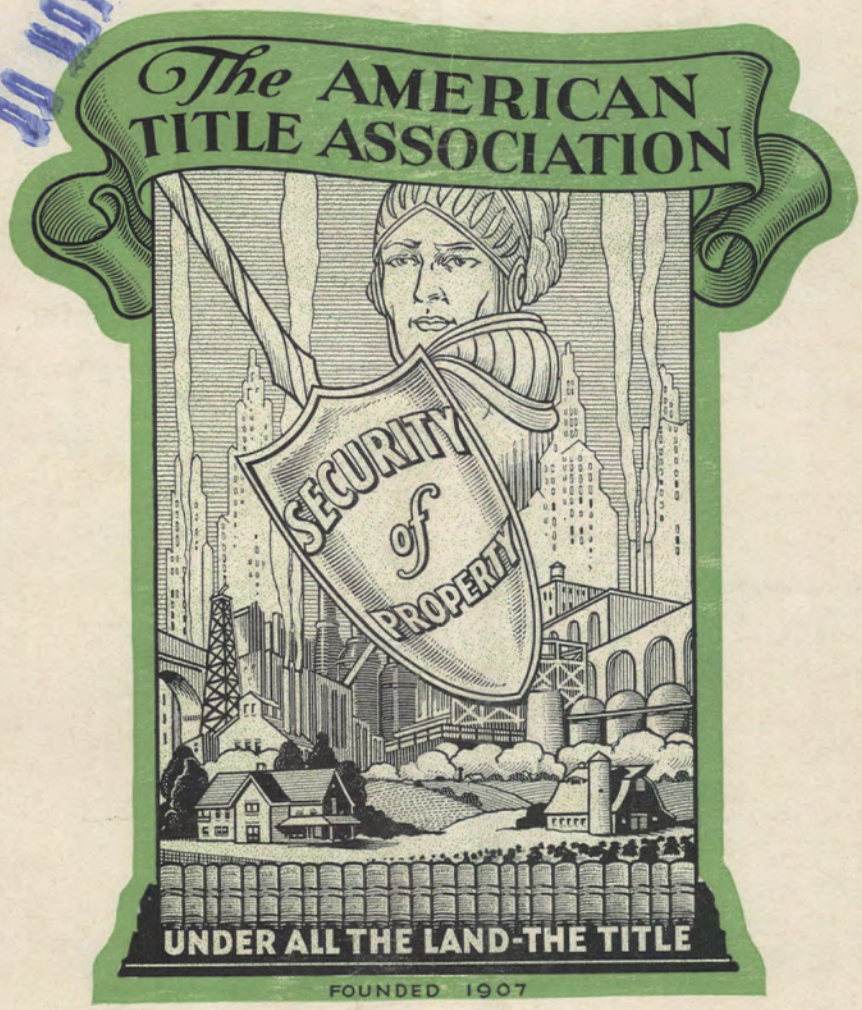
TITLE NEWS

The Publication of



JANUARY 1932

Vol. 11 No. 1

PROCEEDINGS

Twenty-fifth Annual Convention

TULSA, OKLAHOMA, 1931

TITLE NEWS

Volume 11 JANUARY, 1932 Number 1

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Editor
J. M. Whitsitt

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1932

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The ANNUAL

Mid-Winter Meeting

of the

American Title Association

and

Conference of State Association Officers

will be held in

Chicago

February 5-6, 1932

HEADQUARTERS—PALMER HOUSE

It Is Desired That Every Member of the Association Attend

It Is Imperative That Every State Official Be Present

PROCEEDINGS

The Twenty-Fifth Annual Convention

of the

AMERICAN TITLE ASSOCIATION

October 20-22, 1931

General Session

Tuesday, October 20, 1931

THE Twenty-fifth Annual Convention of The American Title Association convened at ten-fifteen o'clock in the Mayo Hotel, Tulsa, Oklahoma, President Edwin H. Lindow of Detroit presiding.

PRESIDENT LINDOW: It is indeed a great privilege to call to order this meeting, which marks the twenty-fifth anniversary of the American Title Association.

The first order of business is the address of welcome by the Honorable George L. Watkins, Mayor of Tulsa.

Address of Welcome

Honorable George L. Watkins, Mayor of Tulsa

Mr. Chairman, Ladies and Gentlemen: It is indeed a pleasure to welcome to our fair city you ladies and gentlemen who represent such an important phase of American business.

I could take a great deal of time extolling the virtues of our city, as to its accomplishments and achievements over a period of approximately twenty-five years, but I will not do so, hoping that you will have occasion and time to see for yourselves just what Tulsans have done in building this city.

I do want to emphasize, however, one phase of our citizenship, and that is its hospitality. We are mighty proud of that hospitality, and I feel sure you will see it exemplified ere you take your departure to your home. I know that preparation has been made for your entertainment. We want you to know our people and feel at home among them. I hope you will take advantage of this and made your stay in Tulsa not only profitable from the standpoint of the information you will acquire at these meetings, but pleasurable, as well, as a result of seeing Tulsa and knowing its people.

I know I speak for all of our citizens when I say we are glad to have you. The city administration is subject to your will and call; anything the official family can do for your comfort and convenience will be very cheerfully and gladly done.

A great deal of good will undoubtedly come from this convening together of you men and women from all sections of the country to discuss your various problems. Each will unquestionably carry back to his home some new idea and will benefit from the exchange of ideas with the other members of the Convention. That is the reason and purpose of conventions.

I want to say whole-heartedly and sincerely, for and on behalf of the city administration and the citizens of Tulsa, that we are more than glad to have you with us and it is our desire that your visit here be a pleasant one from every angle. (Applause.)

PRESIDENT LINDOW: Thank you, Mr. Watkins.

It is with a great deal of pleasure that I introduce the next speaker, the President of the Oklahoma Title Association. In spite of this year of adversity, our hosts have prepared for this convention in a most lavish manner, as will be evidenced during the next few days. At this time I am pleased to present Mr. H. N. Mullican.

Address of Welcome

H. N. Mullican, President, Oklahoma Title Association

Visiting Members of the American Title Association and Friends: On behalf of the Oklahoma Title Association I want first to take this opportunity of thanking you for the consideration shown us in your convention at Richmond in accepting our invitation to hold your 1931, your silver anniversary, convention in Oklahoma. We feel very greatly honored by your presence at this time and to have you as our guests.

We extend you a hearty welcome and hope your stay in our midst may be a pleasant, happy and prosperous one. Remember—we, as members of the Oklahoma Title Association, are at your service. (Applause.)

PRESIDENT LINDOW: Thank you, Mr. Mullican. I would be glad to have you introduce the chairmen of the various committees that have labored so hard to make this Convention a success.

. . . Mr. Mullican introduced Mrs. Helen Lucas of Holdenville, Vice-President of the Oklahoma Title Association, M. B. Brewer of Oklahoma City, General Chairman of the Convention, Mrs. Brewer, General Chairman of the Ladies' Entertainment Committee, J. F. Kirkpatrick, Ben Kirkpatrick, and Glade Kirkpatrick, all of Tulsa, and Glen Ricker of El Reno, the Chairman of various convention committees. . . .

PRESIDENT LINDOW: Unfortunately, the next item on the program is the Annual Address of the President.

Address of the President

EDWIN H. LINDOW, Detroit, Michigan

A quarter century ago the American Title Association was founded by a small group of abstract and title men in the City of Chicago. Summing into one sentence its objectives, that group wanted to bring about betterments in the abstract and title business.

Little did those men see the possibilities of growth of the country in the twenty-five years which followed that meeting, nor did they vision the growth in the American Title Association, its aims, its ambitions, its accomplishments.

Since the organization was founded,

our Association as a component part in the industrial activities of the country has occupied no mediocre position. It has shared in the prosperity of the country; it has suffered from the vagaries of business life.

By and large, its twenty-five years of life have been no different, neither better nor worse, than the life of each of us as individuals. It went through a panic in its infancy, just as in our infancy we went through measles, mumps and the other diseases of childhood. It has suffered from growing pains, just as have we all. It has received its education in the hard school of experience. It has made mistakes. It has performed wonderful accomplishments. Again, it has faced conditions which seemed almost insurmountable. In those trials and tribulations it has overcome and is overcoming exactly as in our own lives we face griefs and sorrows, that which at times seems too great for the human mind and body to carry. But time cures these. And, by the same yardstick, time and energy and thought will bring us out of the present calamitous situation in which we find ourselves.

From the small group which met in Chicago a quarter century ago, we have grown—grown apace with the growth of our country. In that period of time we have taken unto ourselves wards in the form of state associations, to the point that we now have affiliated state associations from the Atlantic to the Pacific and from the Canadian Border to the Gulf. We now have 2,000-odd abstract and title companies comprising the American Title Association, with invested capital and resources running into nine figures. They have annual payrolls running into millions. They are part and parcel of the business life of our communities, urban as well as rural.

The American Title Association is thoroughly established today, and, for one, I have as great confidence in the fact that it will live and thrive as I have sublime confidence in our country.

While the nature of my makeup does not run to the theatrical, still, I cannot but feel a thrill when I think of the first meeting, held in Chicago, August 8th, 1907. And I now propose to you—ladies and gentlemen—that we stand in respectful tribute to those pioneers of our business, both those living and those who have gone to happier fields.

It is with very deep regret that I report an event which, in my opinion, transcends anything else occurring within or touching our association in the past twelve months. I have been told that any successful enterprise is only the lengthening shadow of its founder. I could well paraphrase that and say the present growth of the American Title Association is but a reflection of the magnificent work performed by him of whom I speak. Seventeen years ago, through his own company, he joined the American Title

Edwin H. Lindow, Detroit, Mich.

Association. Nine years ago he became its executive officer. In those nine years he has rendered to the Association a service the value of which cannot be over-estimated. He has encountered rebuffs, and he has ignored them. He has encountered obstacles, and has overcome them. At all times, and especially in the twenty months just passed, he has had a heart-rending task to perform. Handicapped by lack of funds and otherwise, he has carried on. It is with the very deepest regret, and in making this statement I speak for every member of the Executive Committee, that we have accepted the resignation of Richard B. Hall as Executive Secretary, effective September 15th, 1931.

At the Richmond convention much thought and study was given to the financial structure of the American Title Association, and to its financing. Sessions on these problems were carried on into the wee, small hours. Everyone present was invited to contribute his thoughts on ways and means of continuing the Association on a sound basis, and one which would permit of accomplishment. A budget of $34,700 for the ensuing year was approved. Unhappily, included in that budget was a deficit of $4,700.

At the Mid Winter Meeting in February, the Chairman of the Executive Committee was empowered to appoint a committee to make a study of the matter of the schedule of dues, and to submit its report at the earliest opportunity, with the expectation that the Executive Committee would study and approve it. The latter would then submit the entire matter, through the Chairman of the Executive Committee, at the annual 1931 convention.

In accordance with this mandate, Messrs. Dall, Whitsitt, Marriott and I met in Chicago early in the spring, on two occasions, and thoroughly studied the matter of schedule of dues. The personnel of this committee was then and now is fully aware of certain unequalities of distribution of dues. It realized fully that from certain localities there came a greater amount of dues than from other sections; further, that on the surface it would appear certain injustices are done to certain companies through enforcement of the schedule of dues as now set up in numerous of our states. The members of the committee were fully aware of the expressed willingness on the part of some of our membership that a change be made in our structure and that there should be created a direct membership proposition. By this I mean a plan through which members would join the national body direct and if they so desired, join another body—which would be the state organization; and that between the two organizations there would not be the close association which now exists.

The committee took into consideration the condition of the times such as they have been for the past eighteen months or more, and finally reached unanimously the conclusion that a schedule of dues, as now set up, should continue—if not indefinitely, at least until there came about better conditions in the country and particularly in the real estate and mortgage fields, which directly affect our business; this recommendation to carry with it, however one provision, viz. that the members of those states which have not as yet favorably acted upon the so-called Seattle schedule of dues should be urged to adopt that schedule promptly and remit to the national in accordance therewith.

Following the Richmond meeting, and at various times after it, meetings were held in Chicago and elsewhere for the purpose of considering the structure upon which our organization might continue to exist, and to consider the budget in light of business conditions as they developed and existed from month to month. The most intensive scrutiny was given to every item of expense. Slashes were made, small at first, gradually increasing in size and from time to time additional reductions of expenditures were initiated. TITLE NEWS, despite its value, was cut to two issues per year—this to be supplemented by a bulletin service to the membership.

The personnel of the executive office was reduced sharply. Trips by the Executive Secretary and other officers of the national body were eliminated right and left. These included trips to conventions of state associations, to regional meetings and to meetings of other character. Nothing was overlooked. Even telegraph and telephone expenses—the smallest items in our budget—were touched upon.

I do not want to infringe in any way upon the report of our Treasurer, Mack Whitsitt, and will therefore confine my remarks about our present financial condition to the statement that

beginning January 1, 1931, with a deficit of $4,700, I am most happy to report to you today that this is a solvent organization with all bills paid and money in the bank.

The directory was printed and distributed. It was the unanimous judgment of those having the decision about its issuance in charge that the value of it was so great, the desire for it so manifest, particularly in the abstract states, and the precedence of its issuance so well established as to warrant it being published again this year.

I am happy to report that we received 100-odd entries in the abstracters' contest. Because of conditions, and the fact that it was the first national contest ever held, I feel we have reason to be gratified that the plan was so well accepted. In the same breath I cannot but feel forced to say that every single member of the Association manufacturing abstracts lost a golden opportunity to improve his service and increase the knowledge of the personnel in his organization, if he failed to enter the contest. Whether a prize would be won or not, the mere attempt on the part of the abstracters in your organization to build a model abstract could not but bring home points of value to your people.

Once again we had the pleasure of a joint conference in New York in February with counsel for the leading life insurance companies. This year there were present sixteen representatives of the latter, and practically every officer of the American Title Association. And may I here say that of our own group, every last man who attended made the trip to New York at his own expense, thus giving not only of his time but also being actually out of pocket for the trip. And, while it may be a little out of order for me to interject such a remark at this point, I think it only fair to tell you now that in addition to the New York trip just mentioned, the members of the Executive Committee have attended the Mid Winter meeting in Chicago at their own expense, and without a penny charged to the Association; further, that these men cheerfully accepted the loss of time from their own offices, running up, in some cases, to two weeks.

However, I was talking about the New York conference and perhaps I had better get back to it. If this meeting accomplished only one result, we would be warranted in continuing it. By that statement I mean that if we met with those gentlemen only for the purpose of an annual contact, I think the annual session should be held. However, over and above that, much has been accomplished and much has been done in the way of cementing more pleasant relations with those firms. And much remains to be done.

At the February meeting in New York, not only was a uniform policy of title insurance thoroughly discussed, but the abstracting situation in various sections of the country was dwelt upon. As our leaders in that conference, Mr. Marriott and Mr. Henley will report more in detail. I do leave with you, however, the recommendation that these meetings continue, and that, in addition to the New York meeting, a conference be called at some conveniently located Western city, for a meeting of similar character with counsel for life insurance companies of the Middle West and West.

The Abstracters' Section, headed by Art Marriott, and with the aid of our executive office, has built an exhaustive study of prices on abstracts. I recommend intensive work on this all important subject by the members of that division. I particularly suggest to them that study be given to a schedule of prices on abstracts, based upon what apparently is a normal, daily demand for our product. In other words, while I am bullish on real estate, and while I expect that in normal times there will be more than a sufficiency of mortgage money available (which means more abstract and title business), still, I feel that we should not base the sales price of abstracts upon a daily turnover such as we experienced in the real estate boom of 1924. Contrarywise, neither do I think a price schedule should have as its base the daily turnover of abstracts in 1931, when sales of real estate are not many and when building permits and mortgage loans are but few.

The grateful appreciation of myself is here registered in this report to you and my friend, Jim Johns of Pendleton, Oregon. Not that I expected anything different, because his record of service for the good of the organization extends over many years and is well known. But in the past several months in which we have been intimately associated by correspondence and otherwise, he has risen to the heights and has been a tower of strength and a constant source of encouragement to all of us, particularly to your present President.

Exactly as you would expect and know, Ben Henley of San Francisco, acting as Chairman of the Title Insurance Section, has delivered his job at the expense of his own time and his own funds in a manner most satisfactory to everyone. He has maintained interest in the section; he has served the section time and time again. He has labored unceasingly upon a plan providing for a new dues schedule, applicable to title insurance companies and one which would be as equitable as the many factors which affect different localities would permit. He has worked untiringly to make of this convention the success we all hope it will be, not only in the matter of attendance but also in the presentation before you of papers of interesting character prepared and discussed by able title men and others of the country. Perhaps outstanding is Mr. George Allen of New York, who will be with us, but, in addition to that, there are many bright stars from various parts of the country who will handle discussions on problems which face the title insurance business.

It is also entirely in order that I should now sing the praises of Art Marriott, who guided the destinies of the Abstracters' Section and who, like Ben, worked upon a plan for sound financing of the Association insofar as the abstracters of the country are concerned. He has spent a tremendous amount of time on this. In addition, I have always used him whenever I have gone into Chicago since I have been in office, and have always found that the calls of the Association, through myself, came ahead of the calls of his own company. Over and above gift of time, he has made numerous trips on behalf of the Association to various sections of the country.

It is a little difficult to describe in a word or two the amount of time and energy given to a solution of problems of our Association by McCune Gill of St. Louis, but I list below the titles to pamphlets which he has prepared, and will let you draw your own conclusions. I am most certain you will agree with me that he has performed not *fine* service, but truly *magnificent* service in behalf of the Association. The pamphlets are the following:

The Difference between Title Certificates and Title Policies.

A Limitation After a Fee Simple.

The Origin of Sections, Townships and Ranges.

The Agent's View.

Formulare Angiicanum.

"What Remains," as a Power to Sell.

The Rule in Bingham's Case.

Usury and an Innocent Transferee.

Precatory Trusts.

Some Impressions of Title Examining in New York City.

Your President has had the good fortune of the greatest type of co-operation from committee chairmen. I should like to dwell at length upon the magnificent work done by chairmen and members of their committees. Time does not permit, but I do want every member to know that we all truly appreciate the untiring efforts of these men, particularly the following:

Edward C. Wyckoff, after having gone through the chairs and having served as our President, again took off his coat and assumed the position of chairman of a special committee looking to a better law governing mechanics' and laborers' liens. His report is worthy of much study.

The task assumed by Mr. Wyckoff and the other members of his committee is a stupendous one; it will take several years to whip it into final shape and only then will there be definite accomplishment after the several states have acted upon it. This will probably require the endorsement and co-operation of the American Bar Association and the Mortgage Bankers

Association. I recommend that this committee be kept intact insofar as possible and convenient so to do, and that the committee be encouraged to continue its research work until it reaches its desired goal. And may I here add that Mr. Wyckoff has found the time, somehow or other, to serve as councillor for the American Title Association, attending sessions of the United States Chamber of Commerce.

Porter Bruck, who, in a year of adversity, undertook the chairmanship of the Committee on Membership, and who not only secured some new members but—and what is far more important—succeeded in holding in the fold many members who otherwise perhaps would have permitted their memberships with the Association to lapse.

Very few realize the vast amount of work entailed in constant communication, not only with our state presidents, secretaries and others in the state organizations, but also with hundreds of members. Over and above that, he and his committee have contacted hundreds of men who, in our opinion, should hold membership in our Association.

Charles C. White of Cleveland, who once again comes to the assistance of a national President. Charlie has rallied behind your presidents for many years. He has been given dozens of assignments, all of them difficult, and today, in 1931, he still has not only the ability but also the willingness to serve and the punch to deliver. His work in connection with the preparation of a uniform owners' policy and his other labor of love for the title business, namely, a digest of decisions pertaining to laws affecting title insurance companies, are well worthy of your study. I consider the latter one of the best ever presented before our group.

Walter Tuttle of New York accepted his assignment as Chairman of the Committee on Advertising. He has been a fine Chairman. He has gathered new material from over 100 companies, all of which is now on exhibit at this convention, for your study. He has put into effect a poster service about which you will hear more and which will be ready for your use within the next year.

In addition to his duties as Chairman of the Judiciary Committee, which were handled with satisfaction to all, Henry Robins of Philadelphia served our Association as representative on the committee appointed by President Hoover known as the Home Building Conference. And, last but not least, he labored diligently for the welfare of the Association in connection with the so-called Isaac vs. Hobbs case.

James E. Sheridan of my own city, who devoted many hours to legislative problems, and who presents for the proceedings a very comprehensive report on legislation throughout the country.

For some years there have been two schools of thought as to the future structure of the American Title Association. One group had believed that the time had come for the creation of an American Title Association with direct memberships by those title and abstract companies which desired connection with a national body. This plan does not contemplate the direct affiliation of state associations or members thereof with the national group.

Still another group are of the belief that the greatest importance should be attached to a closer welding of all state associations with the national body, and that membership in the national body should be automatic through the state association and permissible only through those state organizations.

Without attempting to comment too strongly on the wisdom of either plan —and both plans have merit—it is my strong feeling, after months of careful thought, that today is not the time to make any radical change in the structure of our organization. We are living in troublesome times. We are striving to the utmost to maintain our own companies on a sound basis. We are faced with problems undreamed of ten years ago. The temper of the people is such that I doubt very much the wisdom of any step which is so complete a departure from precedent as would be the creation today of an American Title Association having direct memberships only.

I feel that we should continue along the same general line as in the past, at least until we have more normalcy in business conditions, and that there should be kept in for all time every single title man and woman in the United States. While it is true that from certain states the national association may not receive financial aid which, in the opinion of some, should be forthcoming, as against that thought it must be borne in mind that the value of the American Title Association, in no small part, rests in the fact that it is an all-embracing, representative body of the industry.

I earnestly counsel that the structure of the Association continue as now set up; that there be a sharp, drastic reduction in the budget; that Mr. Hall be succeeded by an able Executive Secretary and one who is acquainted with the title business, and preferably with the national association itself. If, because of any one of several reasons, not excluding the condition of our treasury, we find ourselves unable to secure a full-time man who possesses the qualifications I have just outlined, I am frank to say this—that I believe it would be far better for our Association to employ a man who has the qualifications I have outlined, even on a part-time basis, than for us to take on someone of less ability and of no experience, who would probably require a year or more to familiarize himself with his duties, the people in the organization, and, what is far more important, those individuals of the general public whom we desire contacted.

In view of the fact that our offices are now established in Chicago, it would perhaps be desirable to have this continue. However, the present location is not of such long standing but that it could be moved without great loss to the Association. I would therefore recommend that the location of the office of the Executive Secretary be made subject to the necessities brought about by the selection of a secretary, and moved if necessary to secure an able man.

Above all, however, our executive office should be located centrally and in a city easily accessible to most of the country, rather than in a distant city and in the hands of an inexperienced man.

I also strongly feel—especially after having discussed the matter with scores of members in the past several months and since coming to Tulsa, that the general plan I have just outlined is by far the wisest course for us to pursue at this time.

The year I have served as your President has been a year full of trouble. Each of us has been confronted with problems day after day in our own organizations. Despite the presence of these difficulties, the members of the American Title Association have rallied behind me and have given me aid and support which can only be described as magnificent. Time after time I have asked for this, that or the other thing, and always it has been done cheerfully and promptly. To you all I owe a debt of gratitude. It can only be repaid by my heartfelt thanks, and this I want to give to you now.

My only hope is that you will give the same full measure of co-operation, assistance and counsel to your incoming president as you have given me. With that I know he will succeed; with that I know the American Title Association will thrive; it will continue to occupy as prominent a place in our lives as it does in my heart.

I am returning to the ranks, but I am returning with the thought of honoring as I have been honored and of serving as I have been served.

PRESIDENT LINDOW: The next order of business is an address by Mr. Walter Ferguson, Vice-President of the Exchange National Bank of Tulsa.

ADDRESS

Walter Ferguson, Vice President, Exchange National Bank of Tulsa

Mr. President, Ladies and Gentlemen: You certainly took a long hazard in asking any one identified with the banking business to say anything to you. About all that can be said

by members of that profession today is "No." (Laughter.)

I am glad to see you visiting Tulsa but I am somewhat surprised. I had supposed you would appear in gas masks and trench helmets and be prepared to enter into the warfare you heard we are engaged in here, with troops martialed and bayonets leveled in various parts of the state. I should think there might well be apprehension on your part just as there used to be in the old days when we had to prepare against attacks by the Indians.

With no thought of criticizing our governor, but merely to diagnose what is going on here for the benefit of you people who are visitors and may want to carry to your homes accurate information as to the situation in Oklahoma, I might say that our governor is convinced he can do something no other American state or congress has been able to do. He is convinced he can repeal the law of supply and demand by the use of bayonets. I have to confess that so far he has very nearly accomplished it.

