the postmasters over the country to the effect that the postmen may be used in cooperating with the local organization in gathering the statistics.

The most encouraging thing these surveys have brought out is the fact the conditions are not nearly as bad as they expected them to be. When the survey is started there is a great deal of guesswork which is terribly exaggerated. However, in the cities where the surveys have been finished they have found conditions better than they expected.

Probably the best survey was made in Milwaukee, with the assistance of the Post Office Department. They checked all the residential and business vacancies and took a count of all of the buildings and structures in the city, which gave a very valid base against which to figure the percentage of vacancy.

We have also undertaken another type of study which will give us definite information about the various communities in the United States. I am sure you will be interested in the results of this study. We propose to make an accurate check in every American community on the vacant lots there are and what their particular state of improvement, with respect to utilities may be. This research is going to be lead by our City Planning Committee and is under the leadership and direction of Harland Bartholomew of St. Louis, Missouri. Mr. Bartholomew is an eminent city planner and engineer. We are earnestly soliciting the cooperation of the local real estate boards in making this survey.

In addition to this, we are going to try and find out what the rate of absorption has been during the past five, six or ten years so as to arrive at some reliable point from which can be determined the actual supply and demand in that particular community. You should join hands with your local real estate boards and aid in this survey. You have had the problem of taxation before you here at this convention. I intend to talk about that in a minute, but first I want to urge you to use all your influence along the line of getting these facts.

Now, about the taxation problem. The real estate owners are creating a new solidarity and are rising up against excessive taxation. They are beginning to scrutinize anything pertaining to taxes and are not taking them as a matter of course any longer. There is an underlying philosophy that is ever asking the question of whether or not the activities creating the tax inures to the benefit of the public. And if the answer is no, there is a growing resentment, which cannot be subdued. The primary reason for taxes is for public building, such as schools, etc., which are for the benefit of all concerned in the community, but the public is not swallowing any system of taxation without a great deal of investigation. The real estate owners are conscious that the time has come when real estate can no longer bear such a very large proportion of the cost of public activities. There have been twenty-two states appoint commissions to examine into the ways and means in which real estate may be relieved of such burdensome taxation and report to the legislature. It seems to me that denotes a definite trend toward a new method of taxation.

To carry on this work we have initiated at the University of Chicago a research effort which we hope will guide us somewhat in finding a cor-

rect answer and in finding a nation wide program which can be worked out. Professor Simeon Leland is leading this work. We are going to be financially embarrassed, but we are hoping that these associations who function in the real estate field will take a positive and constructive leadership in this work so we may put it over as it should be done.

It is financed at present by one appropriation of \$5,000 from the Real Estate Association, \$5,000 from the Laura Spellman Rockefeller Foundation and \$5,000 from the University of Chicago, which is given in the services and facilities which are worth approximately that much. It is apparent at present that we are running behind in financial as well as moral support. We will need both. I should be very grateful to have your association take this matter up and see if you cannot join with us on it. We need a solidarity among the real estate owners and those who serve them to make our program effective.

We have embarked upon the effort of organizing the real estate owners of the country, in so far as we can. There are around fifteen million of them and we can't organize them all, of course, but a good deal can be done if we make the effort. We started our activities in July in the State of Illinois and we have thirty-three boards in that state starting on the first of September to set up their property owners' divisions. From Illinois we are going into some other state to make the initial effort, and before the first of the year we hope to have every real estate board in the country actively working on this effort.

Some five or seven years ago a man named Jean Lamereaux in Paris started to organize the real estate owners in France as a protest against the very restrictive and unjust laws in France, which the French government had imposed upon rents and positive income of real estate in general. In the course of a year and a half he succeeded in putting together an organization of 750,000 members. In London there are 60,000 real estate owners carrying on a similar battle against certain type of legislation which is being forced upon them creating excessive taxation. We want to stand together and work against anything that may make less attractive the ownership of real estate.

One of our Realtors who attended

the convention in Toronto spoke of a man who was going down the streets on San Francisco when a beggar accosted him and asked for a dollar. The Realtor replied, "My friend, you ask for too much. Had you asked me for only fifty cents, I might have given it to you."

The beggar said, "You can do what you like about what I asked you, but don't tell me how to run my business." (Laughter) Therefore, I am not going to undertake to tell you what you should do in your business. I fully realize that a man knows his own business better than anyone else, notwithstanding the arguments to the contrary. But I do want you to try and squeeze some money out of your budget for this taxation survey. Another departure from my rule of not interfering with the other fellow's business is that I think the manner in which real estate transfers are handled are archaic. One of the greatest drawbacks to a sale is the hardships anticipated in the transfer. President Hoover commented on it in one of his recent addresses when he said that completing a real estate transaction was worse than making a treaty between nations. At our last convention it was liberally discussed and many of the Realtors were asking if there could not be something done to help in this matter of facilitating real estate transfers.

I have not indulged in any lengthy generalizations about the past, present or future of the real estate business. I have attempted, merely, to bring to you the actual facts and place before you what we think will be the solution to our problems. I have attempted to bring to you just a few casual, perhaps incidental, observations that we have noted which may indicate whether the wind is blowing.

We do feel that any energy which could be put behind this movement to check up on real estate vacancies and vacant property will be of great benefit to us all. It will aid us in directing building in our communities. We will have the facts themselves and in them will be the answer to the best possible method of checking undue and unwise development in that particular field of building. I am not going into building financing to any extent, but you gentlemen through your trust and loan divisions have the direction of a great deal of money spent annually for constructions work. Your most

careful study of this problem is solicited. Such financing that has been going on could easily start an economic panic unless it is wisely studied.

With all the pessimistic note in our real estate market I think that if we get our technical minds to work on some of these problems and the solutions worked out that it will make our business a sounder and better one in the future. After all is said and done the land, the very foundation of our big industries, should be the best investment we have to offer.

Perhaps I should not remind some of you gentlemen of anything so painful as the stock market, but not very long ago I received a compilation from the editor of the Business Week, which shows the market value of all of the stocks representing most of our fundamental commodities on September 1, 1929, and the market value of those same stocks on August 1, 1930. The shrinkage was terrific. In some cases it was as high as 75%. The average, I believe, being between 25% and 30%. Even with all the real estate inflation in some booming cities I cannot report any such shrinkage as that.

Mr. President, I appreciate this opportunity of having come before you to make this informal address. I am looking forward to a closer contact with your association and believe before the very distant future we may have a real estate council and all of us who are servants of real estate owners may work unitedly and for the interests of this great business—real estate.

PRESIDENT LINDOW: On behalf of the association, Mr. Nelson, I want to thank you for the things you have brought to us, and you may rest assured that the American Title Association will be more than pleased to cooperate with the Real Estate Association.

Is there anything else to come before the convention? If not, I will entertain a motion for adjournment.

JAMES SHERIDAN: I move that we adjourn.

WM. C. BYRNES: I second the motion.

(Carried unanimously and so ordered).

Whereupon the meeting adjourned and the 1930 convention held at Richmond, Virginia was officially closed.

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