We are interested in his maneuvers from a banking standpoint. So far his activities with the troops have been directed only against the oil interests and the banks have been let alone, except for one brief statement that "Alfalfa" Bill made at Chicago on Labor Day. He stated that the trouble with the country was that the borrowers had too little to say about the policy of running the national banks and he was going to recreate the structure in order that the borrower might have a freer hand. He was convinced, he said, that the thing to do to bring that about was to have the directors of the national banks elected by direct vote of the people.

Don't get the idea from these remarks that I am in any way underrating the sensational governor of Oklahoma. While he may be sensational, under the surface he is a great deal more able and capable than many people might think. Many people regard him as a clown and a buffoon, but he is perhaps the best educated man in Oklahoma.

I am sure you ladies and gentlemen are more than usually interested in visiting this exceptional American city. I think there is no other city in America with the history that Tulsa has. There has never been another city created in the short period of time in which Tulsa has been created. From a raw prairie town a few years ago, Tulsa has come to be a metropolis, a commodity center, the capital of a great industry. Twenty-two years ago the first Republican state convention was held here. It was held in a tent pitched on the lot where you now see the tall tower of the Philtower Building. There was not a building large enough to hold it. Vast superstructures of brick and mortar have been erected, and not only has Tulsa become an exceptionally different city, but truly the capital of one of the most important industries, one of the most essential industries in American life.

Tulsa has become to oil what Minneapolis is to wheat, what New Orleans is to cotton. It has become the permanent capital of oil. No matter where oil is discovered nor in what area drillers may explore new territory, some phase of the transaction takes place in or affects Tulsa. In our bank and the other banks of this city are traces of drilling that has been done or is being done in India, in the islands of the Yellow Sea, and other far distant points of the earth.

When the East Texas field that caused the present economic distress in this locality was opened, practically half of the production was controlled by companies whose home offices and location of business were here in Tulsa.

Even during the depression Tulsa has strengthened her hold on the industry. The price of petroleum is established at Tulsa. Extensive pipe lines come into Tulsa to bring oil to be distributed to the eastern seaboard through tremendous pipe line pumping stations located at the edge of the city. The major companies that control the production of American petroleum are located in the city of Tulsa.

While we are looking for the return of prosperity and the return of normal business conditions, the first sign of improvement is going to come from the oil industry. It is an industry that falls off but also returns very quickly. Oil is more in demand than any other commodity used by the American people, and you will find the first step toward the return of normal business is going to come in the return of normal conditions in the Mid-Continent oil field.

Just as cotton has been stagnated in the South and wheat has been stagnated in the middle West, oil has been stagnated because there has been too much exploration in new fields, too intensive drilling, and the result has been too much oil. During the past few years very few wildcat wells have been drilled. Legislation has been evolved that has brought about the economic stabilization of the industry until today we are on the verge of a shortage of oil.

That sounds unreasonable in view of the apparently depressed price and the stories we read about the depression in Oklahoma, Texas and California and the other oil fields of the world. I feel confident in making the prediction, however, that before the week is over there will be a new posted price for petroleum products greatly in excess of the price that is current now and that will signal the return in other lines of American business.

The recovery of the economic structure in the oil fields within the next ten days will be a spark that will be set off in the Mid-Continent area that will expand and reach out into other industries.

I think we will find we have not lost so much by the depression. We have shaken off and eliminated a great many unsound economic practices. We indulged in a lot of wildcat financing, a lot of real estate speculation, and wild-eyed market crap-shooting orgies that are gone and gone forever. We are going to come back through an orderly, stable business-building process that is going to rebuild the economic life of America on a basis which will not permit a similar tragedy ever to occur again.

We are all hopeful and looking for something that is going to focus attention on the stabilization of American industry and the return of normal business. We have had our headache from the 1929 orgy and have learned our lesson and are satisfied now to do without alligator pears and caviar country club functions and other things we used to think were necessary to our happiness. We are like repentant sinners; we want to get back to normal business and do it along legitimate lines, satisfied to let real estate ventures and stock speculation and such things alone.

I think one very hopeful sign is the National Credit Corporation in the hands of the government. While it is not going to meet the expectations of a lot of fellows who think it is going to be a place to which they can divert their securities from watered stock sales and from high pressure salesmanship methods and unreasonable financing, yet it is going to do a great deal toward relieving the frozen credits of the country and will open an avenue for legitimate financing of the normal and necessary business of the country in a manner that is going to captivate the fancy and imagination of the people of the United States in a very, very short time.

The plan is modeled a great deal after the War Finance Corporation which stepped in and relieved the distress in 1921 in the backwash and aftermath of the war.

I think we are indeed fortunate that this same Credit Corporation that is now being organized by the United States government in a semi-governmental agency, given to the public through the medium of the twelve Federal Reserve banks, the product of the genius and far-seeing wisdom of perhaps the greatest financier this country has.

It is legend to refer to Secretary Mellon as the second Alexander Hamilton and the greatest financier of our country today, but without the counsel of that gentleman who has guided this country through many storms and whose methods of financing have gained the admiration of the whole world, perhaps his accomplishments might not have been so great. I say to you that Eugene Meyer, the present president of the Federal Reserve Board, is the ablest financier America has, although his name does not appear in print very often. Mr. Meyer

originated the War Finance Corporation and it is fortunate that he is the guiding factor in the new organization.

It will mean distinct relief to agriculture and livestock, which in reality are the basic elements of American prosperity. Without prosperity on the farm we can't have prosperity in business of any kind. Unless you give the farmer money to spend you have no market for what you have to sell.

Mr. Meyer, out of the backwash of the war, organized the War Finance Corporation and very successfully conducted its affairs for five or six years and through that agency really brought about prosperity—he didn't realize he was bringing about so *much* prosperity! He didn't realize that prosperity was bringing us up to the fatal crash of 1929, yet Mr. Meyer's efforts did in reality bring to the United States the stability which was so necessary after the backwash of the war, so it is fortunate that he is the guiding genius behind the new National Credit Corporation.

A hopeful sign that somewhat appeals to us locally is that when the Corporation was announced a few days ago wheat was selling at twenty-four cents, a ruinous price, and since that time the price has gone to thirty-three and thirty-five cents.

I think there is due to come, not an erratic, but a steady, constructive, sound improvement in all lines of American business. Not that this Credit Corporation is going to assimilate a vast amount of frozen loans, but that it is going to release money to be put into other channels of industry where it is now frozen. Through this Credit Corporation we are going to find a distinct turn and tendency toward the return of the kind of days we hope to see again.

There is just one word that I think ought to be said to this kind of an audience, to any kind of an audience of sober, studious Americans who are thinking about the welfare of their country and what has been done.

Perhaps most of you wonder why, since October, 1929, there has not been a universal panic. There has been the most gigantic toppling of commodity prices, the most stupendous wiping out of equities ever known in the history of America, more so than in the panic of 1873, or that of the '90s or any other time. Yet we have had, in spite of a drastic depression, no panic, no food riots, no disorder.

I think it may be safely said, and should be said, and I think it should go home to every one who is looking for an opportunity to find something good, to find something meritorious, to find something to applaud in the efforts of his government, that the credit for that situation is due to the stability the Federal Reserve system has given the United States of America. I think if it had not been for the distribution they have been able to effect, the support they have been able to render the American economic structure, we would have had a tremendous and disastrous panic, with resultant riots that would have threatened the very foundation of the government.

Gentlemen, in conclusion let me say, I am not one of those who worry much about the future. I am not one of those over-sold optimists who thinks that prosperity is just around the corner, not one of those fellows who thinks it is going to be here tomorrow and that we are going to have a return of the old October, 1929, days with a booming stock market and unreasonable prices paid for everything. I do think we are going to have a steady return to a prosperous, happy condition.

I am not one of those who is afraid of the future of America. With particular reference to the state in which you are now a visitor, the state in which I have lived a long while, I have see water carried five miles in a keg to a sod cabin on these plains; I have seen Tulsa grow from a prairie town to a thriving metropolis. I think there are too many jack-rabbits on the plains to worry about the absence of caviar and alligator pears and such things. I have faith, not only in the state of Oklahoma, but in the United States of America. (Applause.)

PRESIDENT LINDOW: Thank you, Mr. Ferguson. I am sure everyone enjoyed your remarks.

The next order of business is the report of the Treasurer, J. M. Whitsett.

Report of the Treasurer

J. M. Whitsitt, Nashville, Tenn.

Most reports consisting of figures are rather uninteresting, but I think you will all be interested in this report. I believe you will be surprised by it and pleased with it.

(See statement at bottom of page)

This statement, of course, covers only the first nine months of the year. If we can collect $2,000 or $2,500 more, we will be in the black at the first of the year. It will take that much to conduct the Association during the remaining months.

The support which you have given the Association this year has been very gratifying to your officers, and we believe this report shows that the Association has done rather well with its finances. (Applause.)

PRESIDENT LINDOW: The next report is that of our Retiring Executive Secretary, Richard B. Hall.

Report of the Executive Secretary

Richard B. Hall, Chicago, Ill.

Mr. President and Members of the American Title Association: It is with no small amount of regret and some reluctance that I make a report to this Convention.

I have stood before this group for nine consecutive years and made the Executive Secretary's report and in that time, have had the privilege of coming in contact with the hundreds of officers and people who have worked to make this Association a success and to raise the title business to a high place as an honored and profitable profession; I have seen these hundreds come and go; it has been an experience; it has been a thrill.

Statement of J. M. Whitsitt, Treasurer, American Title Association, Showing Receipts and Disbursements from January 1, to September 30, 1931

Receipts

Cash forwarded from 1930	$ 261.81
Abstract Contest	720.00
Association Insignia	75.50
Individual Dues	700.00
Miscellaneous	597.76
Refund Account	50.00
State Dues	9,424.00
Sustaining Fund	13,290.50
Title Examiners Section	260.00
Total	$25,379.57

Disbursements

Abstract Contest	$ 448.00
Association Insignia	132.02
Assistant Treasurer	450.00
Interest	66.17
Notes	3,500.00
News Bulletin	831.92
Office Equipment	80.00
Office Rent	1,704.43
Postage	680.37
Richmond and Tulsa Convention	1,351.85
Stenographers	2,921.93
Stationery and Printing	311.10
Supplies and Miscellaneous	2,127.72
Secretary's Salary	7,083.22
Telegrams	152.59
Title News	1,683.28
Traveling Expenses	716.89
Total	$24,241.49
Cash in bank	1,138.08
	$25,379.57

I think that my official position with this Association gave me something that few men are privileged to enjoy in the course of a lifetime. I feel that I have had one of the most wonderful experiences that any one could have and I am very thankful for it all.

You will hear reports today about the things that the American Title Association has done in the last year and I want to say to you that, knowing the experience and having seen the condition of other organizations from bridge clubs to mammoth civic organizations, and trade associations, some of them of supposedly the highest and most profitable vocations and industries in this country, knowing how they have lost membership and the difficulty they have encountered in their financing, we should be proud of the American Title Association at this time.

Our membership has fluctuated, I dare say, as little as any organization of the kind in the country, and our financial support has remained strong in a higher proportion than a great many other associations. Our membership has not fluctuated to any great degree for five years. That is a record to be proud of and I hope it will not commence to diminish now. It has only been through a great deal of hard work on the part of many of our members that the membership has been held this year, although it was a tremendous problem.

Our financial condition is good. There is one thing I would like to have you bear in mind and that is, that this Association is founded upon an ideal theory but one which it is very hard to put into practice and make workable. I know of only one other national association that is still endeavoring to run on an affiliated basis, that is, composed of component and affiliated groups, state, local or otherwise. I am not recommending anything or making any comments. We have made wonderful progress, but the basis on which we are founded means that the state associations are charged with the problem of making the national association a success.

State associations come and go; they thrive and die. As a result, the national association suffers proportionately.

When I took this position nine years ago, I realized in view of the structure of the association, the most essential thing we had to do was to build up the membership and to do that, it was necessary to get the help of every state association and get them into action. At that time the Association had an income of $6,000 a year and had 662 members. Within a period of three years, due to the marvelous work done by the people charged with the task of increasing the membership, it reached the 3,000 mark and has remained at practically that figure ever since. The income went from $10,000 eight years ago to $35,000 during the last few years. So there has really been a marvelous growth into a wonderful organization.

This year there has been some criticism of the budget and the suggestion made that there should be a reduction. To me, the budget of the American Title Association is a huge joke. To think of a national association with three thousand members in forty-five states operating with a paid executive staff, which never in its history exceeded the executive secretary and two stenographers, on a budget of $35,000 a year at its maximum, and doing the amount of work that was done, is almost unbelievable. The budget is nothing in comparison. The work of this Association exceeds that of any other with the same capacity and equipment that it has by at least ten times, and I have no hesitancy in making that statement. It has simply been due to the marvelous cooperation of the members, who have always and readily responded when called upon for help of any kind, whether it was in mimeographing and mailing data to the membership, assisting with conventions, or anything else. Considering the amount of work that has been done, the budget represents nothing.

I have known companies to pay as high as $2,000 to have certain work done; in fact, chairmen of the particular committees for certain work were selected because it was known their companies would be generous and make the necessary expenditure to get the work done. The budget of the association is only a drop in the bucket, but basically that is what we have to operate on.

Three years ago I resigned, leaving a program of activities and stating that the association was now organized and must commence to function and do something for its members. That program was confined largely to the abstracters. Certain suggestions were outlined, chiefly of which were that they should be taught better principles of abstracting, that there should be a better grade of work, that they should get more money for it and make it a profitable business, that they should have the proper equipment to conduct their business by building adequate plants and having financial resources, and last but not least, that there should be some legislative requirements for entering the title business so that every person with a "misguided ambition and a typewriter," as we have heard said so often, could not become a title man.

We worked hard on that program. It was heresy then, but since that time four states have adopted the abstracters' license law and you will here hear how it is working in those states. I want to say this, the abstract business will never amount to anything until those states that do not now have such legislation get a law on their statute books.

Try to park your car on the street over night. The garage men won't let you. Try to sell ladies' hats from house to house and you will have to pay a license fee. Every business is on a respectable basis except the abstract business. There should be legislation in every state that would put the abstract business on a more substantial and responsible basis.

Progress has been made as the result of this program and the business has prospered.

At the Mid-Winter meeting last February a program was submitted for the title business for the Association to conduct. As I saw it at that time, it was a two year program. I would like you to know what we have done this year with no equipment whatsoever. At that time it was decided to conduct a membership campaign, and you will hear about that campaign later in this meeting. The association has kept the state associations going. You may not think so, but I could write a book on each one of them that would show you that is so. If it had not been for the American Title Association there would not be an efficient state association in this country today. We have outlined a program for them which they have carried out and as a result, we have some state associations that are more efficient today than the American Title Association ever was. In our efforts to do that we have had to maintain the membership of these state associations, along with our other work.

We began the preparation of an advertising service. You will see the start that has been made on that in the exhibit.

We issued a study on the taxation of title plants and the operation of title companies. You will hear a report on that during this meeting. We tried to keep TITLE NEWS going, but I found that editing a magazine is almost a business in itself. Unless you have money and can employ a staff, you have to make layout sheets; you have to write papers and to people; make up "dummies"; learn type faces and what kind of ink to use; draw sketches for the cartoons, and many other such time-taking activities. I want to make that explanation because the Executive Committee has been criticized for discontinuing TITLE NEWS. That is a job in itself, in time and money and, the executive secretary of this association has visited every national convention of kindred associations held during the year.

The association did this year, and should continue to advance the Fifteen Proposals for Uniform Land Laws. The title business should not confine itself to nosing around the records and try to work out troubles that are caused by antequated laws. The automobile people built roads so they could sell automobiles. Dentists and doctors do more preventive than curative work. When this association gets some machinery set up to enact modernized land laws in this country it will be the greatest thing it ever did, thereby making easy the transfer of real estate.

The Title Insurance Section was given a few suggestions for a program and these should be acted upon. I am

speaking as an indidvidual member when I say this. I am speaking entirely personally when I express as my opinion that the title insurance business is holding on to a lot of grief because it doesn't get on an actuarial basis, know its losses, where they come from, and why; and exchange ideas on business conduct and practices and profit thereby. There are just as many forms, theories and charges as there are companies, charging systems should be standardized and rates increased.

We made an exhaustive study of title insurance rate schedules this year and turned them to a firm of analytical experts who kept them three weeks and returned them saying there was no way they could grasp or digest the information because they would have to make a separate digest of each company. They said it was the most varied thing they had ever tackled.

If the activities of the association are allowed to slacken during the next two or three years, you folks sitting here are going to spend more money getting the association back where it was than you will in keeping it going now.

Our big problem is going to be to continue this affiliation by state associations having automatic membership in the American Title Association and maintain a dues schedule sufficient to run it.

I have noticed that all the criticism that has come to the American Title Association in the years I have been with it has been made by people who, from what I could learn from registration lists, had never attended a national convention. If they were in attendance, they had not paid a registration fee and were not listed among those present.

It is not necessary to come to the defense of the people who have been criticized; I admire the way in which they have stood fire. Those who have criticized the Association for extravagance are people who have never given a dime or at least very little to it.

That is one of the problems that come to such an organization. It is up to you who are here to carry the message home and keep it going.

I would like to be able to say everything I feel, but I can't do it. I do want to tell you "Good-bye" and say that it has been a wonderful contact and I hope it will continue.

I want to charge you with this—have all the confidence in the world in the men on the executive committee of this association. I have never known what it was to admire people as I have these men, seeing them in conference about the affairs of the association, seeing them make trips and generously giving of their time—I believe they give more concern to the business of this association than they do to their own business, and worry more about it. The men who have been guiding the destiny of the American Title Association for the last ten years are the most wonderful I ever expect to know. I know you are doing right in trusting yourself and the future of the association to them. (Applause)

PRESIDENT LINDOW: I am certain we have all enjoyed Mr. Hall's remarks.

The next order of business is a report that is worthy of serious consideration, one that represents a great amount of hard work that has been performed this year. I take pleasure in asking Mr. Porter Bruck, Chairman of the Membership Committee, to give the report of that Committee.

Report of the Membership Committee

Porter Bruck, Title Insurance & Trust Company, Los Angeles, Calif.

There have been grave doubts expressed by many members of the American Title Association as to the advisability of attempting to materially increase the membership of the association. There have been many who felt that the cost of maintaining the membership far exceeded the value the association derived from a large membership composed of abstracters, title examiners and title insurance companies throughout the country, and suggested as possible alternatives that title insurance men have one association; abstracters another, etc. With this feeling I cannot agree. It seems to me that the association can derive its greatest benefit only if everyone who is in any way interested in the title business is an active and energetic member of our association.

It is true that it is often difficult to introduce and maintain a spirit of enthusiasm about such a comparatively intangible thing as a trade association but my feeble efforts over the period of the last six months have convinced me that there is far more latent enthusiasm among our state associations and, in fact, in our national association, than many of us realize.

There are always a few "sleepers"; there always will be, but on the whole the reception with which I was met in my attempt to circularize the prospective membership lists of the various states has been exceedingly gratifying.

We apparently have in this country some twenty odd, state associations which are officered by energetic, ambitious people. In addition there are five or six state associations which undoubtedly possess the same competent people but upon which I cannot comment for the reason that, due to circumstances within their own state boundaries they felt it inadvisable to attempt to build up their memberships with the efforts of the national association and I therefore had no contact with them.

The work done by the Membership Committee can be briefly summarized as follows:

On February 19th a letter was sent to the President and Secretary of each state association, (excepting New Jersey, Pennsylvania and Tennessee) asking that they forward a list of their membership and of all the prospects in their particular states. We received prospect lists exceeding 1500 names. To each of these prospects was sent a letter inviting them to become a member of the American Title Association and on the bottom of each letter was a coupon which they could direct to the Secretary of their own state association. Results were not entirely satisfactory but then it was rather difficult to determine just what was accomplished because not all of the state association officers kept me advised of answers. In addition to the letters sent out by this office the Executive Secretary forwarded to each prospect a packet containing further information regarding the association.

In the original letter to the state association officers they were advised that in order "to add zest to the spirit of contest the association was offering prizes to the President and Secretary of the state association which obtained the largest number of new members." Subsequently we forwarded a little pamphlet containing pictures of these trophies to the state association officers. This was followed a month later by another letter asking what results were being obtained within the states. The answers were as divergent and complex as a cross-word puzzle. At any rate, an attempt was made to maintain some degree of enthusiasm within the states and the replies from many of the prospects would provide a comic magazine with jokes for a year.

From a number of the state secretaries, however, we received lists of inquiries; from others, the names of those who, in the opinion of the secretary, might well be circularized again. This resulted in sending out over five hundred additional letters.

At this point we began to hear from the states that they were not only having difficulty getting new members but were losing many of the old members through failure to pay dues. The result was that we began to write personal letters to some 300 delinquent members some of which, we are happy to say, apparently brought good results.

Late in September we again wrote all state associations asking that they forward the number of members on April first of this year and the number of members on October first of this year.

Replies from all of the states had not been received at the time this report was written, October 15th, but as an example of the fact that times are not quite so bad as they might have been there follows a report from the dozen or more of the state associations who answered.

Illinois reports a gain of one new member; Iowa obtained five new members this year; Kansas reports a gain

of ten; Minnesota succeeded in increasing her membership by nine new members; Missouri reports a gain of fourteen new members; New Mexico has six new members and thirteen reinstatements; North Dakota reports no new members for this year but there are only eight in that state who are eligible that are not members; South Dakota reports a loss of eight members. Although the State of Ohio has lost several members for non-payment of dues it has six new members to report; Oklahoma has succeeded in keeping its present membership intact.

I cannot refrain from mentioning the great enthusiasm displayed by most of the state secretaries. Each of them made a whole-hearted effort to increase the membership within his or her own state and each accomplished much. It is perhaps unfair to mention the names of any as being particularly outstanding for the work of all was not only commendable but provided a real inspiration and thrill for the Chairman of your Committee and his efforts to maintain enthusiasm. At the expense, however, of being considered both unfair and unethical, I shall say that, in my humble opinion, the Kansas Title Association, for its Pearl Jeffery; and the New Mexico Title Association, for its Beatrice Chauvenet, should be heartily and thoroughly congratulated.

I cannot help but suggest the advisability of continuing the campaign which was started this year. I am satisfied that with reasonable efforts on the part of the national and state associations that the membership of both can be materially increased and the results will be for the best interests of the title business.

Respectfully submitted,

PORTER BRUCK,
Chairman.

May I say that these trophies or prizes which the Association offered to add interest in the contest were to be awarded to the president and secretary of the state association obtaining the largest number of new members. Because of the difference in the fiscal years of the various state associations, it was found to be obviously unfair to fix that as a basis for the difference in membership for the reason many state associations drop their members automatically on failure to pay dues and re-instate them when the dues are paid. It would be unfair to use this basis unless all of the associations operated under similar rules.

Therefore, I took it upon myself, with the counsel of our President, to award the prizes to the secretaries of those state associations who by their work had demonstrated the greatest amount of enthusiasm, ability, and had attained the greatest results.

It gives me pleasure to announce that those whom it has been decided are deserving of the prizes are: Mrs. Pearl K. Jeffery, Secretary, Kansas Title Association; Beatrice Chauvenet, Secretary, New Mexico Title Association; B. F. Wylde, Secretary, Oregon Title Association; Leo Werner, Secretary, Ohio Title Association. (Applause.)

PRESIDENT LINDOW: It is with great pleasure that I present the next speaker for his report. I can say nothing better of him than that he is your friend and my friend. I think he is one of the most able men who ever took an active part in the affairs of this Association. I am going to ask Mr. Johns to give his report as Chairman of the Executive Committee.

Report of the Chairman of the Executive Committee

James S. Johns, Pendleton, Oregon

Ed Lindow has given a very marvelous report of the activities of the officers of the American Title Association during the past year. I could not add anything to that, so I shall not attempt to do so. I shall merely tell you of the activities of the Executive Committee about which you are entitled to know.

In the first place, a period of adversity is not such a bad thing for us. When things are going along very smoothly, we might get our feet off the ground and fly high. In a period of adversity we have have to get our feet on the ground and keep them there. I want to say that so far as the activities of this Association are concerned, we are getting our feet on the ground; in fact, we have them on the ground.

The Executive Committee met Sunday evening, last evening and this morning, in addition to meetings at other times. This is your committee, its members elected by you to attend to certain details of your business, and you are entitled to know what they do. If you have any questions to ask us or anything to say about the things we have done, we will be only too glad to have you confer with us. I say that sincerely, because we want to know your ideas.

The Constitution and By-Laws Committee was asked to prepare a new Contitution and By-Laws, clarifying the wording of the present one. Judge Smith's Committee has done this. There is no radical change but the wording is simpler. That matter has been referred to a committee of the Executive Committee and will be reported at the Mid-Winter Conference in Chicago.

The Mid-Winter Conference will be held on Friday and Saturday, February 5th and 6th, when railroad rates will be obtained due to the Automobile Show in Chicago that week. The Executive Committee will have a meeting with the counsel for the life insurance companies on Thursday, February 4th. Heretofore those meetings have always been held in New York but it was thought desirable to have the attendance of counsel for the middle western companies by holding the meeting in Chicago this year.

These conferences with the life insurance company representatives are very, very helpful, not only to the title insurance people but to the abstract companies as well. The problems which the life insurance companies have with the product which we furnish them are discussed very thoroughly and intimately, and out of that meeting the Executive Committee receives information which is of benefit in raising the standard of our product.

Charles C. White of Cleveland, whom we all love and admire, has prepared a very valuable treatise on the decisions affecting title insurance. It is an exhaustive study of all of the court decisions affecting the liability of title insurance companies. There seemed to be no funds in the treasury of the Association which could be appropriated to publish this treatise so that it might be put in the hands of title insurance executives and attorneys throughout the country. Therefore, the members of the Executive Committee, as individuals, donated the amount sufficient to pay the cost of publishing it and it is to be presented with the compliments of the American Title Association.

Much thought and study have been devoted to the budget for 1932. It has been reduced in every way possible. If any member, after hearing the report of the budget that has finally been worked out, knows of any way in which it can be further reduced, we want to see him; we are interested in that.

It is quite evident we will not be able to engage in extensive activities during 1932. We will not be able to carry on some of the activities we have engaged in in the past. The committees we have had to study dues and the Sustaining Fund have been discharged and a new committee appointed. Some associations are on the Seattle schedule and some are not. Some companies give not only a fair amount, but give generously and more than generously, to the Sustaining Fund; others do not.

It has seemed to many of us that we should get the finances of the American Title Association on a much better basis, that we should be properly financed, whether we have a ten thousand, a thirty thousand, or a seventy-five thousand dollar budget, so that it would be more equitably distributed.

A committee of the Executive Committee has been appointed to study that and report to the Mid-Winter Conference. That Committee consists of President Lindow, Porter Bruck, Benjamin Henley, Arthur Marriott and J. M. Whitsitt.

It is proposed by the Executive Committee that three issues of TITLE

NEWS be published in 1932, one issue containing the proceedings of this convention, one the proceedings of the Mid-Winter Conference, and the third the proceedings of the 1932 convention. These three issues will be supplemented by a bulletin service probably monthly or perhaps bi-monthly. There will be no Directory number published in 1932, as it is felt the present issue is very complete and will suffice for at least another year, affecting a saving of $1,000.

This is all in accordance with the sentiment expressed in the Sunday afternoon conference, to which I will refer in a few minutes. As I said, if you have any objection to any of the things which the Executive Committee has done, we shall be glad to reconsider them at your suggestion because we are merely your representatives.

The Executive Committee asked me to say this to you—many members feel that TITLE NEWS is a valuable magazine. Its cost has been extremely high. We have had as high as seven or eight thousand dollars in the budget for the publication of the magazine. We would like to invite the membership of this Association to consider and discuss the subject to the publication of TITLE NEWS monthly on a subscription basis. That is to say, those who want to receive the magazine each month may subscribe and pay for it.

We have eliminated as much expense as possible. For example, no stationery has been furnished by the American Title Association to any of the officers except the Executive Secretary, or to any of the committee chairmen, during the past year, so every one who has had the good fortune to occupy a position of authority or prominence in the Association has also had the privilege of using his own stationery and stamps.

The question of a successor to our efficient Executive Secretary, Dick Hall, has consumed a great deal of the time and attention of the Executive Committee. I might say that we have had applications from almost every state, and a great many from some states. In addition to those, the Executive Committee has considered a number of men who were not applicants.

After a great deal of discussion and deliberation and thought, the Executive Committee has come to these conclusions, which I believe are fairly firmly fixed unless there is an overwhelming opinion against them. We have come to the fairly firm conclusion that a full-time and not a part-time secretary is desirable.

I might explain that these things which I am relating to you were embodied in motions in the Executive Committee meetings and as they were adopted, I wrote them on my pad.

It was further decided that it would be desirable to maintain the office of the secretary in Chicago, not necessarily in the present location, but a sub-committee consisting of President Lindow and the Treasurer, Mr. Whitsitt, was appointed to try to arrange for a reduction in the rent of the present quarters or a move to less expensive quarters.

It was also decided whomever we elect as secretary will not take office until the first of January, at the earliest, Mr. Lindow and Mr. Whitsitt having offered to carry on the work until that time, with the aid of Miss Maddux, the Assistant Secretary.

After considerable discussion, a motion was offered that the salary of the Executive Secretary should not exceed $5,000 a year. That was amended to read that the salary should not exceed $6,500 a year. The amendment carried and the motion as amended also carried. The thought is that if possible we are to secure a secretary at the lower figure.

After much discussion and consideration, it was decided that a committee be appointed with power to employ a secretary, the committee consisting of Mr. Lindow as Chairman, Mr. Whitsitt, Mr. Dall of Chicago, Mr. Wyckoff of New Jersey, and myself.

Mr. Whitsitt was appointed to act as Secretary during the convention.

The informal conference held Sunday afternoon to which many of you came was an innovation in the activities of the American Title Association. Those who were specifically invited were the members of the Executive Committee of the American Title Association, the chairman of each of the various committees, and the president and secretary of each state association. The invitation was so worded to make known that we welcomed any one who wished to attend.

The Executive Committee must know what the members of the Association are thinking and what they want us to do. The members are entitled to know what the Executive Committee is doing, and we frankly put our cards on the table so the members would know what we were considering and we asked their advice.

We received much valuable information from that conference. I think much good was accomplished and the Executive Committee received much assistance. I know that it was not an easy thing for you folks to come here two days before the convention, as many of you did, for this Sunday conference, and on behalf of the Executive Committee I want to thank you for coming here and spending two extra days, for the time you have spent and the expense incurred incident to coming to Tulsa that much earlier in order to assist your Executive Committee.

Another effect of that Sunday conference was that the members of the Executive Committee necessarily arrived two days earlier, some of us before that, and as a result, instead of a hurried consideration and investigation of the matters presented to us, which would have been necessary had we arrived the day before the convention, as is the usual custom, the Executive Committee have been able to meet in unhurried conferences and have been able to give careful attention and contemplation to the business before us.

During my active connection with the American Title Association I have never known of a convention at which the affairs of the Executive Committee were handled so far in advance of the convention. Except for such things as will be presented from the floor of the convention, the work of the Executive Committee is practically finished.

When this Association was organized twenty-five years ago it was an abstracter's association. Gradually it developed into a title insurance and examiners association. During the last six or seven years, as was brought out at the meeting Sunday, the title insurance companies have paid the expense of conducting the Association and the abstracters have been getting the benefit of it through regional meetings and various other activities. The title insurance companies have received comparatively small direct benefit from the Association.

The abstracters should be grateful for the generosity of those who have been paying the bills. We should set our house in order so that we who are abstracters can take a very active part in the affairs of the Association. I am glad to see the increased activity on the part of abstracters. The abstracters are a component part of this Association. We cannot sit by and merely express gratitude for the benefit we have received and are receiving through the money spent by the title insurance companies. We should take an active part and I am glad to see that we are beginning to do that.

So I ask that the interest and activity of the abstracters continue unabated, and in fact, increase. Our qualities of thought do not change through the ages. There are still people who, like the prodigal son, think they should have what they want whether they have earned it or not. Happily, there are not very many of that type of people in the American Title Association. There is a better quality of thought manifested among the people of our Association and they want to pay for what they get, which is heartening and encouraging.

It is very encouraging to your officers to know that there are a tremendous number among the membership of this Association whose activity in behalf of the title profession is prompted by the spirit of Him who said, "I am among you as Him who serveth" and who said, "It is better to give than to receive."

On every hand we are receiving encouraging evidences that the members are giving freely for the benefit of their profession of their time and their energy and their thought and their money, and as Chairman of the Executive Committee I want to thank those of you who are doing that and

to express the hope that a still larger percentage of the membership will do that in the future.

Thank you very much. (Applause)

PRESIDENT LINDOW: Thank you, Jim.

The next address is entitled, "What a State Association Can Do for Its Members." In past conventions over a number of years California has many times led the way, and from a perusal of the correspondence with the Secretary of that state association and the high lights of their last convention, I am quite certain I can say they have one of the most able and efficient secretaries of any state association in the country. It is with a great deal of pleasure, therefore, that I introduce Mr. Edward Landels, Secretary of the California Land Title Association.

"What a State Association Can Do For Its Members"

Edward D. Landels, Executive Secretary, California Land Title Association

Mr. Chairman, Ladies and Gentlemen: To my mind, one of the most significant features of the business landscape which has been disclosed by the present depression is the extent to which the public has abandoned the notion that free and unlimited competition was essential to the public welfare. Today we actually find the Assistant Secretary of Commerce encouraging and fostering the organization of trade associations, which cannot but have as their purpose the fixing of prices. In this state the governor is maintaining prices by force of arms. The doctrines on which were based the Sherman and the Clayton Acts and the Dr. Mills case are being abandoned.

In a few years I think we are going to see voluntary control over destructive competitive practices. In that work I believe the state and national trade associations such as ours are going to play an increasingly important part. I think we can also observe, if we look closely, a shifting of emphasis in American business to the aspect of the service rendered the public as distinct from the purely money making aspects of business. I know we can observe it in some of the larger units.

The capitalistic system is being seriously challenged and I think in the next few decades every type of American business is going to have to justify itself by the effective and economical performance of an important public function. If it does not do this as a private institution, I am convinced it is going to cease to exist.

I think one of the functions of both state and national associations is to cause the leaders in a business at least once a year to lift their glances to the horizon,

So much for the business philosophy which I think is going more and more to motivate our activities and one in which the trade association is going to play a very important part.

The subject which has been assigned to me, however, is a more specific and practical one, that is, "What State Association Can Do for Its Members." In view of the fact that my affiliation with the title business dates back only fourteen months and that I know nothing whatever about the conditions and problems existing in states other than California, I think that subject, in the form of a question, can probably best be answered by a brief statement of what the California Land Title Association has tried to do during the last year that I have been connected with it.

By far the most outstanding accomplishment of the California companies in a cooperative capacity was the establishment long before I became connected with them of organizing the Board of Title Insurance Underwriters of Southern California and also that of Northern California. They functioned so effectively that had they not existed during the last two or three years there would be few title companies in California that would be able to continue rendering the high type of service which they have rendered without going to the wall. I think their activities have been presented by Mr. Stoney and Mr. Henley and others at former conventions and I will not discuss them.

During the past year our time was largely devoted to legislative activities by reason of the fact it was a legislative year. I think that is not by any means the most important part of the work of a state association but it is by no means the least important. I have estimated that the time of executives of the Los Angeles companies alone devoted to discussion of the problems which have their origin in poorly drawn and ambiguous legislation amounts to about two thousand dollars a month.

I think if the title business is going to remain a permanent link in our business structure, as Dick Hall pointed out, we have to simplify as much as we can the transfer of real estate. If any system of doing business costs too much a substitute can always be found, and I think in legislative work our chief problem is to guard against what I call encroachments upon the sanctity of the record title.

We have had some very serious encroachments in our partnership act and community property amendments in California.

We presented to the legislature last year twenty-seven proposals of our own and had occasion to oppose approximately sixty-four bills. Of the twenty-seven legislative proposals, three directly concerned the title company; one made it a felony to steal anything from the title company; one proposed a constitutional amendment regarding taxes amending a provision that was over thirty years old. There was a bill placing certain restrictions upon the power of the insurance commissioner and the requirements imposed upon two title companies merging.

The remainder of the bills simply were for the purpose of clarifying ambiguities which have crept into the law in the last few years. All of our own measures passed except two affecting notaries, of which we have ten or fifteen thousand in the state of California. We succeeded in defeating all of the bills which we opposed.

You are more interested in the aspects of the legislation than in the method we pursued to get it enacted. There is probably nothing more delicate than the drafting of legislation. It is easy to jump from the frying pan into the fire and get out of one piece of trouble and create ten more. We put through one bill which was a fine piece of legislation but in the long run has caused us considerable embarrassment and inconvenience we had not anticipated.

The Legislative Committee, under the leadership of Edward McCardle of the Security Title Insurance and Guaranty Company, met every other Saturday for a period of four months from eight-thirty in the morning until five in the afternoon to prepare the legislative program. Before the legislature convened they prepared an outline of each of our legislative proposals together with the arguments for its support, and had that outline in the hands of each member of the Judiciary Committee before the legislature opened.

Probably the most important work of a state association, as I see it, is that of acting as a clearing house for legal and semi-legal problems which arise in the title business. We receive approximately one inquiry a week of that character from our member companies. In that connection our service to the larger companies which are able to maintain effective legal departments consists largely of informing the other companies of the attitude of the counsel of these larger companies, and informing the companies in the North as to the attitude in the South, and vice versa.

That also makes available to all of the companies the composite opinion of counsel for all of the companies, which is exceedingly valuable, not only from the point of view of uniformity but from the standpoint that in that way it is possible to get a better opinion than that rendered by any one man.

In so far as the smaller companies are concerned, their inquiries take the form of direct questions as to whether or not they may safely insure title under certain circumstances. The method we have usually pursued in answering such questions is to examine the law and come to a conclusion ourselves, and then check that conclusion with the counsel of leading com-

panies in Los Angeles and occasionally with companies in San Francisco.

That is a service to the smaller company which is almost priceless for the reason that they are able to obtain a brief upon the question and the opinion checked by counsel for the leading companies.

Of course, in that work we have to be careful not to encroach too much upon the time of the larger companies and the title officers, but I think so far we have been able to avoid doing that.

In addition to that activity, we have from time to time when we were able issued bulletins to our member companies on subjects of interest, and at the close of the legislature we issued a bulletin outlining all changes which had been made in any law affecting real property. It was a fairly large task because the legislature adopted a new probate code and adopted a new corporation law and other general laws of that character. We supplemented that later with a bulletin giving the conclusions reached by counsel for the leading companies as to the proper course to follow in view of the new legislation, and that was still further supplemented later with a special bulletin regarding changes made by the new probate code.

We notified our members of four state taxes which affect real property in California but of which there is no record in the counties, giving them a list of all corporations and others in the state subject to those taxes. The four taxes were the gasoline tax, the public utility tax, the gas and petroleum tax, and the gross receipts tax.

Each month we issue a list to the member companies of all corporations that have been dissolved or suspended during that month for failure to pay corporation tax, and those are posted to the general indexes.

In addition to that we have issued miscellaneous bulletins on one subject or another which may or may not have been helpful.

At the last convention at Del Monte, Mr. William Porter of the Security Title Insurance and Guaranty Company prepared a paper on the subject of "Insurance by Title Insurance Companies," in other words, covered the problem of our own fire insurance, public liability insurance and other forms of insurance which we as business concerns must carry.

As a result of that paper, a committee was appointed, of which Mr. Porter is chairman, and we are making an exhaustive study of savings which may be effected by grouping our insurance into a lump sum and we are also working on the preparation of policies which will give title companies greater protection. If you examine them, you will find most of the first insurance policies on title plants give very little protection. The ordinary contents policy excepts everything that is of value to a title company. You will find that most policies of fiat insurance, for instance, do not give such protection as coverage in the event of fraudulent change of the lot books, and things of that character.

Mr. Henley of San Francisco made a study of that type of policy for his own company and gave the committee the benefit of his research.

We have evolved a plan first suggested by Mr. Porter which will be presented to all of the companies of the state. If it is adopted by them, we will be able to reduce the premiums on our fire insurance, so we are advised by general insurance brokers, eighty per cent, with full and complete coverage such as is given in practically no policy now issued. This will be accomplished by competing companies in a county agreeing with the fire insurance company to permit it to use their plants for the purpose of duplicating anything which may be destroyed in the plant of a competing company or plant. It might cost $25,000 to duplicate a $5,000 plant, and without that protection the fire insurance company would be assuming a $25,000 risk. Whether the companies will see fit to adopt the plan remains to be seen. In many counties there are many practical and difficult complications, but it is a matter worthy of study.

On other types of insurance we can obtain reductions in premium of from ten to twenty per cent by grouping in one policy.

During the past year we engaged in investigation of a new "racket" which has developed in California which consists, briefly, of the practice of carefully examining the titles to valuable oil lands—the instigator of the scheme, by the way, came from Oklahoma—and finding a defect of at least technical merit, which in one particular case was predicated upon the claim the partition suit did not exclude a small strip of land along the seacoast twelve miles long. The next step is to file a whole batch of suits and then sell participating certificates to anybody who will buy them at $2.50 each.

These people have been operating for about a year and have sold in the neighborhood of $100,000 worth of certificates. It cost one of our member companies large sums to defend the suits, the outcome of which there is no doubt about but the nature of which is such that it costs a great deal of money to defend them.

We have all the evidence we need after investigating for a year and the corporation commissioner's office at Los Angeles has begun to function quickly and effectively. While the wheels of the law grind slowly, we are hopeful they will grind "exceedingly small."

That, I believe, practically summarizes the activities of the California Land Title Association for the past year, with the exception of one thing about which you will hear tomorrow. In California title insurance companies have been regarded with a certain amount of bad will and misunderstanding. Our very success has tended to some extent to intensify that feeling. We have gone into the matter with care, and largely through the initiative of Mr. Porter Bruck, have prepared what we believe is an excellent moving picture of the title business and one which we think if we are able to show it before luncheon clubs and other civic organizations over the state would change over night the attitude toward title insurance companies in California.

The Secretary addressed the state convention of the Building and Loan League of California and the address has been reprinted and distributed throughout the state.

We are running educational paragraphs in real estate magazines with a circulation of 10,000 and seizing upon any favorable opportunity that is presented to put our case before the public and explain the volume of work we do and the amount of coverage we give.

We spend about eighty per cent of our waking hours at our business. We have a delightful fellowship among the title men in California, and the extent to which the state association has been able to cultivate that fellowship has added greatly, I think, to the richness of life. (Applause)

GENERAL SESSION

Wednesday, October 21, 1931

The meeting was called to order by President Lindow at nine-thirty o'clock.

PRESIDENT LINDOW: The first order of business will be the report of the Nominating Committee by the Chairman, Edward C. Wyckoff.

Report of the Nominating Committee

By Edward C. Wyckoff, Chairman, Newark, N. J.

President—James S. Johns, Pendleton, Oregon.

Vice President—Stuart O'Melveny, Los Angeles, California.

Treasurer—J. M. Whitsitt, Nashville, Tennessee.

Executive Committee:

J. M. Dall, Chicago, Illinois.

Henry B. Baldwin, Corpus Christi, Texas.

Donald B. Graham, Denver Colorado.

Henry R. Robins, Philadelphia, Pennsylvania.

MACO STEWART: I move the adoption of the report and that the Secretary cast the unanimous ballot of the convention in favor of the nominees recommended by the Nominating Committee.

The motion was seconded and unanimously carried. Secretary Pro Tem Whitsitt cast one ballot electing all of the nominees . . .

James S. Johns, Pendleton, Ore, President Elect,

PRESIDENT LINDOW: We will adjourn for the Title Insurance and Abstracters Sectional meetings.

. . . The session adjourned at nine-forty-five o'clock . . .

ADJOURNMENT

Title Insurance Section

Wednesday, October 21, 1931

The session was called to order at ten o'clock by Benjamin J. Henley of San Francisco, California, Chairman of the Title Insurance Section.

THE CHAIRMAN: I regret very much to be compelled to report to you that Mr. James Sheridan of the Union Title Guaranty Company of Detroit, who is the secretary of this Section, is unable to be present. Although there is not a great deal of work for the secretary of the Section to do, I think it desirable to have an acting secretary so I have appointed Mr. Harvey Humphrey of the Security Title Insurance and Guaranty Company of Los Angeles to act as secretary of the Section for this meeting.

The first order of business is the report of the presiding officer. It always seemed to me that possibly that formality could be dispensed with. It is rather hard for the presiding officer and I am sure it is equally hard on the members of the Convention. However, we are all slaves to convention and I therefore conform.

Annual Address of the Chairman

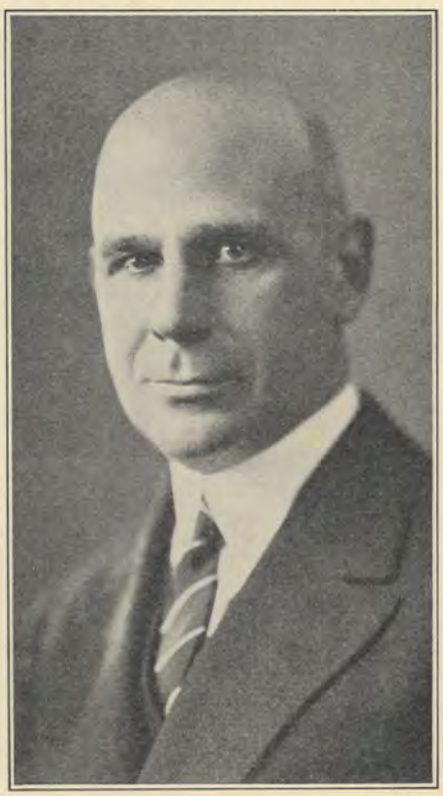
Benjamin J. Henley, California Pacific Title & Trust Co., San Francisco, Calif.

The report of President Lindow has so thoroughly covered the years' activities and has so completely analyzed the problems with which your association is confronted, that there is little for me to say.

The activities of the Title Insurance section have been a continuation of those initiated by previous administrations. President Lindow has told you that after the mid-winter conference at Chicago, your executive officers again conferred with representatives of Eastern life insurance companies at New York. A very representative group met with us in a spirit of cooperation and friendliness. Many questions of mutual interest to this very substantial group of our clients were discussed, and the feeling of goodwill, and the desire to smooth the pathway which we must tread together, received further stimulation. Few matters resulting in concrete suggestions were considered, but many questions were asked and answered to the mutual advantage of ourselves and the representatives of the life insurance companies who were present.

In my opinion, the most outstanding feature of the entire discussion was the unanimous approval of title insurance as the most desirable form of title evidence, and its kindred procedure, the escrow, as the most effective and efficient method of closing real estate loans. Counsel for several companies stated that their companies were using title insurance exclusively where it is available, and another went so far as to state that his company was considering a policy of declining loans where title insurance is not available.

In his report last year, Mr. O'Melveny told you of the efforts of the association to secure legislation which would permit the joining of the United States as a party defendant in a suit to foreclose a mortgage in order that junior liens of the federal government, upon the property involved, might be eliminated. It is my privilege to report that these efforts have been crowned with success. During the last session there was passed by Congress and approved by President Hoover, a bill providing that under the circumstances specified in the law, the United States may be made a party defendant in any suit for the foreclosure of a mortgage or lien on real estate and thus its rights, if any, may be adjudicated. In obtaining the enactment of this legislation, the association received the support of the American Bar Association, the United States League of Building and Loan Associations, and the National Association of Real Es-



Stuart O'Melveny, Los Angeles, Calif, Vice President Elect,

tate Boards. The success of the program over determined opposition is proof of what can be accomplished by united action.

There has already been presented to you in printed form, the report of the uniform policy committee which functions as a part of this Section. The chairman of the Committee and two of its members, Charlie White and McCune Gill, have given much time and thought to the development of a uniform owner's policy. The principal work was done by Mr. White, and the association owes him a debt of gratitude for the earnestness with which he approached the work, and for the thorough manner in which it has been performed. To prepare for the consideration of the Association, a uniform owner's policy, with the thoroughness which the subject requires, proved a task of monumental proportions. That Mr. White has done the work with the thoroughness it requires, needs no assurance to those who know him, and to those who do not, his report will carry conviction.

At a joint meeting of the Executive Committee of this section and the Uniform Policy Committee held on Monday, it was concluded that the owner's policy form should be given further study by the committee and that it should be discussed in conference at the mid-winter conference at Chicago, in February of next year.

At the Mid-Winter Conference held at Chicago this year, the Chairman of your Section was appointed a member of a committee to consider ways and means of financing the association without continuing the use of the sustaining fund. It was concluded to see what could be done toward devising a dues schedule for the title insurance company members of the Association, which would bear some relation to their ability to pay. This necessarily involved obtaining data concerning the income from title business of all title insurance company members of the Association. Although some of this information was available in the offices of the Insurance Department of several states, the greater portion of it had to come from the companies themselves. There was, therefore, addressed to each of you by your Chairman a request for the desired information. I wish at this time to thank each of you for your generous response to this request. In the main, the necessary information was received without question, and a very considerable amount of extremely valuable data on this matter is now in our hands.

Because of the conditions described in the report of President Lindow, it was deemed best to present no change in dues schedule for consideration at this time. However, it is recognized that the financing of this association, by relying principally upon the contributing fund, cannot continue indefinitely, and the study of a satisfactory dues schedule will again be taken up following this convention.

If the business of each member of the association would justify his paying his proportionate part of the funds necessary for its sustenance, there would be no dues problem, nor would there be any financing problem. It would be resolved into a simple matter of dividing the budget by the number of members and collecting a sum equal to the result from each member. We know, however, that this is not possible. Many of our members cannot afford to pay the amount which such a scheme would call for. Therefore, some must pay more than others. Once this fact is recognized, it seems to logically follow that the amount which should be paid by each member should bear some relation to its gross income from the title business, thus distributing proportionately among our members the cost of maintaining the Association.

This, as a matter of fact, is the theory of the sustaining fund. However, because the pledges to that fund are made by each company without regard to the amount subscribed by other members, some inequalities have crept in. The greatest weakness of the sustaining fund, however, is the fact that the amount to be paid is indefinite and uncertain, and the energies of the officers, instead of being directed to constructive work, are exhausted in the effort to provide the sustenance necessary to keep the association alive. We bespeak your cooperation and support during the coming year in providing such information as may be necessary for the solution of this most difficult problem.

That section of business activity with which we are identified, disclosed the first symptoms of the business depression which now grips the world. As were those of the other countries involvd in the World War, the energies of our people were, during the period in which we are conbatants, devoted principally to those pursuits which had to do with the ultimate success of our military efforts. There developed, therefore, a great shortage of buildings of all kinds. Within two or three years after the war was terminated, a building boom which was without precedent, developed and stimulated the very rapid growth of many of the large urban centers of population, brought about real estate activity on a large scale. This activity gradually increased until 1926, when a surplus in buildings of practically all kinds developed in all parts of the country. The volume of real estate activity then commenced to decline, and has been steadily downward ever since. Therefore, although the general depression has been felt for about two years, the depression in real estate activity has continued much longer. The acceleration of the decline was undoubtedly stimulated by the speculative mania which gripped the world, and reached its climax in 1929. Its results was to take from normal real estate activity into security speculation large sums of money which would otherwise have maintained a semblance of a sound real estate market. When the bubble burst, funds were so involved in the security market, that there was no immediate revival of the real estate activity.

The effect of the depression on our business as a whole is eloquently reflected in the attendance at this convention. While the registration is very gratifying, considering business conditions, there are absent many of those to whom we have been accustomed to look for guidance. We realize that they are not absent by choice, and we sincerely regret the conditions which detain them. In their absence, we have given to the problems which confront us, our earnest thought and judgment, and we urge that the solution which we have worked out be whole-heartedly endorsed and supported. I am sure that the incoming administration of the Association will welcome constructive criticism. At the same time, it must have our earnest and hearty co-operation in the difficult and trying situation with which it is confronted.

In spite of the fact that the inflow of immigrants into this country during the past decade has been restricted until it has almost reached the vanishing point, during that period the population increased by almost twenty per cent. There is no indication that this rate of increase will substantially decline in the near future. With the demands of this constantly increasing population to be met, and the necessity of replacing worn out articles of all kinds which replacement has been postponed during the past year, it would seem that there must necessarily be an upturn in business in the comparatively near future. The great oversupply of structures which existed two or three years ago, to a very great extent, have been absorbed, and there is reason to believe that there must be an early revival of building. We are, therefore, led to the contemplation of a gradual improvement in the business with which we are concerned. It is to be hoped that that improvement comes soon, and is of measurable magnitude; and it is to be hoped, also, that during the strenuous times, through which we are passing, "we have put our houses in order" and will be ready to render a type of service which shall make it the inevitable choice of those requiring title service.

THE CHAIRMAN: The next business to come before the meeting is the appointment of the Nominating Committee for the nomination of officers for this Section for the coming year. I appoint:

James Woodford, Seattle, Washington, Chairman
James M. Rohan, St. Louis, Missouri
E. M. Weaver, New York, New York

With conditions as they are, the country is now confronting a great deal of activity on the part of the people who are not always guided by the rule of fairness in treating their fel-

low men. That tendency is one which evidences itself in our business by way of forgery. There have been forgeries of considerable magnitude on the Pacific Coast during the past year and I am sure that many of you have experienced similar difficulties. It is a very appropriate topic for consideration at this time.

We are fortunate this morning in having for the discussion of this subject Mr. Cassius Scranton of Chicago, Illinois, who is the attorney for the Chicago Title and Trust Company. I take pleasure in presenting Mr. Scranton.

"Circumventing the Forger"

Cassius Scranton, Chicago Title & Trust Company, Chicago, Ill.

Mr. Chairman, Members of the American Title Association, Ladies and Gentlemen:

Let me, in the first place, express my very deep appreciation of the honor that has been done me by your Association in inviting me to talk to you upon this occasion.

* * *

It can hardly be believed now that, less than twenty years ago, no standard of comparison, no genuine writing whatever, could be introduced to prove either genuineness or forgery. However, there is now a helpful and receptive attitude by the Courts that tends to make a trial involving a document a legally supervised scientific investigation, as it should be.

From the handwriting expert of yesterday, whose testimony was referred to as being "so weak and discrepant as scarcely to deserve a place in our system of jurisprudence," there has evolved the scientifically trained examiner and photographer of questioned documents of today, whose appearance on the witness stand is now designated as "a scientific demonstration."

* * *

The purpose of this talk is to assist the examiner of titles in the discovery of forged instruments, thereby saving his title company or clients many losses.

What I shall say about forgeries will be, not from the standpoint of a scientifically trained examiner, but will be taken from actual cases where losses have occurred since January 1, 1925.

I have examined every case during the period from January 1, 1925, up to and including December 31, 1930, where we have had a loss under a guaranty policy by reason of a forged deed or mortgage, and I find that we have suffered numerous losses. However, there have been a great many more forgeries during this period, where we did not suffer any loss, because the forgeries were detected before any loss had been suffered by the parties guaranteed.

During this period, there has been only one case that I can recall where there was a wholesale forging of deeds by any one person. In this case there were recorded over 150 forged deeds to real estate, in the space of about one year, but, fortunately for us, the forgeries were detected before the forger had completed his scheme of acquiring the titles. This gentleman was an expert at forging instruments, but spent so much time in trying to cover up his acts that the forgeries were discovered before he was able to pass the titles to purchasers.

Illustrations will be used where I think they are really helpful and make clearer the points under consideration, and all names used are not real, but fictitious.

The history of forgeries for the past five years, so far as the Chicago Title and Trust Company is concerned, shows that no particular profession, race or sex has a monopoly on forgeries, as they were committed by lawyers, doctors, real estate men, a colored pastor, a Chinaman, and a woman. The present address of this woman is San Quentin Penitentiary, Los Angeles, California. We have a "hold order" with the California authorities, and upon her release, she will be brought back to Chicago on a warrant charging her with forgery of a deed.

It has been our policy for the past several years to cause every forger to be vigorously prosecuted, although in many cases the forger has offered to make restitution. The success of this policy is attested by the number of forgers who have been convicted through our efforts and who are now serving time in the penitentiary. There are also, at the present time, several persons awaiting trial under indictments. In practically every instance, our efforts in the prosecution of those detected have resulted in their conviction. Of course, these results could not have been accomplished without the full cooperation of the State's Attorney's office, and he is to be congratulated for assigning able assistants to handle the prosecutions.

I do not know whether any of you are spiritualists, but I am going to tell you a true story about a case we had in our office several years ago. Dr. Geer is a spiritualist. His sister died in Chicago, having title to certain lots. Shortly afterwards, a quit-claim deed from her to Dr. Geer, dater *prior* to her death, was recorded. In examining the title, the examiner raised an objection to the deed, because it was dated prior to the deed by which she acquired title. Thereupon another deed was recorded, bearing proper date, from the sister to Dr. Geer. There are reports that the second deed was made by a spirit. Both deeds have been disputed, and there is no way of establishing their authenticity, or the lack of it. We have guaranteed some of the titles based on this spirit deed. However, it seems to be good, as no one has been able to prove that it is not genuine. * * *

Deeds and mortgages are questioned, disputed and attacked on many grounds and for various reasons, and, so far as the examiner of titles is concerned, they may be divided into questioned signatures and alterations, such as erasure of the name of the grantee and the insertion of another name, or the insertion or addition of lots or property in the legal description.

In examining original instruments before recording, if any erasure or alteration is noticed, you should satisfy yourself that the erasure or alteration was made before the grantor signed and acknowledged the deed, and, if possible, have the grantor approve on the margin of the deed, such erasure or alteration. * * *

Forgeries of first mortgages generally occur on property that is unencumbered, but this is not always true, as we have had several cases in our office where a larger first mortgage was forged and out of the proceeds of the loan the old first mortgage was paid off—the forger keeping the balance.

Where a valid mortgage is paid off out of the proceeds of the loan on the forged mortgage, the loss of the Title Company or your client should not be more than the difference between the amount of the valid mortgage and the amount of the forged mortgage, because the courts have held that the holder of a forged mortgage is subrogated to the rights of the holder of the valid mortgage so paid off. *(Everston vs. Central Bank,* 6 Pacific Reporter 605.*)*

In examining a title, the examiner should always be on the lookout for forgeries. A person planning a forgery does not have before him the information that the examiner has when examining a title. The history of a title is made before the forger plans his forgery and cannot be changed by him. Therefore, any irregularity in the title, indicating that the real owner is not dealing with the property, should be noted by the examiner on his opinion, and should be satisfactorily explained before a policy is issued, or before your client parts with his money.

The irregularities in a title which should create a suspicion in the examiner's mind of the possibility of a forgery, I have divided into ten classes.

CLASS (1): *Where the name of the grantor conveying is spelled differently than the name of the record owner.*

CLASS (2): *Where the name of the grantor conveying has a different middle initial than the record owner, or the grantor has a middle initial and the record owner has no middle initial.*

Assume that Charles *E.* Race acquired title in 1920, and the next conveyance of the title in your abstract is a quit-claim deed in 1930 from Charles Race (no middle initial). This immediately raises the question in your mind as to whether Charles Race, who conveyed by quit-claim deed, is the same person as Charles *E.* Race, who acquired title in 1920. It also raises the question in my mind as to whether Charles *E.* Race did not die prior to

1930 and whether the quit-claim deed from Charles Race is from the son of Charles *E.* Race.

CLASS (3): *Where the name of the wife joining with the grantor is different from the name of the wife joining in prior mortgages.*

Assume in this case that Charles *E.* Race acquired title in 1920, and that when he purchased the property or thereafter he made a trust deed with a wife joining by the name of *Maud E.;* that you are now called on to guarantee a trust deed made by or purporting to be made by Charles *E.* Race and wife, *Mary B.,* or Charles E. Race, *a bachelor.*

This record discloses to the examiner that there is a question as to whether the grantor in the trust deed is the same person as the Charles E. Race who acquired title in 1920.

CLASS (4): *Where the residence of the grantor stated in his deed is different from the place of residence stated in the deed by which he acquired title.*

In this case assume that *Carl A.* Sundberg acquired title in 1920, and that his residence was stated in the deed to him to be in *Chicago,* Illinois; that he died in 1928, and that his estate was probated in the County where the real estate in question is situated; that the petition for letters testamentary states that he left as his only heir at law *Oscar* Sundberg, a son, of *Los Angeles,* California; that the next conveyance is a deed in 1929 from *Oscar* Sundberg (a bachelor), of *Chicago,* Illinois, and you are now called on to guarantee the title of his grantee or a subsequent grantee. The record in this case discloses to the examiner that the *Oscar* Sundberg who owns the premises in question is a resident of *California* and not of *Chicago.*

I recommend that, when you are examining a title, you watch the residence of the owner, and that, after the title finding on your opinion, you state the residence in square brackets [ ], so that, on a continuation, the examiner will know the residence of the owner.

CLASS (5): *Where taxes or special assessments are shown as being paid in the name of the former owner.*

In this case assume the same set of facts as to the property assumed to be owned by *Carl A.* Sundberg, referred to in Class (4), and that, after the purported conveyance by Oscar Sundberg in 1929, taxes and special assessments were paid in his name. The payment of taxes and special assessments by *Oscar* Sundberg after his deed discloses to the examiner that he still claims title to or some interest in the property, which should not be disregarded.

* * *

One of the losses on forged deeds which we had in 1930 was on substantially the same set of facts just stated in Classes (4) and (5). In August, 1928, two lots on the northwest side of Chicago were owned by *Oscar* Sundberg, a resident of *Los Angeles,* California. He inherited these lots from his father, who died in 1927. Several years ago, when the father lived in Chicago, he listed these lots for sale with a real estate broker. In the real estate broker's employ was a salesman. This salesman, having complete knowledge concerning this property, conceived the idea of transferring title to this property to an innocent purchaser by forging the son's name to a deed. He took into his confidence an ex-convict, and the ex-convict produced a man by the name of John Doe, who agreed to impersonate the son. The three men (the real estate salesman, the ex-convict and the man who was to impersonate the son) then took into their confidence an attorney to close the deal, it being agreed among the four to divide equally the proceeds of sale. Now, so far in this deal, you have a real estate salesman, the ex-convict, the impersonator for the son and the attorney, who know of the forgery planned, and the real estate broker who is innocent about the matter.

Under a pre-arranged scheme, John Doe (who was to impersonate the son), one evening in August, 1928, appeared at the office of this real estate broker and represented himself to be the son (whose father before his death had listed said lots with this same real estate broker), and advised the real estate broker that he was anxious to dispose of said property, and that he would take $10,000 for the same. The real estate broker, in good faith, accepted the new listing, and advised John Doe (the impersonator whom he supposed to be the son) that he could turn the deal for him wherein he would receive $5,000 cash and a mortgage on other property for the balance. After some negotiations, this proposition was accepted. In order to satisfy the real estate broker that this party was really the son, the conspirators had taken into their scheme a fifth man, by the name of Richard Roe, who represented that the son was employed by him. When the real estate broker called upon Richard Roe, who runs, ostensibly, a reputable business in Chicago, Richard Roe confirmed the fact that the son worked for him. John Doe (the impersonator) forged the name of the son to a warranty deed conveying the property, and the purchaser whom the real estate broker produced paid $5,000 and turned over the mortgage in the lawyer's office. The purchaser then left, and the five conspirators met in the attorney's office and began quarreling over the cashing of the $5,000 check. John Doe (the impersonator) forged the son's name to the check, and Richard Roe succeeded in having it cashed. Later, we guaranteed the purchaser and a construction mortgage for $65,000 on this property, and a large apartment building was erected thereon. The record in this case showed that the son was a resident of *California* [not of Chicago] and that he had paid special assessments on the property *after* the forged deed from him had been recorded. We were fortunate, for the Supreme Court of this State has held that where a purchaser in good faith has made improvements on the property, he is protected to the extent of the value of the improvements made. *(Montag vs. Linn,* 27 Ill. 328; *Clark vs. Leavitt,* 335 Ill. 184; *Olin vs. Reinecke,* 336 Ill. 530.) Subsequently, when the real *Oscar* Sundberg (the son) made inquiries concerning his taxes, he learned of the condition of his title. In order to make our policies good, we obtained a deed from the real owner, running to the purchaser, at cost to us of $12,500 (being the value of the land as unimproved).

CLASS (6): *Where the former owner is in possession, claiming to be the owner, i. e., he has not delivered possession pursuant to the deed purporting to be executed by him.*

In this case assume that John Mitchell acquired title in 1925 and there is a deed of record in January, 1931, purporting to be made by him to Arthur Jones. You are now called on to guarantee a trust deed made October 1, 1931, by Jones. Your inspector, in making his investigation as to possession and questions of survey, reports that Mitchell (the former owner) is in possession or that the tenants are paying rent to him. This report on possession discloses to the examiner that Mitchell has or claims to have some interest in the premses, although there is a deed of record purporting to convey his title to Jones. This is a warning to the examiner to be sure that the trust deed is not a forgery.

CLASS (7): *Where the owner is in possession of the property and informs your inspector that he has not applied for a loan.*

I suppose that you think it is silly to talk about having a loss under a mortgage policy where the owner has informed the inspector that he has not applied for a loan, and I do not blame you for thinking so. However, it is a fact that in at least three of the cases where we had losses the owner or his wife informed the inspector that they had not applied for a loan. The question of identity was passed by the examiner on the statement of the applicant. The only way that I can account for this is that the examiner who passed on the question did not examine the inspector's report.

CLASS (8): *Where the owner in possession informs the inspector that he had made a loan a month or several months prior thereto.*

Assume in this case that Christ Hansen is the owner of the property, improved with a two-story flat building, occupied by the owner and a tenant, and that you have been asked to guarantee a *junior* mortgage of $2,000, purporting to be made by Hansen and wife on *October 1, 1931,* and that there is a *first* mortgage on the property for $5,000, made by Hansen and wife on

August 1, 1931. The inspector interviewed the wife of the owner, and she informed him that they had applied for a loan, but did not know the amount, or that she informed the inspector that they had made a loan in July or August of this year. This seems simple, and I know you will say that no one could ever get by with a forgery like that. Well, two of the losses on forgeries were on *second* mortgages under substantially the same set of facts as those just mentioned. The wife in each case, when answering the question of the inspector about the making of a loan, was referring to the first mortgage loan which they had made. So you can see it is very easy for a crook, if he is familiar with your system of passing identity, to put over a forged second mortgage made about the same time or shortly after the making of a first mortgage. I suggest that the inspector inquire of the owner whether it is a first or second mortgage loan that he has applied for, and the amount of the loan.

CLASS (9): *Where property has been owned by a party for many years, but he has not paid any taxes or special assessments and has not made any mortgages.*

The property being encumbered with tax forfeitures, tax sales and tax deeds, indicates that the owner does not consider the property of much value and has abandoned it, or it may be that he has died and his heirs or devisees do not know that he owned it.

Two of the losses on forgeries were under just such a set of facts. I shall give you a brief history of one of the cases so that you may see how it is done.

William J. McCray acquired title by deed in 1890. The next deed in the chain of title was in 1928, from Charles McCray and others, purporting to be the heirs of William J. McCray. The title was clouded with numerous tax forfeitures, tax deeds and tax sales. An affidavit was furnished us by a party representing himself to be Charles McCray, who stated therein that he was a brother of William J. McCray, who during his lifetime was seized of the premises; that William J. McCray was never married and never adopted any child or children, etc.,—showing the names of the heirs; that he was killed by lightning near Los Angeles, California, on December 7, 1902, and was buried in Sigourney, Iowa, and left no will; that the value of his estate did not exceed $500. You will notice that the affidavit stated that William J. McCray died in 1902, which was more than seven years prior to the deed from the alleged heirs. This date was picked to avoid the necessity of putting up cash or furnishing a surety company bond to protect us against claims against his estate. This indicates that the affidavit was furnished by someone familiar with our practice in clearing titles. The affidavit was acknowledged before a Notary Public of Iowa. We interviewed the Notary Public, and he stated that it was his acknowledgment and that he remembered the taking of the same, but that he did not know the affiant, except that the party was introduced to him as Charles McCray.

As a matter of fact in this case, William J. McCray, the owner of the premises in question, was buried in Sigourney, Iowa, and died there, but *not* on the date stated in the affidavit, and he did *not* leave the heirs at law mentioned in the affidavit. It was necessary for us to obtain the names of the true heirs of William J. McCray, and procure deeds from them.

You will find that notaries are very lax in taking acknowledgments, and that many of them will take the acknowledgment of anyone that appears before them and represents himself to be, or is introduced as, a certain person.

CLASS (10): *Where the applicant for a guaranty policy leaves no abstract or prior guaranty policy.*

This may not seem important to you, but in two of the cases where we had losses on forgeries, neither the abstract nor prior guaranty policy was left with the application for mortgage policy. In one of these cases the trust deed and notes were drawn in our office and certified by us. The trust deed was recorded by us in connection with the application for policy. The forger made the application for policy, and the policy, trust deed and notes were delivered to him. In order to get credit for the prior policy, on his bill for the mortgage policy, the forger signed the owner's name to our form of agreement which states that said prior policy had been either lost, destroyed or mislaid, and that the same had not been assigned. The property was unimproved, and of course no information about the making of a loan was obtained by the inspector. The applicant, who was the forger, then guaranteed the identity. All of these different matters were handled by different men in our office, and none of them considered what any of the others had done.

The character and quantity of evidence required to establish the identity of a grantor with the owner of the property depends a great deal upon the responsibility of the grantor, and this must be determined by the examiner passing on the question. If he is a responsible person and you are sure of this fact, you can readily judge for yourself as to whether he would commit a forgery. If you would not be willing to cash his check for $100, you certainly would not be willing to take his statement as to the identity of the grantor in a mortgage for $1,000. The value of the property or the amount of the mortgage aids considerably in determining the question. I have always found it good practice to take the affidavit of a responsible disinterested third party. It is not likely that a disinterested party will make a false statement. In no case should you take the statement of the applicant for a guaranty policy, unless you are satisfied beyond any doubt that you can rely upon his statement. In a great many cases the applicant does not know any more about the question of identity than the examiner, and many times does not realize the significance of the point. For this reason, before you take a party's statement on identity, you should fully explain the question to him and advise him of the importance of the matter. You will find instances where, after you have explained the importance of the question to him, he is not willing to guarantee the identity of the grantor.

Another way which I have often followed in satisfying myself on the question of identity, is to have the party produce the deed by which he acquired title, tax receipts, special assessment receipts, water bills and other papers relating to the property in question.

There are certain persons from whom an examiner of titles should not take statements on identity, if he expects to save his company or clients from losses on forgeries, and I classify them as follows:

(1) Do not take the guaranty of the grantor or mortgagor, for it is no better than his signature on the deed or mortgage.

(2) Do not take the guaranty of the applicant. This is the simplest way for the applicant to put over a forgery. If you should take the guaranty of the applicant, be certain of his responsibility.

(3) Do not take the guaranty of an employee of the applicant, unless you are sure that the employee has authority to bind his employer. It is not fair to the applicant, and in most instances you will find that the employee is not authorized to bind his employer, and that the applicant has no knowledge that his employee is signing guaranties of such a nature.

If a forgery is suspected, or a claim is made that a document is forged, you should immediately,

(1) Notify the applicant and all parties who might act in reliance upon your opinion of title or policy, and

(2) Obtain possession of the original document, as the forger generally aims to get possession of it after recording, for the purpose of destroying the evidence against him and preventing you from establishing that it is a forgery.

The original document may also aid you in establishing that the document is genuine and not a forgery. Many times, it is claimed that a deed is a forgery, when it is genuine. Hence, it is very important to have the original document in your possession.

The first place to look for the document is at the Recorder's Office, to see if he has it or to whom it was delivered.

* * *

Now, Ladies and Gentlemen, these suggestions which I have given to you may seem elementary, but if they work

as well for you as they have for us, more than 75 per cent of the forgeries will be discovered before your Company issues its policy or your client parts with his money.

THE CHAIRMAN: Mr. Stuart O'Melveny, Los Angeles, California, of the Uniform Policy Committee, has found it necessary to leave. Mr. Charles C. White, Cleveland, Ohio, who has prepared the report to be presented to you, was unable to attend the Convention. Mr. McCune Gill, of St. Louis, Missouri, who is thoroughly familiar with the work of the committee, will discuss the work of the committee and the procedure by which the result presented to you was obtained.

Address

McCune Gill, St. Louis, Mo.

Mr. Chairman and Members of the Section: I am sure it is most unfortunate for us that Mr. White is not with us, so that we might be instructed and edified by his comments, delivered in his characteristic and genial manner. It is fortunate for us, however, that he has printed the report of the committee. I beg you to take it home and study it carefully; perhaps we will be able, in the next hundred years or so, to get something that all the title companies in the country will agree to.

It is said that the League of Nations has considerable trouble in harmonizing the opinions of the world powers. After serving on this committee, I feel their task is simple compared to inducing the various title insurance companies of the country to agree on anything, or even to get three members of a Committee to agree as to how they should proceed.

Several avenues of approach were open to us. (1) We might simply agree on one policy form, the best or prize policy form of the country, and say that is the one that should be followed as closely as possible by all companies. After looking over all the forms, however, we were convinced that none of them were any good, and that we should proceed on some different theory. (2) The next method would be to evolve an ideal or theoretical policy. We considered that a little until I finally insisted that the ideal policy should have no conditions or exceptions whatever. (3) This so shocked Mr. White's sense of fairness and adherence to tradition, and involved the moving of so many mountains of inertia, that we adopted the third alternative, which was to present a composite picture of all the conditions and exceptions in policies which all the companies in the country are using.

Mr. White collected several rooms full of policies, and cut out and pasted together hundreds and hundreds of different forms of conditions and exceptions. He then went farther and tried to classify these, and to eliminate those which were similar. The result of this tremendous work is that he has listed in this report no less than sixty-six different kinds of exceptions and conditions appearing in title policies —sixty-six clauses which, when combined, express the best (or worst) thoughts of the title insurance companies of the country. These sixty-six reasons why the public should not buy title insurance (as I call them), would fill a dozen printed pages.

Next he attempted to eliminate those conditions which are unfair to the client (although—in his happy phrase—he recognized that all the king's horses and all the king's men would not induce any title insurance company to admit that its policy was not the fairest in the country).

Then he weeded out clauses that were designed to create trick policies and not real insurance at all. So, continuing to boil and distill, he worked out a list of the really important conditions which every policy should contain. We hope that you will take this list home and study it throughout the ensuing year.

Of couse, some of us think that an ideal title policy should contain no exceptions at all. We think we should satisfy ourselves as to all of the items listed and should insure against the possibility of there being other things which might be the basis of a defective title. However, recognizing that things are as they are, Mr. White finally worked his conditions down to eight and his exceptions down to five, which represent a sort of analysis of the more usual exceptions—I might say the more excusable exceptions—that appear in the policies of the leading companies of the country. This composite policy is headed "A Uniform Owner's, Mortgagee's or Lessor's Policy." We found the owner's provisions apply, or should apply, to all sorts of policies. We have called this a combination policy and we hope that with your help a really comprehensive, and condensed, policy may be presented to this Association for its approval, at the next meeting.

What to do with this most excellent report is now up for discussion. May I suggest that we accept it, with sincere thanks to Mr. White for the tremendous amount of work he has done on it, and continue the committee until next year, to present at that time a form worked out to the better satisfaction of all the companies; not in the hope, however, that it will be immediately accepted by the companies which are now using their highly diversified forms, but in the hope that it may be set up as a beacon light for future use; and that companies now issuing limited coverage may perhaps be induced to change their forms, and that this will probably be the form to which they will turn. It seems to me that sufficient explanation of the activities of the committee has been made, and I recommend that the report be accepted for further study.

MACO STEWART (Stewart Title Guaranty Company, Galveston, Texas): Gentlemen: Texas knew nothing of what a title insurance policy should be, until the Stewart Title Guaranty Company tried to teach them, and we learned a good deal in trying to teach people something they knew nothing about. You must bear in mind that title insurance is not generally accepted. It is not universal; it is opposed by lawyers. I view this not only from the standpoint of the title insurance company, but I view it from the standpoint of the lawyer, as I practiced law for forty years. I view it from the standpoint of the people who are relieved of the money. I represent every mortgage concern of any size in Texas that lends money, and I know what view the mortgage company takes. I view it from the angle of the largest mortgage company in Texas which has more money loaned than any company in Texas.

I want to get this to the title insurance companies who failed to make it go in Oklahoma—you cannot do it if you tie up your obligations in the contract, if you load it with exceptions and restrictions that the purchaser cares nothing about. The opinion of the lawyer is the thing you are competing with. We issued a policy that could be sent through the telegraph office. It was simple, short, and to the point, and guaranteed to the purchaser that the title was then good in the assured by reason of this policy being issued to him, and he went to sleep and forgot his troubles and we put title insurance over in Texas easier than it was put over anywhere. In twenty-five years we have written eight hundred millions of business and the losses in that time have not amounted to ten thousand dollars.

Now we can't issue that restricted policy. Certain men in the title business inveigled the insurance commissioner into putting a multitude of restrictions in the state law. When I take a man's money, I want to give that man something for that money. Find out who is in possession and charge accordingly. What I am trying to make you understand is to get rid of every restriction if you want to make title insurance compete with lawyers' opinions.

We are not much troubled with forgeries. The only troubles we ever had were the employees in the different offices. We have acted under the iron clad rule, which is just one of common sense, to protect ourselves against forgeries, and when the party is going to sign a deed or mortgage we have him bring us his title papers, the tax receipts, the insurance policies, and the deeds of conveyance, as many evidences of the chain of title as he has. If he has them he is the owner. He would have to commit theft in addition to forgery to have them.

I am convinced, as surely as I stand here, that title insurance will be ac-

ceptable to the public but we must make it easy for the public to do business with us, and give them something that is absolutely unlimited and unconditional for the money paid. That is my doctrine and it doesn't take any committee, or much study, to write out that kind of policy. Whenever the public begins to suspect that you are fixing a little loop-hole, they are not going to do business with you. I am regretful beyond expression that the insurance commission had to require a lot of restrictions but I say to you, if a man has my policy, he is going to get his money promptly, irrespective of those restrictions.

I don't want a lot of legal technicalities in my policy; I want the kind of a policy the buyer can understand and one that will protect him.

. . . Mr. Gill submitted the printed "Report to the American Title Association, Relating to a Tentative Uniform Owner's, Mortgagee's or Lessee's Policy," to be incorporated in the proceedings. . .

Report to The American Title Association, Relating to a Tentative Uniform Policy

The only necessary report is the proposed uniform policy, printed copies of which are herewith submitted to the convention for the consideration of such members of The American Title Association as are interested in the business of title insurance. But "a decent respect for the opinions" of those who may be called upon to examine and criticise this policy impels us to give the reasons which have actuated us in devising the particular form of policy which is submitted with this report.

At the last mid-winter meeting of The American Title Association in Chicago, Mr. Benj. J. Henley, Chairman of the Title Insurance Section, appointed a committee whose duty it was to work out the provisions of a Uniform Owner's Policy of Title Insurance. This committee consisted of:

Stuart O'Melveny, Chairman, Executive Vice President, Title Insurance and Trust Company, Los Angeles.

McCune Gill, Vice President, Title Insurance Corporation, St. Louis.

Chas. C. White, Title Officer, The Land Title Abstract and Trust Company, Cleveland.

To the last named person on the above list was delegated the task of drafting a uniform policy. Because of the way in which the work of this committee has necessarily been done, and because of the fact that this report is being prepared too late to send to the other two members of the committee, it follows that this report must consist largely of the personal views of the writer. On the whole I think that the policy submitted herewith will be approved by the other members of the committee, but I do not want to put myself in the position of speaking for the other members of the committee, except to the extent that they may, after careful consideration, approve this report and the proposed policy submitted herewith.

Outside the committee very helpful suggestions were received from Frank I. Kennedy, Asst. Vice President, Union Title and Guaranty Company, Detroit, and from N. W. Thompson, Vice President, Title Insurance and Trust Company, Los Angeles. The thanks of the committee are especially due to Senator Thompson for his complete and painstaking discussion of the written reports made by the draftsman to the committee.

The writer might here write a little disquisition on the question as to whether or not a uniform fee policy is desirable. But it seems to me that this question has been answered in the affirmative by the appointment of this committee. This report, with the proposed policy accompanying the same, will at least form the basis for a decision of the question as to whether or not a uniform policy is feasible.

There are two ways in which a uniform policy can be devised. One way is to cut out all restrictions, exceptions, and conditions and insure "the whole works." The other way is to incorporate practically all the exceptions, restrictions, and conditions found in policies the country over. The practical problem is to select such conditions, stipulations, and exceptions as are fairly general and work out a sort of compromise between too few and too many conditions. And after all the question as to what we will or will not insure is largely determined by what we are able to charge for our work. We can not insure against all defects, of record and not of record, without charging a fee that users of title insurance will think prohibitive.

Then again, we who deal with any phase of legal matters are terribly bound by tradition and terribly afflicted with "the legal mind." Title people seem to think that a title policy must have a first page, a Schedule A, a Schedule B, and a more or less involved sheet carrying conditions, exceptions, etc. Some day a genius will arise who will probably devise an entirely new form of policy. After all, we did in time get away from the dash board and whip socket on the automobile.

The draftsman of the policy herewith submitted has proceeded on the theory that the conditions and stipulations should be made simpler than in most policies, that the exceptions should be reduced to a minimum and should so far as possible be incorporated in Schedule B. The draftsman's theory may be all wrong, but must be taken into consideration in criticising the form of policy submitted.

With this too long introduction we will now proceed to a discussion of the proposed policy as submitted.

The draftsman has exceeded his authority in one particular. He was directed to prepare a "Uniform Owner's Policy." It will be noted that the proposed policy is headed "Uniform Owner's, Mortgagee's or Lessee's Policy." This has been done in deference to the practice in many parts of the country of using only one form of policy. Pennsylvania has got along for years with one form for owners and mortgagees. New York does the same, except that a different "first sheet" is used for owners, mortgagees, and lessees, the "conditions sheet" being the same. The Cleveland title companies have always used the same form for owners and mortgagees, except where they have been compelled by Life Insurance Companies to use a different form, whether that form be A. T. A., L. I. C., or an adaptation of their own form.

As to the mechanical get up of the policy we have, for convenience, submitted a one sheet form, although the writer's experience is that the loose leaf form is better. It often happens that long descriptions, long restrictions, or other matters will not fit into the space provided on the single sheet form, and it is convenient to insert added sheets to carry the material that will not fit into the one sheet form.

Attention is called to the terms "heirs or devisees, personal representatives, successors" on the first page. These different terms have been used in accordance with the idea that the policy may be used for owners, mortgagees, or lessees. If it be a fee policy to an individual "personal representatives, successors" may be cut out. If a mortgage policy to an individual "personal representatives" may be used and "heirs or devisees" and "successors" may be cut out. And so for lessees, corporations, etc., the surplus words may be cut out. Or, if a loose leaf policy is used, a different front sheet with the appropriate words may be used, as is the custom in New York.

Attention is called to the phrase, "or any person to whom this Policy shall be transferred, with the consent of the Company endorsed hereon." It will also be noted that the last page of the proposed policy is an assignment sheet. McCune Gill does not believe that an owner's policy should be assignable. This is probably also Stuart O'Melveny's opinion. I know that it is the opinion of Senator Thompson. This is a debatable question, but the proposed policy has been made assignable, in accordance with a wide spread custom among title companies. Pennsylvania, New York and Chicago policies provide for assignments.

In accordance with a very strong conviction of the writer, this policy does not insure marketability. This conviction is shared by McCune Gill and Senator Thompson. Stuart O'Melveny is of record on the other side of this question, but I did not, in the preparation of this policy, get his present opinion on this specific question.

Those title companies who want to insure marketability may insert after the phrase "said Schedule A" on page

one the phrase "or by reason of unmarketability of the title of the Insured to or in said premises."

It will be noted that Schedule A consists of the three items that have always appeared on Pennsylvania and New York policies. One member of the committee and one adviser think that Item 2, of Schedule A, is superfluous. The writer would so admit, if this policy were to be used as an owner's policy alone. But if it is to used also for mortgage and lease policies, it would seem that this item is necessary.

Before taking up Schedule B it will be convenient to discuss the "CONDITIONS and STIPULATIONS," since we have transferred to Schedule B some matters that are usually set forth in the conditions.

To begin with, one adviser thinks tho heading "Conditions" sufficient and that "Stipulations" is surplusage. But it seems to the writer that there are matters therein that are more in the nature of positive stipulations than conditions. The heading therefore has been left to read "Conditions and Stipulations."

Several years ago the writer examined a host of policies and compiled a list of the items that appear in the conditions and stipulations used in various localities throughout the country. These items are as follows.

1. Untrue statement by the insured avoids policy, but does not affect assignee, or mortgagee, who is not cognizant of untrue statement. 2. Company will defend title. 3. Duty of insured to notify company of defect, etc. 4. Unless company be notified within.....days of service of process, policy void. 5. Liability of company to holder of policy as collateral shall not exceed interest of collateral holder. 6. Provisions as to transfer of policy. 7. Policy not to be transferred without the assent of the company. 8. Payments on Policy, reduce liability pro tanto. 9. Company has the right of subrogation. 10. No action against company until after .....days notice of claim. 11. Company may take over the interest of the insured at an abitrated valuation. 12. No claim shall arise unless (a) There be eviction, or (b) Final judgment on encumbrance not excepted in policy, or (c) Title has been rejected under contract, or (d) Under contract to sell the title has been determined unmarketable, or (e) Insured mortgage has been declared invalid by court, or (f) Contractee has been relieved by court from taking title, or (g) Question of mortgagee's title has been submitted to court arbitration, or (h) There has been judgment of court against insured on his covenants of title. 13. Provisions as to re-issue. 14. Company will pay costs of litigation. 15. Company will not pay insured's attorney fees. 16. Face of policy is limit of liability. 17. Company may settle claim or pay policy in full. 18. Payment (or tender of payment) in full terminates company's liability. 19. Co-insurance and apportionment of loss provisions. 20. Policy void unless suit be brought within.....years. 21. Policy may be cancelled, if premium be not paid. 22. No waiver of conditions valid unless signed by an executive officer of the company. 23. Attachment of anything to policy without company's consent, avoids policy. 24. Policy insures no one but the insured. 25. Company insures marketable title such as court would uphold in specifice performance. 26. Must be final determination of court unless the claim be founded on a matter of record not noted as an exception. 27. "Insured" includes (a) Persons holding by will, descent, community, etc. (b) Successor of an insured trustee or beneficiary (c) Successor of an insured mortgagee (d) Purchaser at foreclosure sale, if purchase be made by or on behalf of insured. 28. Defending an action by company not an admission of liability. 29. Liability shall not exceed the actual value of insured's interest. 30. Right to defend includes right to appeal. 31. Loss paid (exclusive of costs) shall not be more than face value of policy. 32. No assent or waiver by company will deprive it of the future rights to insist on conditions waived or assented to. 33. Fifteen years limitation on company's liability. 34. Conveyance of the interest insured renders policy void.

No one would contend that all the above items are essential parts of a title policy. The problem of the draftsman of a proposed uniform policy is to incorporate the essential items in the above list in as simple language as he knows how to use. For it has always been a theory of the writer that he who succeeds in using one word, phrase, or sentence where two were used before, is a public benefactor. We suffer in America from a plethora of language. Like Hamlet we are bothered with "words, words."

Here goes, then, for our own little stab at "CONDITIONS AND STIPULATIONS."

Paragraph 1.

This paragraph in some form is a necessary part of any title insurance policy, since it contains the promise of the company to defend the title, a provision which makes a policy of title insurance something more than a mere contract of indemnity. The provision for notice in this paragraph is the provision that title men quarrel a lot about, and it seems impossible to devise a wholly satisfactory form. Senator Thompson criticises my form for not containing some proviso as to notice of claims other than law suits. My answer is that it seems as definite as the Pennsylvania Uniform Policy, and those Pennsylvanians have been in the title insurance business longer than any of the rest of us.

Paragraph 2.

Whether this is an absolutely essential paragraph I am not prepared to say, but it appears in substantially all policies in substantially this form, and there will probably not be any quarrel about it.

Paragraph 3.

This is the subrogation clause substantially as it appears in most policies. Since a title insurance policy is not a suretyship obligation I am satisfied that a subrogation clause is necessary. The subrogation under a title insurance policy is "conventional" rather than "legal," and the overwhelming weight of authority is that conventional subrogation is founded upon specific contract providing therefor.

Paragraph 4.

McCune Gill is not much enamored of this parapraph and he doubts whether, in some states at least, this attempt to cut down the statute of limitations would pass muster with the courts. However, this paragraph appears in most policies and seems a reasonable protection against the assertion of stale claims.

Paragraph 5.

There has been a difference in practice as to whether or not title insurance companies obligated themselves to pay costs in addition to other losses. In accordance with what the committee thinks the better practice, this paragraph provides specificially for loss and costs. Some advisers have criticised the proviso that the Company "will in no case be liable for the fees of counsel or attorneys employed by the Insured." However, the writer is very strongly of the opinion that this proviso should be in the policy. If the Company, notwithstanding this proviso, sees fit to get the help of counsel for the Insured and pay for the same, well and good. But I think it better that the policy make no such promise. The Insured's attorney is wholly human and will not be terribly excited about the defense of a suit which is primarily the business of the title Company.

Paragraph 7.

It will be noted that this is really an "Exceptions" paragraph, and according to the writer's strict theory should have been relegated to Schedule B. However, because of the almost universal inclusion of the material in this paragraph in policies throughout the country it has been thought best to leave it among the "Conditions and Stipulations." McCune Gill says it is an insult to the Insured and is not a necessary part of a title insurance policy. It is a paragraph about which I have no very strong opinion, but I do not think that most title companies will think it highly desirable even though possibly not absolutely necessary.

Paragraph 8.

This paragraph is not necessary in a policy which does not provide for assignments. But in an assignable policy, it seems desirable, even if not absolutely necessary.

We come now to the matter of "exceptions," things not insured against, matters which sometimes appear in the "conditions and stipulations," sometimes in Schedule B, and usually appearing partly in both. To indicate the puzzling nature of the matter of exceptions, we here show a list of exceptions compiled from actual title insurance policies:

(1) Defects, liens and encumbrances suffered by the insured, or for which he was liable at date of policy. (2) Exercise of "police power." (3) Zoning ordinances. (4) No title insured beyond the lines of the premises described in Schedule A. (5) Provisions of building code and other municipal regulations. (6) Personal property attached to insured premises, not insured. (7) Defects or encumbrances arising after date of Policy. (8) Taxes and assessments not a lien at date of policy, or payable in future installments or a lien but not of record. (9) Fraud of party insured. (10) Claims, undisclosed of record arising under any act, thing, or trust relationship done, created, or suffered by the insured. (11) Insured not a purchaser for value. (12) Insured violated bankruptcy law in acquiring title. (13) Dower, curtesy, or homestead of the consort of the party insured. (14) Refusal to purchase, lease, or loan money on title insured. (15) Income tax. (16) Water rent, water taxes, special taxes, etc., not yet a matter of record. (17) Conveyances or agreements not of record. (18) Mechanics' Liens not of record. (19) Encumbrances existing at date of policy, but removed before delivery of same. (20) Unless survey be furnished, Company not liable for boundaries, etc. (21) Rights reserved in United States or State Patents. (22) Water and ditch rights. (23) Alimony. (24) Delay in getting possession. (25) Policy does not guarantee legal status of insured individual. (26) Does not guarantee corporate status. (27) "Under water" rights of state. (28) Invalidity due to usury. (29) Padlocking. (30) Bankruptcies in other jurisdictions. (31) Rights of persons in possession. (32) Validity of encumbrances not insured.

As was said at the outset I have tried to figure out the most universal of the above exceptions and, aside from Paragraph 7 of the "conditions and stipulations," to relegate the exceptions to Schedule B. Only by so transferring most exceptions to Schedule B does it seems possible to me to devise a uniform policy. Schedule B is, of course, not expected to be uniform throughout the country, and I have attempted to put in Schedule B only such exceptions as seem pretty universal. It seems to me that the five items set up in Schedule B are the minimum number of exceptions. The maximum will depend largely on local conditions.

Item 1, Schedule B.

This is an almost universal exception, although not always couched in the same language.

Item 2, Schedule B.

Not universal, but pretty general, dependent upon the local laws.

Item 3, Schedule B.

This item is intended to take care of zoning laws, police power, etc. It may not be all inclusive enough to suit some title men, but it seems to me it will give all the protection a title insurance company is entitled to.

Item 4, Schedule B.

This item was devised at the instance of McCune Gill, although the form thereof has not been submitted to him.

Item 5, Schedule B.

What taxes or assessments, if any, that a title company excepts from its policy must depend wholly upon the local law. It has, therefore, seemed impossible to devise any model item.

This report has grown to larger proportions than intended, but it has seemed necessary, in order to forestall criticism, for the draftsman "to give a reason for the faith that is in him," and to explain step by step, just what was in his mind in the preparation of this policy. It is to be hoped that no one will attempt to criticize the policy without thoroughly reading this report.

It is rather too much to hope that this first attempt to devise a uniform fee policy will pass unscathed through the deliberations of the convention. However, I do believe that the committee deserves some credit for having done the spade work that was necessary to be done by some one, if we are ever to have a uniform fee policy.

With the sincerest thanks of the draftsman to those members of the committee, and other persons, without whose sympathetic cooperation this job could never have been completed, this report is

Respectfully submitted,
CHAS. C. WHITE.

Cleveland, Ohio, Ocober 15, 1931.

The American Title Association's Proposed Uniform Owner's, Mortgagee's, or Lessee's, Title Insurance Policy

TITLE INSURANCE POLICY

Amount Number

American Title Insurance Company

A corporation, of Spokane, Ohio, herein called the Company, for a valuable consideration paid for this Policy of Title Insurance

Does Hereby Insure

heirs or devisees, personal representatives, successors, or any person to whom this Policy shall be transferred. with the consent of the company endorsed hereon, against all loss or damage not exceeding———————— Dollars which the Insured shall sustain by reason of any defect or defects of title affecting the premises described in Schedule A, hereto annexed, or affecting the estate or interest of the Insured therein as described in said Schedule A, or by reason of liens or encumbrances charging the same at the date of this Policy, saving all loss by reason of the estates, interests, defects, liens, and encumbrances excepted in Schedule B, or by the Conditions and Stipulations hereto annexed, which Conditions and Stipulations together with Schedules A and B are hereby made a part of this Policy.

IN WITNESS WHEREOF, American Title Insurance Company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers this———day of———— 193—

AMERICAN TITLE INSURANCE COMPANY,

By ————————,
President.

By ————————,
Secretary.

Schedule A

1. The estate or interest of the insured in the premises described below covered by this policy.

2. The deed or other means by which the estate or interest covered by this policy is vested in the insured.

3. Description of the real estate in which the insured has the estate or interest covered by this policy.

Schedule B

Showing estates or defects in title, liens, charges and encumbrances thereon, and other matters against which the Company does not, by this Policy, insure.

1. Rights or claims of parties in possession not shown of record, and any facts which a correct survey and inspection of the premises would show.

2. Mechanics' and material men's liens of which no notice has been filed of record.

3. Action by any governmental agency for the purpose of regulating the use or occupancy of the land described in Schedule A, or any building or structure thereon.

4. Bankruptcy proceedings in any jurisdiction other than that of the United States District Court whose jurisdiction includes the county in which the land described in Schedule A is located.

5. Taxes and assessments (This item must necessarily be different in different jurisdictions. No attempt has been made to devise a model item. In actual practice this will probably be a typed, rather than a printed, item).

Conditions and Stipulations

1. The Company shall have the right to and will at its own cost, defend the Insured in all actions or proceedings founded upon a claim of title, defect, lien, or encumbrance insured against by this Policy and may pursue such litigation to final determination in the court of last resort. In case the Insured shall receive notice or have knowledge of any such action or proceeding, it shall be the duty of such person at once to notify the Company

thereof in writing, and secure to it the right to defend the action. Unless the Company shall be so notified within 10 days, all liability of the Company in regard to the subject matter of such action or proceeding shall cease and be determined. But such failure to notify the Company shall not avoid this Policy unless the Company is prejudiced thereby.

2. The Company reserves the option to pay, settle, or compromise for or in the name of the Insured, any claim insured against, or to pay this Policy in full; and payment or tender of payment of the full amount of this Policy, together with all costs which the Company is obligated hereunder to pay, shall terminate all liability of the Company hereunder.

3. Whenever the Company shall have settled a claim under this Policy, it shall be subrogated to all rights, securities and remedies which the Insured would have had against any other person or property with respect to such claim, and the Insured shall transfer or cause to be transferred to the Company such rights, securities, and remedies and permit it to use the name of the Insured for the recovery thereof. If the payment does not cover the loss of the Insured, the Company shall be subrogated to such rights, securities, and remedies in the proportion which said payment bears to the amount of said loss.

4. A statement in writing of any loss or damage for which it is claimed the Company is liable under this Policy shall be furnished to the Company within sixty days after such loss or damage shall have been ascertained. No right of action shall accrue under this Policy until thirty days after such statement shall have been furnished, and no recovery shall be had under this Policy unless an action shall have been commenced thereon within one year after the expiration of said thirty days.

5. The Company will pay, in addition to any loss insured against by this Policy, all costs imposed upon the Insured in litigation carried on by the Company for the Insured under the requirements of this Policy, but will in no case be liable for the fees of counsel or attorneys employed by the Insured. The liability of the Company under this Policy shall in no case exceed the actual loss of the Insured and costs which the Company is obligated hereunder to pay, and in no case shall such total liability exceed the amount of this Policy and such costs.

6. All payments under this Policy shall reduce the liability of the Company by the amount of such payments, and no payment can be demanded without producing the Policy for endorsement of such payment. If the Policy be not so produced, indemnity satisfactory to the Company must be furnished.

7. The Company will not be liable for loss or damage by reason of fraud by or notice of fraud to the Insured; or for loss or damage by reason of defects, liens, or encumbrances created subsequent to the date hereof; or for defects, liens, or encumbrances created or suffered by the Insured, or existing at the date of this Policy and known to the Insured at that time, or at the date when the Insured acquired the estate or interest insured by this Policy.

8. The terms "Insured" as herein used means the person or persons in whose favor this Policy is issued and any person or persons to whom it may be transferred with the assent of the Company endorsed hereon.

THIS POLICY NECESSARILY RELATES SOLELY TO THE TITLE PRIOR TO AND INCLUDING ITS DATE

Assignments of this Policy, either to purchasers or mortgagees, must be with the assent of the Company endorsed hereon, and to protect subsequent purchasers or mortgagees against intermediate claims or losses, must be continued to date.

In assenting to assignments no liability is assumed by the Company for defects or incumbrances created subsequent to the date of this Policy.

ASSIGNMENTS OF POLICY

Spokane, Ohio————19—. For Value Received————hereby assign all interest in this Policy to————

Assented to————, 19— subject to foregoing conditions.

AMERICAN TITLE INSURANCE COMPANY

By————.

Spokane, Ohio————19—. For Value Received————hereby assign all interest in this Policy to————

Assented to————, 19— subject to foregoing conditions.

AMERICAN TITLE INSURANCE COMPANY

By————.

Note: The above form will be considered to be the A. T. A. Uniform Policy even though (1) the assignment provisions be omitted, (2) marketability coverage be provided for, (3) schedule A be changed to show merely vesting and description, or, (4) items be omitted from schedule B to provide broader coverage.

THE CHAIRMAN: I am sure that further discussion of this subject would be very interesting to us all. However, we have a set program and we must complete it this morning.

We are to have the discussion of "Losses and Claims" from one who has had probably more experience in different parts of the country than any other member of the Association and I am sure that William H. McNeal of the New York Title and Mortgage Company of New York will give us a very interesting address. Mr. McNeal.

"Losses and Claims"

William H. McNeal, New York City

Ladies and Gentlemen: If there are any in the audience who do not have title losses and wish to retire, I am sure that time will be alloted for them to leave, because I don't want to impose upon any one the stigma of the belief of title losses where they do not occur.

I stand here, however, as an exponent of the belief that title insurance companies who do a title insurance business nationally—and that is the subject I wish to speak about—must face title losses by various and sundry causes. Those causes are not within the control of the title companies through their examiners, through their executives or through their efficiency in other means and manners, but they are such as are heaped upon the title insurance companies by reason of lenders who seek, of course, to gain without giving.

Mr. President, when this subject was assigned to me I had expected and hoped to give this body a scientific and statistical report gained from our experience of twelve or thirteen years in the national line. I made a request to the counsel of our claim department, who is certainly proficient by reason of experience in this line, to compile an address which would be statistical and scientific from our standpoint and which would be something containing meat. Our counsel was so busy attending to his duties as head of the claim department he was unable to prepare such a report. About two weeks ago he came to me and said, "You will have to do the best you can." I know the gentleman has some problems which have taken his time to the exclusion of almost everything else, even those of importance such as this. Therefore, what I say will be brought to you on mental crutches. It will consist of a partly prepared and a partly extemporaneous narrative of the things that have happened in the claim department of our company.

A speaker is chosen, presumably, because of his familiarity with the subject on which he is to speak. From what I have been told by those engaged in a similar line of work, I am not the only one qualified to speak on the subject of Losses and Claims. Any form of suretyship is hazardous even in normal times, but in times of stress the losses and claims are accentuated in proportion to the distraught mental condition of the people. In the interim during the distressed real estate market, and the period of depression which has brought low the resistence of so many people against foreclosures, forced sales, bankruptcies, family disputes and the like, surety companies of all kinds which includes title insurance companies (because they are in a sense surety companies) have suffered far beyond their expectancy and

the list of losses and claims is growing daily.

Companies doing a national or state wide business are having a new experience. Never before have they passed through a period that even approximates the present one therefore they have not provided for such an emergency, indeed they could not have provided against it because of lack of knowledge of the hazards of the business in which they have been engaging.

This experience, if we live through it, will teach us how to prepare for its repetition and to protect ourselves against it, not by deliberately stepping out from under, by refusing to deliver the coverage which is demanded by the public which we serve and which it is entitled to, but by perfecting our methods and stopping the causes of loss at their source.

It becomes essential therefore to examine into some of the causes of losses and claims which appear on the registers of operating companies today. The greater number of them can be charged to ignorance—ignorance of the operating companies in conducting the business of insuring titles at long range and ignorance of the general public and the legal profession in particular of the use of and reasons for title insurance.

From an operating standpoint, the business is yet in its infancy. It has been a pioneering business and more attention has been given to sales than has been given to the technic of operation. In fact technic must develop from experience and experience must follow sales. One of the greatest barriers to sales has been the theory, which is not at all unreasonable from the standpoint of the public, that no need for title insurance exists. No one individual firm or corporation dealing in titles would admit having an excess of title trouble, but when the title troubles of a great mass of people are concentrated into the few centers representing the few title companies, the number becomes appalling and the burden becomes heavy. Many of the legal profession believed that title insurance had come as a carry-all for bad or defective titles and until they were educated to the contrary, and they are not all educated yet, many titles which should never have been insured were recommended for insurance as a safeguard to their clients who did not want to pay the cost of court or other action to correct them. Mortgage companies have in some instances used title insurance to carry defective or uncertain titles to market and no doubt in some instances attorneys who have been directly interested by way of commissions in the prompt closing of loans have resolved close questions in favor of the title to the detriment of the title company. I do not indict the legal profession as a body for I have found them as a rule standing four square on the dignity of their opinion, but I do speak advisedly with reference to some when I say that not a few cases with which I have dealt proved conclusively that the examining attorney had betrayed his trust.

There is always present in the business the liability chargable to forgeries and frauds, but those are of such historic origin and constant occurrence in real estate transfers and commercial transactions of all kinds that I will not treat of them here.

The greatest volume of losses and claims attributable to any one cause arises from the system of keeping tax records and the improper report of them by abstracters and certifying attorneys. The method of assessing, recording and reporting taxes used by the tax officials of the several states and their various subdivisions is in a majority of cases crude, in accurate and utterly lacking in designated responsibility. The laws of the various states should require that proper records of all taxes of whatever nature including special assessments should be kept in one office in the county seat of the county in which the land lies, and these records kept in such shape that the abstracter or attorney can readily determine the tax status of each parcel of land in that county, the tax official responsible for accurately keeping these records should be under bond and be amenable for errors. A certificate issued out of his office should be final and if he makes mistakes let his bondsmen account to the state. As it is now an abiding public suffers the errors of a public official who at will, as if by Divine right, repudiates his official acts which in many cases causes a title insurance company or an abstract company loss without hope of recovery.

Some progress is being made toward simplifying the laws of procedure regarding real estate matters. Nothing will stimulate this movement more than the loss ratio to profits, which is going up like a thermometer on a summer day. The Uniform Mechanics Lien Act of which you have already heard and of which you will and should hear more is a step in the right direction. Uniformity of mortgage laws of the various states is receiving and will receive a great impetus through President Hoover's Council on Homebuilding and Homeownership. I know that one of the points which is being stressed by the Mortgage Bankers Assn. in its findings and recommendation to the President's Council is simplification and unification of real estate laws, especially with reference to foreclosure practices and the obstacles put in the way of cheaper mortgage money by way of homestead laws, community property laws, tax laws, etc.

I really look for progress, if pressure can be applied before the urgencies of the next presidential election disappear.

Reverting to the causes of losses under the national title insurance system, we all know—at least those of us who are doing a national business know—that we depend a great deal on the integrity of the people with whom we do business. The application designed to fill the need of the national title insurance owner is one which is designed to bring out the facts of possession and, in fact, all of the physical details of the property with reference to possession, unrecorded mechanics' liens and uncompleted building, violations of restrictive covenants, and so forth. This application, of course, represents the integrity of the one who fills it out. That integrity must be measured by the investigation of the insurance company, which is made before putting that applicant on the approved list.

We have had in our claim department a number of cases based upon false statements in the application with reference to occupancy. In one application recently, the applicant stated that the property was in occupation of the owner, when as a matter of fact it was in the occupation of a tenant, the tenant having an unrecorded claim in his possession covering the portion of the property. It happens in that case that the insurance policy was in favor of the man who had made the application and, of course, in such instances the general insurance law is that the statements of the applicant to the detriment of the assuring company are fatal to his claim for indemnity. Where one applying for title insurance makes false statements as the applicant of title insurance, leading the company astray, then he must account for his wrong actions. If that title policy had been written to the benefit of a third party, a life insurance company for instance, it would not have been possible for us to disclaim liability under that form of policy.

The subject of unmatured mechanics' liens has been under discussion ever since national title insurance was stated. It continues to be a subject for discussion and as they have this experience we have been talking about, title men find that they are dealing with a class of business which must represent thorough and painstaking operations. Then and not until then will the mechanics' lien question be solved. Unless it is possible to bring the unrecorded mechanics' lien question to a satisfactory conclusion, there is nothing else to do than to put an exception in the title insurance, "Unrecorded Mechanics' Liens."

As a rule, the insured knows he is taking a chance on that very thing, because he is either buying a property under completement and he is making a loan on the building under process of completement or he is placing his money out on the theory of the mechanics' lien. The question is going to be resolved in favor of all outstanding bills.

Pressure is being put on the title insurance companies to uncover unrecorded title liens and we have assumed

that responsibility to a very large extent. It is not up to the title insurance companies to insure against unrecorded or unfiled mechanics' liens which, according to the laws of the various states, as you all know, depend upon the period ranging from two or three to five months on newly completed buildings.

We have had some claims through violations of restrictions but they have been, perhaps, very largely by reason of errors in survey. The question of surveys is another matter that national title insurance companies must take into consideration and work out on a scientific basis. We have surveyors who are competent and some who are not competent. Only those in whom we put confidence in our branch offices can determine as to the competency of various surveyors.

Faulty abstracts have also come in by the score to the claim division of the company. I say faulty because in the southern states, for instance, we do not have the class of abstracters that we have in the Middle West and in the West. I understand that the abstract contest has shown conclusively that perfection in abstracting is abroad in the West and Middle West. Abstract companies are not known in the South except in a very limited degree and they do not report on titles other than to make pencil notes. This results in many faulty abstracts. They have not the background of a daily take-off or an index system which you have and therefore it is generally a name-running proposition.

We also have had considerable trouble with carelessness or crookedness, or sometimes both, of attorneys. Carelessness of attorneys has been largely responsible for the tax situation, which represents perhaps sixty per cent or more of the number of losses and claims on our list, and it is responsible very largely for special assessment payments in future annual installments. We certify that all taxes are paid up to the current year; that is a perfectly true mistake in insuring that title because if no mention is made of assessments payable in future installments, it is natural for a title policy to be written free of exceptions, which has been stressed here this morning as a need for the success of the business.

In this period of deflated real estate values, numerous foreclosures and almost an equal percentage of acquisition of properties for the foreclosing company, delinquent taxes payable in future installments become a very serious problem in the title insurance. They are liens from the time the assessment is made up. They are liens until they are paid. The result is the lending concern that acquired the property often finds it has perhaps a greater investment in that property than the property is worth on the normal market. They see their interest depreciate day after day. It is only natural for them to try to recoup or to avoid a more distinct loss by making the title insurance company pay the delinquency represented by the installments payable in the future.

We have had a number of cases of this kind and some of them we felt were unjustly thrown on us. In one case, where a life insurance company had quite a number of foreclosures and subsequent acquisitions of property it was found there had been drainage assessments in large amounts assessed against these properties and, of course, claim was made upon us for the payment of these assessments payable in future installments. We investigated, and through the kindness and graciousness and fairness of the officials of this insurance company, we were given an opportunity to look over the application for loans made to the insurance company on these particular lands. We found that the application for the loan stated that these special assessments for drainage were a lien on the land. We found that the inspecting force's report stated that the land was in a drainage district and subject to drainage.

Is it fair for the insurance company making the loan—knowing that it had a lien superior to its first mortgage; assuming, as it did, the responsibility of these taxes; considering, as it did, the amount of these taxes in computing the value of its property against which it had to make a certain sized loan—to charge the title insurance company with those taxes? As a matter of fact, had it not had a title insurance policy, it would have assumed no more responsibility than it assumed with one, knowing as it did, that it was making its loan subject to subsequent taxes. We are not going to ask the insurance company to pay those taxes, since we had the contingent liability, even though their attorneys failed to disclose that information. In many cases where attorneys failed to report taxes we have paid and paid and we are paying.

We had one very distinct case in a southern city. We could find nothing wrong with the firm of attorneys when investigating them. As a matter of fact they were the outstanding attorneys and the outstanding real estate dealers in the community and represented four or five life insurance companies in the examination of titles. But with respect to the title in the instance—not the one mentioned—they certified the taxes as paid up to and including 19-so-and-so.

In that case these attorneys represented the insurance company as closing attorneys. The funds were sent to them and they paid all outstanding mortgages, reserving nothing, and paid the taxes assessed to be paid in future installments. Those taxes were of an amount sufficient to haunt us and when we approached the attorneys on the subject, they said, "We knew these taxes were on there but you accepted our certificate and you did not make any inquiry as to whether or not those were all of the taxes; therefore, we gave it to you as our opinion that the property is free and clear of encumbrances." I would say those attorneys not only lost our business but also that of the insurance companies, and they have finally discontinued business in Texas.

It might be explanatory of the caliber of these men to say that one member of the firm made a mortgage to a certain insurance company, he and his wife signing the mortgage. When that mortgage was foreclosed he set up as the defense that she signed the mortgage separate and apart from him.

That brings up another point in the conduct of national title insurance which is giving us considerable trouble in these times of depression, and that is, that defenses are being put up to foreclose cases covering almost every question conceivable to the human mind and we have not a few, but many, and two states especially, which take the trend of the wife denying the acknowledgment of the signature and acknowledgment on the mortgage. There are states in which there is separate acknowledgment for the wife and others where the property is the community property and the wife claims in some way that she did not sign; that it was her homestead, and in many cases the homestead law is evaded. The result is we have to defend many cases where wives deny their signatures and where both the husband and wife claim a homestead right or that it was community property.

Receiverships have brought us into considerable trouble. We had one receivership which involved 563 of our titles with an aggregate of about three million five hundred thousand dollars of liabilities. It was a fight, of course, the creditors trying to set aside the procedure preceding receivership. It is only necessary to say that we have defeated that claim or, in other words, 563 policies have been validated and upheld.

Another receivership, which gave us no little concern, was the receivership of a hotel. Creditors came in and claimed that the corporation had no authority through its board of directors to sign the mortgage of three million five hundred thousand dollars because no resolution of the board of directors appeared upon the minutes of the meeting. The court, however, held in that case that the corporation had received the money and had built the hotel; that the stockholders and creditors, especially the stockholders, had received value and the creditors would have to proceed, having no prior liens against the assets of the company.

One more example of a fraud and I will close. We had a case in South Carolina involving a very large farm tract on which a mortgage of twenty thousand dollars was held by some life

insurance company. The insurance company started foreclosure and the defense set up that title had at all time preceding the execution of the mortgage been in the children of the original grantor of the mortgage. They produced as evidence of that the record of transfer from this grantor in the mortgage to these two children, one of whom was a minor. This date was prior to the date of the mortgage. It was recorded in the book of mortgages at the dating of the recording of the mortgage and it was contended, of course, that the mortgage was of no force and effect. This same attorney, who was supposed to prepare this report for me, spent a great deal of time tracing the cause of this particular claim.

It was decided that the deed or the purported deed was a forgery; that the recording of the same was a forgery, and the whole defense was a fabrication from start to finish. We found that a book from the recorder's office had been missing for about six weeks. We presumed this forgery had taken place during that time. It was afterwards found under the judge's desk in the court room. On a certain page of that book, all of which had been filled out in long hand by the recorder, there was an instrument recorded—the deed I speak of—in a handwriting entirely different from the handwriting of the preceding page and the handwriting on the succeeding page. It was a different kind of ink and handwriting experts declared that the ink was of recent origin. The recorder had died in the meantime, but the clerks in the recorder's office testified they knew that no one in the recorder's office but the recorder had ever written in that book up to that time and nobody knew anything about it; they testified that the book was missing during a certain period and how it was found.

The negro janitor, who put the climax in the case, testified that Mr. So-and-So, the perpetrator of the fraud, came to the court house one morning early carrying a bag. He had stayed in Charleston to erase a deed from this particular page and enter on that page this deed which he claimed was a deed to his children at that certain time. The janitor said that Mr. So-and-So came out of the court house with the bag empty and a couple of days after the book was found under the judge's desk.

. The court found that the deed was illegally recorded. Of course, we did not pay the $2,000, but we paid a $7,000 attorney's fee, which represents a large proportion of loss. Speaking of attorneys, they represent a large proportion, incidently, of national title insurance business. It is not so much that we can't defeat these claims but it is a fact that it takes legal talent as shown by the case just related.

I am sorry that I could not give you a more coherent and statistical report on title losses. My conclusion is that title companies now doing or contemplating doing a national business should get together and rend the veil of self sufficiency, looking to the adoption of better methods and regulations. This also applies to state-wide title insurance business because it is impossible for any title insurance company to know the personality, the identity or the character of every individual when its business grows. (Applause.)

Report of Nominating Committee

James Woodford, Chairman, Seattle, Washington

The Committee wishes to make the following report:

For Chairman of the Section:
Benjamin J. Henley
San Francisco, California

For Vice-Chairman:
Fred Hall, Cleveland, Ohio

For Secretary:
James E. Sheridan
Detroit, Michigan

For Members of the Executive Committee:
William McNeal, New York, New York
E. B. Southworth, Minneapolis, Minnesota
John Umsted, Philadelphia, Pennsylvania
R. G. Kemp, Salt Lake City, Utah
H. Laurie Smith, Richmond, Virginia

For the benefit of those who have come into the Association recently and are not familiar with the machinery used in handling these things, I wish, Mr. Chairman, to move the adoption of the report of the Committee, the suspension of all rules of order, the election of those nominated and that the Secretary be instructed to cast the ballot of those present for the nominees for officers of this Section.

The motion was seconded and carried.

THE CHAIRMAN: The last discussion on the program this morning is one about a new idea which will be fully explained to you by its author, Mr. Porter Bruck of Los Angeles, California. It is a new plan for the advertising of title insurance and one which the California Land Title Association has adopted.

"Title Insurance As Told By the Talkie"

Porter Bruck, Los Angeles, Calif.

I am satisfied that with the aid of this new method of advertising, you will not only be able to increase your business but you will render a real service and satisfy those with whom you come in contact in the title business.

I am going to talk about the value of motion pictures. You have all seen them. They are entertaining and you pay good money to see them. The production of a film simply giving a rather plain showing of a title plant would be by far the most valuable but it would be boresome; on the other hand, a film insidiously devoted to an exposition of the use of title insurance would hold the interest and attention of the spectators. We have arranged to have such a sound picture produced by one of the major picture companies in Hollywood. It will have a professional cast and will be a finished production and could be used in any theater such as you go to in your town. In your community, however, you will use it as we propose to use it in California.

We will purchase two sound projection equipments at a cost of approximately one thousand dollars a piece, one to be used in the southern part, and one in the northern part of the state. After the film has been shown in the metropolitan centers, these projection equipments will be used in the various counties of the state. They will be allotted to a county for a certain length of time depending upon the size of the county, and the number of cities. The pictures will be handled by title companies in those particular communities, showing one night at the Rotary Club, the next day at a certain high school, that night, the Kiwanis Club, the junior college, the following day, and so on down the line. It may take a month. We hope to be able to show it to practically every one whom we want to see it in the state of California within the period of a year but we estimate that we can cover approximately two million people with these two projections. Two sets of additional films will be made which will be used by small theaters or high schools which have their own projection equipment.

We spent eight to ten months in the preparation of a scenario. It is really rather interesting. I think you will enjoy it. It has a very particular purpose.

Sound movies have been employed by practically every major industry of the country. They have been used by the steel, tire, and automobile businesses. A partial list of companies that had pictures produced are, for instance, the Puget Sound Power and Light Company, the Ford Motor Company, the American Telephone and Telegraph Company, the General Electric Company, and the Standard Oil Company of Ohio.

In most of those pictures they have employed scenes of the factories showing the manufacture of their particular product and the merchandise. It is interesting to see how tires are made and how automobiles are made. Since our product is of an intangible nature, we felt it would be extremely boring to show the title plant and how a title policy is manufactured. We felt it necessary and advisable to present a

story and in the story to show what a title does and how it protects the buyer.

Mr. Bruck presented the scenario prepared by the California Land Title Company (Note by the Editor: The scenario is omitted on account of space—we all hope to see the picture when we are in California.) adding the following remarks:

As Mr. Henley mentioned, we propose to produce this picture for use in the state of California. Some time ago I wrote to Mr. Lindow to ask if he thought the people who sell title insurance in other parts of the country would be interested. He replied that he thought they would and that is why this was presented to you.

There are certain technical parts of this picture to be changed at the time it is made. If any of you are interested in learning further about this, I would be very happy to give you what information I have. I should like to repeat that it seems to me an important thing for us to consider a ways and means to reach all the people in an understanding way.

The meeting adjourned at twelve forty-five o'clock.

ADJOURNMENT

Abstracters Section

Wednesday, October 21, 1931

The session was called to order at ten o'clock by Arthur C. Marriott of Wheaton, Illinois, Chairman of the Abstracters Section.

Annual Address of the Chairman

Arthur C. Marriott, Du Page Title Company, Wheaton, Ill.

Much time might be consumed in a discussion of present business conditions with dire predictions or cheerful hopes as to the future, depending upon the speaker's frame of mind, but such a discussion would be of little benefit. Rather let us look into the affairs of the past year in so far as they pertain to our Section and our Association and from the experience had and the lessons learned make our plans for the year to come and for future years.

This past year has been a most critical year in the history of our Association. At the Mid-Winter Conference it was realized that either the activities of the Association would have to be curtailed or the income of the Association increased by raising the dues. Your officers disliked the idea of discontinuing activities if the money could be secured to finance them and much time and thought was given to an increase in the dues schedule. Finally a sub-committee was appointed to study the situation and make such recommendations as it deemed proper. This committee, of which your chairman was a member, came to the conclusion that this year was not the proper time to increase the dues and that such an attempt at this time would result in a great loss in membership and the committee, therefore, discontinued its work.

In the discussion on the question of increasing the dues the thought was advanced that the membership structure of this Association be changed, divorcing this Association from the State Associations so that dues would be payable direct to the Association and that membership might be had in this Association without membership in the State Associations. Your officers have taken the position that such a change would be harmful to the title business, would weaken the State Associations, which should instead be assisted, and that the benefit to our Association would be negligible, and for those reasons they have consistently opposed any change in our membership structure. Your officers have further taken the position that it would be most unwise to deprive the smaller abstracter of membership in this Association by raising his dues to such a point as would make it impossible for him to remain a member, and that rather than attempt to secure increased revenue in this manner it would be better to lessen our activities until business conditions warranted such an increase.

The reports of the President and Treasurer have advised you as to the financial situation of the Association during the past year. At the beginning of the year a budget was prepared allowing expenditures amounting to $34,789.00 which included the payment of a deficit of $4589.00 carried over from the preceding year. Later in July a cut of $4699.54 was made in this budget resulting in an allowance for the years expenses of $25,501.00. At this time your officers decided to discontinue all activities calling for special expense; plans for regional meetings under the direction of this Association were to be abandoned; no trips were to be taken at Association expense and the news bulletins were to be temporarily discontinued.

This action was taken because early in the year it became apparent that the income would be less this year than in the previous years and that even with the reduced budget, care and economy were necessary to avoid a deficit. As the months passed this reduction in income proved to be a fact. The call for additional payments from those who had already made sustaining fund pledges and the campaign for new pledges both failed to bring any appreciable amount, not more than $3000.00, when in former years such calls have raised from $7500.00 to $10,000. Collection of State dues was very tedious. Some of the Secretaries were reluctant to send out statements, advising a moratorium this year. Others failed to collect at all through indifference, and some only recently sent out their statements. There was a loss of membership in all but a few states. This was to be expected, but could have been avoided somewhat had the state officers put forth the necessary additional effort required in an unusual time.

However, the reports which you have heard show that even with the decreased income the expenditures were kept within our income so that this year no deficit was incurred and in addition thereto, last years deficit was wiped out.

Much that was desired to be accomplished by this Section during the past year could not be done because of the lack of funds, and necessarily the activities of your Section have been limited. Officers of your Section have attended the State Association's Conventions in Illinois, Wisconsin, Iowa, Nebraska, Kansas, New Mexico and North Dakota. Several state conventions were held without the knowledge of your officers so that in those cases no arrangements could be made toward having a representative of this Section present.

The major activities of this Section in the past year were the nation price survey and the abstract contest. Both of these required a considerable amount of time; in the price survey in making an analysis of the answers and in the abstract contest in the preparation of material for the abstracts and in judging and classifying the entries. It was felt that the abstract contest would necessarily result in an improvement and standardization of our abstracts and that the price survey would reveal some of the absurdities, inconsistencies and abnormalities in our price schedules. If we could stimulate an interest in the production of better abstracts and standardize our prices much would be accomplished. As this convention progresses you will be further advised as to each of these activities.

In looking back over the work, not only of the past year, but of the past several years, we find that much has been accomplished for the betterment of the abstract business and a large part of it has been the result of the efforts of this Association. Among these accomplishments we find that uniform certificates have been adopted in Oklahoma, Kansas, Minnesota, North Dakota, Montana and Colorado; that the abstracters law has been passed in North Dakota, South Dakota, Colorado and Montana and that uniform prices through regional meetings have been established in Kansas, Missouri, Oklahoma, Colorado, New Mexico, Idaho, Montana, Oregon and South Dakota at a material increase averaging about 46%. The Torrens law lost in several states where bills to establish it were introduced; bills to build county indexes, to establish county abstract offices or to force the Recorder to make abstracts on demand were defeated. With those things accomplished we can regard with pride the result of the work of the Association in the past and from those results take inspiration for renewed efforts in the future.

The association has established itself as a national power worthy of respect and capable of accomplishment. With proper support from its members it can give even greater assistance to the title business in the future, and our Section more than the other Sections needs its help and assistance.

The difficulties of the present are a challenge to us to show that we have the interest, courage and ability not only to maintain the accumulation of twenty-five years effort and accomplishment, but to increase its prestige and importance.

With your support that can be done.

THE CHAIRMAN: I will appoint the Nominating Committee to nominate officers for this Section for the next year:

W. A. McPhail, Rockford, Illinois, Chairman.

A. L. Bodley, Sioux Falls, South Dakota.

W. B. Clarke, Miles City, Montana.

In proceeding with our program, it will be permissible for any one who has questions to ask the speakers to do so at the conclusion of their talks. Any matters not covered by the addresses this morning may be taken up at the Open Forum on Thursday morning. Therefore, questions should be confined to the subjects of the address here today.

The first address is entitled, "Abstracters and Abstracts," and will be presented by Benjamin L. Holland, Attorney for the Phoenix Mutual Life Insurance Company. Mr. Holland.

"Abstracters and Abstracts"

Benjamin L. Holland, Hartford, Conn., Attorney, Phoenix Mutual Life Insurance Company

Mr. Chairman and Members of the Abstracters Section of the American Title Association: I do not promise that at the close I will be able to answer all of the questions which may be put to me, as indicated by your Chairman. As a matter of fact, I suppose as an invited guest, I might exert the prerogative of saying that some one with more experience would be better able than I to answer the questions.

I have had the privilege of attending two of the luncheons held in New York City by your Executive Committee. Except for these luncheons, I have never had the opportunity heretofore of meeting with you in any of your general sessions. I was very much pleased to have the invitation extended to me to meet with you in this convention, partly because it gives me the opportunity to meet personally a number of folks who conduct business for us in various locations in this country and also because this particular sesreturn to that part of the country in sion has given me the opportunity to

Benjamin L. Holland

which I spent my boyhood days.

Let me say that I have no revolutionary ideas to present to you. If you have wanted your system of abstracting revolutionized, you should have had me speak to you about the time I graduated from high school. (Laughter) At that time I think I could have settled a good many problems, yours as well as a great many others. As a matter of fact, I thought then that all economic problems were just waiting for a certain farmer's son from the Middle West to solve them. However, as we encounter these problems as we go through life, we are likely to have much more humility about us in our attempt to attack and solve them.

The subject assigned to me for discussion has apparently been made very broad for the purpose of giving me considerable latitude in selecting the problems which I may desire to discuss. Let me say in the beginning that I have never been employed in an abstracter's office and, as a matter af fact, I have rarely had occasion to visit such offices. Necessarily, therefore, the subject matter which I shall cover will be approached entirely from the standpoint of the experience which I have had in the handling of abstracts of title for a company which invests many millions of dollars in mortgages on real estate located in about twenty-two states.

In order that you may understand the viewpoint which I have in discussing this subject, I want to explain the procedure followed by our office in securing evidence of title. In our own state of Connecticut, abstracts of title are practically unknown. The original records are arranged in a room for public inspection and a complete set of grantor and grantee indices is always conveniently located. Accordingly, when an attorney undertakes to represent a client in the purchase or mortgage of real property, the attorney personally goes to the record room and makes his own search of title. He usually keeps notes on his search, which he files away for future reference in the event that at some later date he may have occasion to represent parties who may subsequently appear in the chain of title. If he is later employed in connection with some transaction involving the same chain of title, he will merely need to make an examination of the records from the date of his previous examination. If, however, some other attorney is selected by the parties, the new attorney will proceed to make a completely new examination from the original records. Under this arrangement, of course, professional abstracters simply do not exist. From my own experience, however, a Connecticut abstracter would be a very welcome addition to our community, because standing on one's feet all day long in a public record room, pulling down one ponderous volume after another, and reading pages of exact copies of deeds, leases, mortgages, etc., becomes very tiresome labor. I notice in our own community that as soon as a lawyer is able to do so he secures a young, ambitious attorney to assist him, who is very promptly assigned to the task of standing all day in public record rooms, removing from and replacing on high shelves the enormous books containing the title records.

Under this system, the purchaser of the property never secures an abstract. All that he secures is an attorney's certificate certifying as to what the attorney has found from the examination of the records. The expense of making an abstract is avoided, but on the other hand it is quite obvious that more time will be consumed than would be necessary if the attorney were only required to review an abstract which had merely been extended to cover the period from the time it was last used by the parties in the claim of title. In nearly all of the other twenty-one states in which our Company has loaned money on real estate mortgages, abstracts in one form or another have been submitted to us. In view of the fact that only a relatively small proportion of our mortgage loans are made in our own state, it means that during our investing experience we have received literally tons of abstracts. These abstracts usually do not come to us directly from the abstracter. Most of our mortgage loans have been secured through what is known as a "correspondent." The "correspondent" completes all papers and after they have been recorded the abstract of title is extended to the date of our mortgage. To assist him, the correspondent usually employs a local attorney who gives us with the abstract a certificate of his opinion as to the title as shown by the abstract. Of course, in some cases, the "correspondent" is himself an attorney and he furnishes his own certificate. When the abstract is received by our office it is again carefully examined. In order to secure the proceeds of the loan before this examination is made, the

"correspondent" is usually under bond to secure any corrections of title requested by our office or, if he is unable to do so, he is required to re-purchase the loan.

The result is that the examining attorney in the home office of an investing company like our own rarely comes into direct contact with the local abstracter. The investing company is, however, very much interested in the abstracter and the type of work that he does. In the first place, billions of dollars are invested in mortgage loans throughout the country by companies which have relied upon the accuracy of local abstracters for the title to the real estate securing these loans. In view of the fact that such companies employ title attorneys to check abstracts furnished, the investing companies are very much interested in the kind of product which the great group of local abstracters submits. Also, such companies are interested in the influence which the local abstracters can exert in their respective communities on laws affecting conveyancing, foreclosures, and other like matters which are of vital interest to investing companies. The local abstracter is anxious to secure the business which may arise from loans made by these companies in his local territory. In return, such companies are interested in securing the good will of the local abstracter because of the influence which he may be able to exert locally in favor of the investing company.

In order to keep my remarks in as logical order as possible, I shall divide the principal comments which I have to make into three divisions: first, the abstracter; second, the abstract; and third, what I have chosen to call "a recent development."

The Abstracter

From what I have already said, it is obvious that I am not in a position to comment upon the work of the abstracter from personal observation. We know the abstracter largely through the abstract which is submitted to our office by an intermediate party, the "correspondent" whom I have mentioned. Nevertheless, we very often have a mental picture of the abstracter which has been developed entirely from the type of abstract which we have before us at the time. Sometimes the abstracter in our mental picture is a fellow of the old school, who believes that he has performed his duty as long as all the information appears in his abstract, regardless of whether it can be read or not. Sometimes, we see an overly-cautious individual who is so afraid that something will be left out of his abstract and, therefore, makes almost a copy of the record instead of an abstract. In other cases, we see a slip-shod individual who boasts of never having had a loss occur through his office and, therefore, reaches the conclusion that none ever will occur. However, in most cases, the mental picture is of a hard-working man or office force endeavoring to meet competition and give to the public the very best product possible.

We have had very little occasion to object to the cooperation which we have received from abstracters, although as stated we rarely come in direct contact with them. Very much like attorneys, they are anxious to render all possible service that may be requested of them, because they receive a fee for doing so.

The accuracy of the abstracts furnished has been rather astounding. This is probably due not only to the fact that good abstracting has been done, but also to the fact that the local abstracter is usually very familiar with everything that takes place in his community, relating to the title of real property located there. I have in mind only a few definite cases where we have or might have suffered a substantial loss on account of the title to mortgaged premises. This does not mean, however, that all other titles accepted by us were perfect. There may have been cases where loans have been repaid without the fact that the title was defective having been discovered by any party. In still others, the title may not have been sufficiently defective to cause the parties to attack the lien of our mortgage.

One of the cases in which we did suffer a loss involved an irregularity in guardianship proceedings. In the lawsuit that resulted the court commented upon the fact that all the necessary information had been shown in the abstract and the examining attorneys ought to have known that the defect in the title existed. In another of the cases, the loss was due to the fact that the mortgage was placed upon the premises prior to the issuance of a patent. The third case was one in which two pages from an abstract had been torn out. Obviously the abstracter was not at fault in any of these cases. There may have been, however, instances of loss which have not reached our attention. In many cases the "correspondents" would protect the investing company against loss, for the purpose of keeping themselves in good standing with the investor and, as a matter of fact, some "correspondents" have agreed to protect the investing company against any loss growing out of defects of title.

Although the local abstracter may have been very careful in performing his duty of preparing accurate abstracts of title, I am not certain that he has always had as much at interest the problems of the investing companies as might be desired, at least by these companies. The local abstracter is usually anxious to stimulate local business. His income is derived almost entirely from the transactions that take place in a very limited territory. As a matter of fact, I know one abstracter who publishes a regular monthly pamphlet which I receive at my desk, the purpose of which is largely to boost his local community and thereby his own trade. His business is always improved when money is sent into his community to be loaned on real estate. Such loans help create a market for real property and thereby directly stimulate the business of the abstracter.

It is very obvious that where a loaning company has at its disposal a large number of territories in which loans may be made, it will seek out that territory where the greatest return can be secured, taking into consideration the facility with which the loan can be made, the ease with which the loan may be handled after it is placed, and the quality of the security that is furnished. Recently I have been considering the advisability of urging our own company to cease to loan money in at least two territories on the ground of the haphazard way in which title transfers are made or the cumbersome method of securing information with regard to the titles. An attorney for another company advised me not long ago that he secured an abstract from a state where his company was proposing to make mortgage loans. After examining the abstract he advised his company not to do business in that particular state. In none of these cases was it necessarily the fault of the abstracter, but it was the fault of local conditions upon which the abstracer might exercise a very healthy influence.

In one of the territories which we have found objectionable, conveyancing has apparently been handled for years in a very loose manner. The local community has apparently been in the habit of relying upon affidavits of adverse possession and have been very careless about recording conveyances. Description of the property has often been made in the most general terms. Furthermore, the records have apparently been very poorly kept. As a result it was often impossible to trace the title back more than a few years, beyond which the parties are always inclined to establish their title by means of affidavits of adverse possession. The abstracter is always handicapped by having to use exactly what he finds on the records and, therefore, may not be able to compile the kind of abstract desired, merely because the material is not available. However, the abstracters in communities of this kind can exert a very desirable influence on this sort of a situation, although they may not be able to remedy it entirely.

In another state the local laws governing the loaning on the security of real property make the procedure in securing a valid lien so cumbersome that the abstracts have become enormously bulky. We have received individual abstracts from this particular state which probably contained as much as twenty pounds of paper. I have spent at least a week on one of these abstracts in making the examination because the chain title was so long and confused. This was due to several things in particular—a unique statute

forbidding the mortgaging of homesteads except through a mechanic's or vendor's lien, the fact that the abstracter copied a large part of the instruments that were involved, complicated description by metes and bounds without sufficient diagrams, and the fact that the abstract was split up into a large number of parts, some of which were duplicated, making it very difficult to follow through the chain of title. Not only is this kind of a situation very burdensome on the part of the loaning company, but it also must necessarily throw a very large cost upon the borrower who must furnish evidence of title. Particularly is this true when some of the very involved abstracts of title from this particular state are furnished in connection with small loans. Only one who has waded through the mass of material in one of these abstracts can imagine what the situation will be in this locality by the time another twenty-five years have passed. It seems to be quite certain, however, that unless something is devised to remedy the situation in this particular state a small borrower will not be in a position to afford to secure a loan on his property and a company loaning at reasonable rates of interest cannot afford to bother with the necessary machinery that must be gone through with in order to be certain that it secures a proper lien.

Local abstracters can assist very materially in influencing their local states not to pass laws which make it difficult for loaning companies to handle matters of title, because in the long run the local borrower will have to pay for the additional burden imposed, or the loaning company will refuse to come into the territory and furnish money for the development of the community.

For example, the laws relating to foreclosure of mortgages differ widely in the various states. In many states there has been such a great attempt to protect the landowner that some of the regulations may have done more to harm the landowner than they have benefited him. For example, in some states there is a provision for a period of redemption from eighteen months to two years. Obviously, under those circumstances, when a default occurs the loaning company is not in a position to let the loan run past due in order to see if the borrower can work out of his difficulty, but in order to protect itself against an extension of the period of redemption, the lender is forced to immediately start foreclosure proceedings which are likely to work out disastrously because of the additional expense that must be borne by the landowner before he can redeem. A provision for sale at the beginning of an eighteen months' period of redemption is not conducive to competitive bidding, because no one wants to buy land eighteen months before he can get possession unless he can buy it at a very low price. A long costly procedure for foreclosure injures the landowner if he redeems and if he doesn't, it injures the investing company and makes it less likely to place its money in a territory where this is necessary.

The cost of an abstract and other charges necessary on account of matters of title are no small item to the party who is securing a loan. The loaning companies have for many years considered that a loan is perfectly safe as long as a proper, valid first lien is secured on property of adequate value. However, in recent years this attitude has very much changed and now the question as to the ability of the borrower to pay the interest on the loan and eventually repay the principal is considered in addition to the question of the value of the security and the validity of the lien. Every additional expense that is placed upon the mortgagor means that he is that much less able to meet his obligations under the mortgage. Like all other products, the cost of the abstract ought to be watched very carefully by the local abstracter. An endeavor to produce unnecessarily long abstracts merely means an additional burden thrown upon the parties who are involved in the transaction and, so far as the loaning companies are concerned, it merely means that there are likely to be fewer loans made in the community.

Accordingly, the investing companies and the local abstracters have very much in common besides the mere mechanics of securing accurate abstracts of title. The abstracter is interested in the money coming into his community for the purpose of furnishing funds for the improvement and purchase of real estate, in order that there may be an active real estate market. The loaning company, on the other hand, is looking for an outlet for its funds where the procedure in handling loans will be as simple as possible and where a proper return may be secured.

While our relation to the abstracter himself has not been as intimate as might be desired; nevertheless, those of us who have spent many weary hours pouring over the contents of abstracts prepared by local abstracters feel that we are very intimately acquainted with their work.

The Abstract

If you were to ask an attorney who undertakes to examine abstracts from a large number of states what his greatest criticism of abstracts is, he would undoubtedly answer that it is a lack of uniformity. As a matter of fact, as our commercial relations grow, we find that those who are doing a national business are constantly confronted with the problem of doing business in a country of forty-eight states whose geographical boundaries have only an artificial relation to the commercial transactions of national character. Recognizing this, numerous efforts have been and are being made to establish uniform commercial practices. In the field of law, we are all, of course, familiar with the effort to create uniform commercial laws, such as the uniform negotiable instrument acts and others. For exactly the same reason that these endeavors at uniformity have been made, the examining attorney for an investing company feels the problem that is raised because of the lack of uniformity in the methods of abstracting.

He finds himself confronted with the necessity of familiarzing himself with the practices in a large number of local communities. In some cases, the abstracter will furnish a very complete abstract from the date of patent down to the date of the certificate. This will contain practically all of the information in a very short form. In other cases the instruments on record may be copied almost verbatim. In still other cases, the abstracter assumes considerable responsibility for construing the instruments of record with the result, the abstract furnished is very brief and little more than an outline. The investing company is not likely to try to be overly technical about matters of this kind. It is more inclined to find out what the local practice is, whether these forms of abstract have given any particular difficulty, whether they are regularly accepted in the community and whether, in its judgment, they give sufficient information to satisfactorily show the chain of title to the premises. However, it is very difficult for a company doing a national business to do this.

Uniformity is not entirely a matter of differences in method of abstracting. In some localities abstracts are prepared by abstracters who do not attempt in any way to pass upon the legal effect of any of the instrument, but merely attempt to give a resume of them. In other cases, abstracts are prepared by abstracters who are attorneys and who undertake to pass upon the legal effect of certain instruments. The type of abstract furnished must also necessarily depend upon the kind of record that has been kept. An investing company, in examining abstracts, is not only interested in whether the local abstracter has prepared an accurate abstract, but also in the more general question as to whether the abstract is one from which he can quickly and clearly get the chain of title. As a result, the investing company is likely to class as a poor group of abstracts those which come from a territory where conveyancing has been handled in a slipshod manner for a good many years and where the records have been poorly kept even though the abstract may accurately set forth what the record shows. This is not, necessarily any fault of the local abstracter, but as previously suggested the local abstracter should exert all his influence to correct any condition of this kind.

There are, however, many matters which might well be corrected by the abstracter and certain practices which could very well be made more or less uniform, so as to remove some of the

present burden that exists from examining so many types of abstracts.

One of the principal matters that might be made more or less uniform in a large number of abstracts, is the abstracter's certificate. Not only is this certificate not uniform in the various states, but it is not even uniform in the same community. A single abstract examined may contain as many as a dozen certificates, no two of which are alike. Obviously, the question of uniformity cannot very well be remedied in the abstracts which have already been completed, but it would assist very much if there were some form of standard certificate which could be used, so that in the future it would not be necessary to read in detail every certificate that may appear in every abstract. Some of the certificates are very long and involved, reciting exactly each record that has been searched by the abstracter and showing the name of each party against whom a search has been made. Some certificates merely recite that all records affecting the title have been searched and that the names of all persons appearing in the chain of title have been searched. You can readily appreciate the amount of time that it would save on the part of the examiners in such a company as our own if we were able to have a uniform certificate which we could recognize at a glance and know what it contained without making a detailed study of each certificate.

I recently had occasion to examine what was a very simple form of abstract except for the abstracter's certificate. Most of the time in examining the abstract was spent in trying to determine whether searches had been made against the names of all necessary parties. The abstract, while simple in its character, had a great many extensions, and each time the abstracter extended the abstract he made an extension certificate to which he added the names of each of the parties against whom he had made a search for the period covered by the particular extension. By the time each name had been checked and the date of record of each conveyance had also been checked, more time was consumed in the formality of checking these names than was consumed in examining the entries in the abstract itself.

Another lack of uniformity is in the location of the abstracter's certificates. In examining some abstracts we spend considerable time in an endeavor to locate these certificates. Sometimes groups of separate certificates will be printed on the back of the abstract. In others the certificates will be bound into the abstract. Other times they will be copied in among the entries themselves. Some abstracters provide a printed general certificate with a large number of spaces left for extensions.

Any attorney who has examined abstracts of title always has a great deal to say about the appearance of abstracts. On this you have probably already had many comments from attorneys but I want to call attention to one example. We have received a number of abstracts from a midwestern state which have been written in longhand and the handwriting has been almost illegible. Of course, many abstracts in the years gone by were written with pen and ink and that cannot be helped, but the group of abstracts to which I refer have been continued to recent date in longhand and have been so poorly and closely written that they have been almost impossible to read. However, in fairness to the great majority of abstracters I want to say that in recent years the general appearance of abstracts has improved tremendously.

A great deal of time is consumed in the examination of an abstract in finding out whether the whole period which the abstract purports to cover has been properly covered according to the dates in the certificate. Perhaps I have personally returned as many abstracts for correction of these dates as for any other single reason. I always hesitate to do so, because in most cases I have the feeling that the correction is really a technical matter, that a proper examination of the records has been made, and that the abstract is otherwise in proper shape. However, if there is a period omitted between the certificates, I cannot pass the defect even though I believe that only a typographical error has been made. For example, it quite often happens that a certificate will certify that it covers up to January 1, 1930, and the next certificate will recite that it covers from January 1, 1930. I always have in mind that in most cases this is only a technical error and, yet, if we are to hold the abstracter on his certificate, it is necessary that his certificate technically cover the period for which he is certifying. Some abstracters make a practice of having their final certificate cover the whole period for which the particular abstracter has furnished the abstract, even though he may have made several extensions. This alway facilitates the examination of the abstract very materially. As a matter of fact, I usually begin the examination of the abstracters certificates with the last certificate in the hope that it will cover a sufficient period so that I may eliminate the examination of such of the other certificates as may have been made by the same abstracter.

Tax certificates often give us considerable concern. For example, the abstracter's certificate may state that taxes for the year 1930 and prior years have been paid. A local attorney will understand at once whether the year 1930 refers to the year in which the taxes were assessed or the year in which they were payable, because he is familiar with the local practice. However, in each case where we receive a certificate in that particular form, it is necessary for us to look up the practice in the particular state, and in a few cases we have had to write back to the abstracter and ask him just what he meant by the form of certificate used. Furthermore, sometimes the tax certificate is a part of the final certificate, often it is a separate certificate, while in many abstracts it is one of the entries inserted among the conveyances.

When an abstract is originally received by us on which there have been erasures, there is always a question in our minds whether the abstract was changed after it left the abstracter's hands. A careful abstracter would indicate that he had made the correction himself, by signing his name or placing his initials opposite the correction. We are always very careful about matters of this kind in mortgage papers which are accepted by us, and, of course, it is just as important that we are certain that the entries in the abstract are exactly as they were made by the abstracter and that they were not changed after leaving the abstracter's hands. However, from experience, we know that a great many abstracters are careless about this particular matter.

In a great many cases where we have returned abstracts for correction, the abstracter has merely made the change requested by erasing the original entry in the abstract. If our office criticizes the title as shown by an abstract, it is returned to our "correspondent," for correction and may possibly reach the hands of the original borrower. Under these circumstances, if the abstract comes back with the correction made on it merely by erasing something that we have originally criticized in the abstract, we always feel that there may be a possibility that the abstract never reached the abstracter. When it is returned to us, we have no evidence as to whether the abstracter made the change, our "correspondent" made the change, or the borrower made the change. In all such cases, the abstracter would sign his name opposite the correction or make an entirely new entry if the correction is of any great length.

Closely related to this problem, are the abstracts furnished which consist of loose leaves which may be easily removed and substituted. Fortunately we have not found in practice that these have caused any trouble, but we always have a great many misgivings about accepting such an abstract and if I were an abstracter I would not want to certify to an abstract which might easily be changed without any evidence that pages had been substituted.

Because we are often at a great distance from the land which is being mortgaged and are not usually familiar with the surveys in the local community, we always appreciate the work

of the abstracter who freely uses sketches or maps to show how a smaller tract has been derived from a larger, or how several tracts have been combined into one larger tract. This is particularly helpful in those cases where description is by metes and bounds or where a regular governmental survey has been platted for city lots. Also this is important to us in those cases where the government survey has been used, but where lots are referrd to which do not fall in the customary position.

We are often concerned with the amount of material which is contained in the abstract. One extreme are the abstracts which are little more than an outline, and those abstracts which include almost a verbatum copy of the instruments of record are the other extreme. Of the first class there are those where the abstracter does not show the formalities with which the instrument has been executed so as to show whether it conforms to the requirements of the local laws. While a good abstract should show these matters, we are not usually much concerned about this problem because usually the local abstracter is very familiar with these requirements and his approval of such matters is likely to give no trouble. However, in those cases where he merely shows foreclosure proceedings without showing either the final decree or what parties were actually served in the proceedings we are much more concerned. Only recently we have had an occasion to require one concern furnishing us abstract to indicate on their abstract what parties were joined in the foreclosure proceeding in order to determine whether all junior interests had been properly foreclosed. The other extreme are the abstracts furnished by an abstracter who is afraid to assume the responsibility of drawing sufficient conclusions from the instruments of record to make an abstract of such of those as are standard in form.

We find that much time is consumed in checking over descriptions in those cases where the descriptions are long and involved. A few abstracters will submit to us an abstract with a statement in each entry that the description involved is the same as that in the caption of the abstract, which has proved to be a very great help. Where this is not done the description in each entry of the abstract must be carefully checked. In several cases recently we have had occasion to examine abstracts in which foreclosure proceedings were abstracted at length. In these cases the descriptions were long and involved, and every reference to the land in each respective step in the proceeding contained exactly the same wording. The abstracter proceeded to copy the descriptions at length, first in the lis pendens, next in the petition, perhaps a time or two in the answers of the various defendants, again in the decree of foreclosure, again in the Sheriff's notice of sale, again in the Sheriff's certificate of sale, and finally in the Sheriff's deed. Not only was considerable time consumed in the checking of these entries, but time must have been consumed in copying all of this material, and certainly the abstract was a much more bulky document than was necessary under the circumstances. A mere reference in each case that the description was the same as shown in the caption or in the lis pendens would have been sufficient.

This problem also often arises in connection with the certificates to the abstract. Usually the abstracter will copy the complete description on each of his certificates. If the description is involved, it means that each of these certificates must be checked with a great deal of care. In those cases where it has been necessary to make a supplement to the abstract every few years, the amount of time and patience consumed in checking the description on each one of these abstracters' certificates is a considerable handicap to the examiner. This could be very well eliminated, as is done in many abstracts, if the abstracter would have his certificates show that they cover the same land described in the caption.

In the last few years foreclosures have been unusually heavy and this has increased tremendously the number of these proceedings which are shown in abstracts. Because many of these proceedings have occurred so recently they must be examined with a great amount of care. In those states where the foreclosure is by sale and depends upon a strict compliance with the provisions for sale contained in the mortgage or deed of trust, it is, of course, always necessary to have before us an exact copy of the wording of the power of sale which is being exercised. We find that in many cases of foreclosure of our own mortgages and deeds of trust under powers of sale, the abstracter has originally merely abstracted briefly the instrument creating the lien, without giving the terms of the power of sale. When the abstract is continued to show our foreclosure proceedings, no further reference has been made by the abstracter to the terms of sale. This does not usually give any great difficulty if we have immediately available the original mortgage or deed of trust, but in many cases in making the examination those may be in the files of another department, or in the hands of local attorneys who conducted the foreclosure proceedings. In some of those cases it has been necessary to return the abstract and have the abstracter show the power of sale which has been exercised. Of course, in those cases where the foreclosure is not of our own lien, we never have before us the terms of the power of sale unless the abstracter carefully shows this in his abstract. Because these difficulties have so often arisen, I think it would assist us greatly if the abstracter who undertakes to abstract any foreclosure proceedings conducted under a power of sale, would turn back to the original entry in the abstract showing the particular mortgage or deed of trust foreclosed and determine whether it has shown the power of sale. If it has not, he ought then to include the power of sale in his supplement.

From one state we find it quite customary to make a separate abstract each time an extension is made, regardless of the length of the previous supplement. In some cases we have received as high as 10 to 15 abstracts in connection with one mortgage. Where it does become necessary to make separate abstracts, and where there are so many abstracts involved, it would always assist if the abstracter would number his abstracts in such a way that we could arrange them in the proper order at the time we start the examination. It often happens that the separate abstracts furnished from this state will duplicate a part or all of the material contained in another of the supplemental abstracts. Occasionally the abstracter will add a certificate to the end of one of the abstracts certifying that it shows all of the entries between particular dates except such entries as shown in one of the other abstracts.

These many matters of detail which I have just discussed are, of course, not all found in any one abstract. They merely constitute a miscellaneous group of difficulties which we have encountered in various abstracts received by us from many states. We fully realize that the difficulties we have with abstracts are not always matters which can be remedied by the local abstracter. Much depends upon the requirements of the many attorneys, who from time to time examine each abstract, and it is a notorious fact that it is almost impossible to get the attorneys even in a given county to agree on matters of this kind. Furthermore, in making these suggestions I am not attempting to express to you the views of other attorneys who examine titles for investing companies similar to our own. I am quite certain, however, that attorneys for other companies similar to our own share with us in appreciating the difficulty of handling matters of title from so many jurisdictions. Any local attorney is very fortunate if he is completely familiar with all the practices and laws of conveyancing in one jurisdiction. If, however, the examining attorney is called upon to pass upon titles at random in any one of many states, he certainly has plenty of cause to spend many wakeful nights wondering just when he is going to get caught on some proposition of local law with which he is not familiar.

A Recent Development

The difficulty involved in the handling of voluminous abstracts which must be shipped back and forth between the "correspondent's" office and the Home Office, the great amount of time and energy consumed in very close

work in examining the abstracts themselves, and the fact that chains of title grow in length with every year and become more complicated, have caused the investing companies, and others as well, within recent years to seek for some way to avoid the tremendous amount of detail that is involved in the handling of abstracts of title. As a matter of fact, all abstracters are familiar with the endeavor in some of the states to enact what is known as the Torrens system of registration. Judging from some of the recent literature I have received at my desk from some of the members of his association, I assume that perhaps you are unanimously in favor of this particular plan. The reason for that can readily be appreciated. Nevertheless any local problem which may be involved in our present system of recording and abstracting conveyances is many times magnified when it is applied to a company like our own, which understakes to loan in many distant states.

Accordingly, we are always very receptive to any suggestion or any system which might safely relieve our hove office of the burden of handling and examining abstracts. We have not been able to find any plan which would dispense with the use of abstracts as a system. While the Torrens system might have done so it is debatable whether that would have been desirable. At any rate it does not seem to have been used to a sufficient extent to give us any substantial relief. The only real relief which we have been able to secure from the ever-increasing volume and complexity of abstracts has been through the medium of title insurance. The practice of securing title insurance, like all other departures from an established procedure, has in many communities met with the usual resistance to change. It has been used for a long time in some of the cities, but in rural communities its introduction has met with much opposition. There are arguments both in favor and against the use of title insurance in all communities which have had to be weighed by the investor very carefully.

First and foremost is the consideration of the cost of such insurance. While the cost is not very great, it is merely one of the additional fees which the mortgagor must pay in securing his loan. As I have said before, we are as much interested in not placing additional burdens on the borrower which may jeopardize the borrower's ability to pay as we are in seeing to it that our mortgage is a valid first lien.

The practice of securing title insurance does not necessarily dispense with the present system of abstracting. As a matter of fact, the abstract is likely to be secured in the regular course and sent to an attorney who represents the title insurance company in order that such company may issue the policy to the investor. It does, of course, have the advantage to the borrower in that his abstract of title is not kept in a distant office, but is kept locally, either in an abstracter's office, or in an office of a representative of the title insurance company, where it may be available to him at times when he wishes to make transfers or secure additional mortgages on his property. In the second place, it means that his loan is not likely to be jeopardized because of some objection which the examining attorney in the Home Office of the insurance company may raise to the title. The investing company will determine in advance the necessary form of title policy, the company which should issue it, and if the local attorney for the title company approves the title, the matter is closed so far as the investing company is concerned. Thus all questions of title may be handled by local parties who can promptly secure corrections and close the entire matter of title.

From the standpoint of the investing company, this practice has many advantages. In the first place, it grants to the company insurance which will immediately indemnify it for any loss which it may sustain. It is, of course, often argued that this entirely depends upon the financial stability of the company issuing the insurance. This is true, but it must be kept in mind that the financial position of the companies issuing this insurance is regularly investigated by the lender, and furthermore, the mere fact of the failure of the title insurance company does not mean that the investing company will lose its lien. It will still have the same examination of title that it had had prior to the taking of title insurance with the exception that the title is not examined by its Home Office attorney.

The cost of shipping, handling, and storing abstracts in the Home Office of the investor is relieved. Any abstracter who prepares a large volume of abstracts can realize what this problem is to any investing company which receives thousands of abstracts.

When a loss occurs, if there is no insurance it is necessary for the loaning company to proceed to employ counsel to protect its interest. The loaning company is not primarily equipped to handle matters of title dispute. It specializes in the loaning of money, but it does not have an organization of attorneys over its loaning territory for the purpose of protecting it in title matters. The controversies with regard to title in any one company are not sufficiently large to permit of this arrangement. However, title companies either national or local will have an organization, the principal business of which is to look into matters of title and handle controversies that may arise thereunder. Also, such companies are so organized as to exercise a proper influence upon local legislation having to do with matters of conveyancing. In other words, this is their specialized field of work.

I spoke of the lack of uniformity in abstracts, and mentioned the fact that some of it could not probably be entirely avoided because of the differences in local laws and practice. However, the title policy which is issued to the investor can, with rare exceptions, be uniform throughout the country, and therefore those forms can be easily checked and easily handled by the Home Office of the investor.

The result has been that in recent years investing companies have turned more and more to the use of title insurance in connection with its mortgage loans. How well this system is going to work, can be determined only through experience, and it will undoubtedly mean that a good many improvements will have to be made. It is appreciated that there is often opposition on the part of some local abstractors to this system, because a particular title insurance company may select a competing abstractor as its local representative. If this type of business meets with general favor, however, there are likely to be many competing national and local companies of relatively equal standing so that this problem will be of no great importance. The local abstracter, like all others in a competitive business, should constantly be on the lookout for developments in matters affecting his business in order that he can adjust himself to the trend or change the trend if it is so unsound. I know of no better way to do this than by frank discussions among the abstracters themlselves and also between the abstracters and their customers.

THE CHAIRMAN: One of the major activities of our Section during the past year has been a price survey. Nothing of the sort had ever been attempted before although occasionally state associations had made a statewide survey.

We sent out a questionnaire and the response was most gratifying. At the time we sent it out we were not sure whether we would receive fifty or one hundred replies, but we received seven hundred. The task of making an analysis of the answers was a tremendous one, and naturally, wanting to get out of as much of the work as I possibly could, I called on a man who has never failed us in the past when we asked him to do anything, and true to his past record, he allowed me to turn over to him this whole matter of the analysis of the survey which had been made.

I take pleasure in presenting Colonel J. E. Morrison of Joliet, Illinois, president of the Peoples Abstract Company and also, this year, president of the Illinois Title Association.

Analysis of Survey on Charges and Practices

J. E. Morrison, Joliet, Ill.

A year ago I had the pleasure and honor of addressing this convention, at Richmond on the subject of plant maintenance and production cost. I thought I had done my bit and looked forward to a most enjoyable time this year with no worries, except perhaps as to how my putter would behave. About the middle of September I received a large package, duly sealed and with all the earmarks of containing valuable documents, I figured that there must be at least fifty or more abstracts therein for continuation, and these days that is some grand and glorious feeling. I opened the package and found 682 questionnaires entitled, "Survey of Charges and Methods of Pricing, etc.," with a little note from Dick Hall asking me to analyze them and then tell you people what I learned.

Each one of these questionnaires contained 54 questions, exclusive of general remarks, a little mental arithmetic will produce the sum of 36,828 questions which had to be separately considered, the result was, that, by the time I had finished the job I was in a daze. However, all things come to an end—except the depression, and I will now try to tell you what I found.

First of all certain general impressions are formed in an analysis of this kind, and before going more into detail I will give you those impressions for what they are worth.

1st, Business is very poor, that was one of the few things, wherein opinion was unanimous.

2nd, Rates in general are entirely too low, being based on custom or competition and without reference to returns on invested capital.

3rd, That conditions within the business were better and more uniform in those states where this Association was strong.

4th, That title insurance is gaining in favor.

5th, That those states which complain most bitterly of low rates, price cutting and curbstones, are those which have either regulatory legislation or public index statutes.

6th, That there is a decided sentiment for a valuation charge, but considerable difficulty in putting such a charge into effect.

7th, That there is a general feeling that abstract rates are not based on the right principle, but no one knows a better method.

8th, That there are entirely too many cheap reports and pencil statements issued.

9th, That the practice of giving discounts is being eliminated.

10th, That there is no particular sentiment for regulatory legislation.

11th, A large number of samples of work, certificates, plats and forms were sent in with the questionnaire, they were interesting but did not make a pleasing impression on account of poor quality of paper used, poor ribbons, type out of alignment, indistinct copies, lack of uniformity, etc., these conditions were quite general.

By way of preface, I want to tell you that there are about 1450 abstract companies which belong to the National Title Association. Thirty-one states reported, with a membership of 1,341 of which number 682 or about 50% returned the questionnaire. I think that is a remarkably good showing and the data secured therefrom gives a pretty accurate picture of the business throughout the country. I feel that the Association is indebted to those companies which responded and I know it appreciates the information furnished to it.

Of necessity this is more or less of a statistical address and I don't want to bore you to death with a lot of figures which you will forget before I've finished giving them so I plan to enlarge upon a few of the more important questions and touch the rest incidentally, perhaps in that way I can cover the whole subject without you really suspecting it.

A year ago I made the following statement, "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, 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."

Of the Companies reporting 464 or 68% charge by the entry and 218 or 32% by the page, the average charges per entry by states varied between 25c and $1.00 per entry, with 75c as a popular figure, the average for the 31 states reporting was 89c. The universal practice of those companies who charge by the entry is to show one entry per page, while the companies who charge by the page show as much as will go on a page without regard to entries. The page rate varied from 50c to $1.50 with $1.00 as the popular charge and also the average charge. Not much difference was noted in court proceedings, 492 or 82% averaged $1.18 per page, while 126 or 18% averaged 80c per entry. It might be of interest at this point to say that the average charge for Foreclosures, Partitions and Testate Estates was $10.00, the range being from $3.00 to $25.00, for Quiet Title Suits $9.70 with a range of $5.00 to $25.00, for Divorces $4.40, with a range of $1.00 to $8.00, for Intestate Estates $9.00 with a range of $2.50 to $16.00 and for Estates with proceedings to sell real estate $13.50 with a range of $5.00 to $25.00.

Now I have no statistics as to the recording fees charged throughout the country but am quite sure the average per instrument is considerably more than 89c. In Illinois it costs 90c to record a Warranty Deed and from $2.40 to $3.20 for an ordinary Trust Deed or Mortgage.

Going back to last year I'll further quote: "If the Recorders 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."

Among the questionnaires I found this significant remark, "This Company was taken over by the County last year who immediately increased rates 50%," and in several other instances I noticed an increase in rates where the County was operating the plant.

Now of course all a title company has to do to engage in business, is to have a plant, built up by careful, laborious labor, over a long period of years, an office to house it, and the necessary skilled personnel to operate it. Then all it has to do is make abstracts,—if and when it receives any orders. Now the abstracter, being a philanthropist donates his time and services, and thus arrives at the logical conclusion that a title plant consisting merely of records, data, etc., arranged, indexed and compiled by him on his valueless time hasn't any particular value, so therefor he isn't bothered by any such high sounding terms as returns on invested capital, and proceeds to charge for his work just what his predecessor charged or what his customer told him he would pay for the job, usually managing to get enough for his work to meet his pay roll and pay his rent at the end of the month.

As far as the responsibility on his certificate is concerned, he hopes that he hasn't made a mistake which will cost him money, and incidentally acquires a few gray hairs in the process. As far as reserve fund, to meet that contingency is concerned, that's out of the question, his rates are too low to set one up.

Of course he has a good office, his books and his system are invariably the best in the country, he is capable, competent, and well versed in the intricacies of the law of real property, he has spent years developing a capable office organization, he is prepared to and does furnish good service, and is a very important, if misunderstood individual in his community. So much for the title man.

Now the Recorder has certain qualifications, also,—he is a good votegetter, of course he may not know the difference between a Warranty Deed and a Bill of Sale, but that makes no difference as long as he has a Clerk in the office who can run a typewriter, it doesn't take much training or ability to copy an instrument, and as far as his Certificate is concerned the only qualification necessary is that of keeping a numbering machine in order. Yet the law allows him probably twice as much per instrument as the title man gets for showing the same instrument in the Abstract. Either he is grossly overpaid or the title man is grossly

underpaid,—and I've never heard any objections to the size of recording fees.

Now what can be done to remedy the situation. This survey demonstrates rather conclusively that insofar as charges are concerned, title companies are divided into three groups.

1st, Those who charge an adequate price for their work and whose numbers do not exceed 20%.

2nd, Those whose charges are regulated by statute or are affected by public index statutes, and whose numbers probably run 30%.

3rd, Those whose charges are wholly inadequate owing to competition and custom, and whose numbers amount to 50%.

As far as the 2nd group is concerned probably little can be done without changes in existing legislation and that is rather a hopeless job.

But when you consider the 3rd group there is no reason why a revision cannot be made, and the way to make it is first of all to realize that each case is a local problem and must be solved according to the particular circumstances involved. Closer cooperation between competitors, consolidation of companies, and the elimination of discounts and cheap information reports, will in my humble opinion solve the rate question for 50% of the title companies in this country. It can be done, 20% of the companies in the country have done it. I am aware of the fact that many of you think the better method is by appeal to the legislative bodies, in that I don't agree. It's a common trait of the American people to attempt to solve their difficulties by legislative enactments rather than working out their problems themselves, and if further proof is needed to support my opinion, I would invite those who incline to the legislative view to carefully study the situation in those states where such statutes exist. Without exception the most bitter complaints as to low rates, price cutting and curbstoning, came from those states which have enacted legislation of some sort or other affecting the title business.

The title business is one which cannot be stimulated in periods of depression, it is entirely dependent upon conditions and factors over which it has no control, consequently rates during normal times should be fixed high enough to carry over during depressed periods. As a means of approaching this situation in the most effective way I earnestly suggest the constant development and practice of holding regional meetings in every state.

Going back to my chart I find that 451 companies or 66% use a standard sheet of 8½ x 14, that 205 or 30% use a sheet of 8½ x 11 and that some 30 odd companies still use the 8½ x 4, vest pocket sheet. The practice is quite general throughout the country, of abstracting, conveyances, acknowledgments and court proceedings, and likewise around 80% habitually single space their work, just why this is done I don't know, rarely do you find court records single spaced, maybe paper is more valuable than time.

I found a wide variation in certificate charges, they ranged from nothing (and you would be surprised at the number of companies who make no certificate charge, one man indignantly replied that he made no such charge, that he considered the certificate a necessary part of the abstract, just like the wheels of an automobile, —now I've bought several automobiles but I am quite sure I paid for the wheels), up to $50.00. The average price was $3.25, three and five dollars seemed to be the popular charges. Practically all the certificates were what we call full or complete, covering all matters of record, including court proceedings, the exceptions were in these states which do not require tax and court matters shown unless recorded in the Registers Office. Uniform certificates are used quite extensively in several states.

Only 13% of the companies reporting used the valuation charge, and that charge most in favor was 50c or $1.00 per thousand over $5,000.00, a few used a graduated charge of a $1.00, 75c and 50c on values of $5,000.00 to $20,000.00, $20,000.00 to $50,000.00 and over, many individual expressions in favor of such a charge was found, but the difficulty of putting it into effect seemed to discourage the attempt.

Around 40% used a minimum charge which averaged $5.00, however a distinction between the certificate and minimum charge was not very clearly drawn.

Practically all made a plat charge of $1.00, and a third made a caption charge of an average of 85c.

Service charges are not in general use only 12% making the charge, and when made it is figured on a time basis, ranging from 50c to $5.00 per hour.

About 13% make concessions on established titles, usually on a contract basis or to put it more accurately whatever they can get.

Some 51% contract on printed subdivision abstracts, there is a wide variation here and no general rule can be established, however $2.50 to $5.00 per abstract, depending upon the size of the original abstract and the number required seems about the average. This type of work is rapidly being superseded by title insurance.

Recertification of old abstracts is done by 86% of the companies at an average price of ½ original rates.

Only 316 or 53% of the companies will make certified copies of abstracts and the charge is in nearly all cases ½ original rates, on the other hand all companies will make duplicate abstracts at a ½ rate for the duplicate.

On the matter of discounts 447 or 65% refuse to pay any commission or discount whatsoever, and this query was answered with emphasis in nearly every case, of those paying discounts 109 paid 10%; 30, 15%; 40, 20%; and 56, 25%.

Checking loan lists is not generally done nor is the issuance of right of way reports 10c to 25c per tract is the average charge for the former and $3.00 to $5.00 the latter, quite a few make a time charge on oil lease reports and the like. The fact of the matter is, there is not enough of this type of business outside of the metropolitan centers and the oil territory to set up any price scales.

I was somewhat surprised to find that 31% of the companies still persisted in making pencil statements, at an average price of $2.00 to $3.00. To those companies which engage in this pernicious practice I want to suggest that they analyze their business closely and see just what this practice is doing for them. I'll make a guess that they will find that over 50% of their orders are now or will shortly, if they continue the practice, be pencil statements, and that every $3.00 order they turn out costs them from $3.25 to $3.50. Invariably these companies reported that while they issued these statements there was no certificate attached and therefore no liability. That's all very well, but you just try to convince a customer who has sustained a loss, and see what it does to your business.

This is a pernicious evil, a sloppy custom and has no excuse for its existence, and I have no sympathy with companies who complain of low rates and still make pencils statements and this questionnaire established beyond a doubt that the two go together.

The average price of original abstracts and continuations brought out the fact that not many companies have ever worked out statistics as to this phase of their business. As reported the original abstract averaged $33.00 with a range of $14.00 to $68.00 (these are state averages you understand, individual figures ranged from $10.00 to $150.00 many going over $100.00). Continuations averaged $9.00 with a range of $4.00 to $15.00 here again many individuals reported from $15.00 to $25.00.

Some 139 or 20% reported no increase in rates in the past 15 years, 5% reported 20%; 7%—25%; 25% —33% and 43%—50% or more.

Practically all the companies reporting (92%) had private indexes, complete and kept up to date.

I have touched on most of the remarks reported and while many were interesting and tended to throw light on local conditions they were of small value in analyzing general conditions over the country at large.

On one point they were all agreed and that is that business is poor.

Owing to the limitation of time I have been unable to carry my analysis quite as far as I would have liked. All I could do was to work out averages by states and I doubt if that goes far

enough. Throughout the entire job I was impressed by the very decided variation in rates and practices prevailing in agricultural counties and in the more or less metropolitan counties.

I think those factors should be seriously considered by all state associations in the formulation of plans and policies. I touched, a moment ago, on the value of regional meetings, through such meetings it is possible to reconcile differences within the state and by so doing arrive at a just and equitable schedule of rates and a uniform method of doing business throughout the entire state. In the last analysis these things are primarily local in character and must be considered in that light, they must be worked out from the bottom up and not from the top down. In my opinion the National Association, and the State Associations can render the greatest service and be of the greatest value to the individual title man by fostering, directing and encouraging the growth of regional meetings.

In closing I want to say that if any of you are interested in figures from your own state I can supply the information, and will be glad to answer any questions having to do with the subject matter of the questionnaire.

THE CHAIRMAN: We are greatly indebted to you, Colonel, for all the work you have done on this. I think I will recommend to the next Chairman of the Section that he keep you on the Committee for another year.

Our next speaker is in attendance for the first time at one of our national conventions. He is a brother of Dick Hall and he is going to tell us about "By-Products and Added Earnings for Abstract Offices." I take pleasure in presenting Mr. Charles Hall, Vice-President and Attorney of the Hall Abstract and Title Company, Hutchinson, Kansas.

"By-Products and Added Earnings For Abstract Offices"

Charles Hall, Hutchinson, Kansas

This subject, as its title shows, is divided into two separate phases, BY-PRODUCTS and added EARNINGS. In turn, each of them can be divided into *two branches*, each deserving separate consideration and treatment.

The conduct of any business toward by-products resolves itself into: FIRST, *concentrating* on all the possibilities directly coming from it naturally, with logical activities. SECOND, *branching out* into other lines somewhat, totally foreign to the principal business at hand. When one thinks of going into additional paths of activity or by-products of an abstract office, he usually travels the road of least resistance, seemingly leading into greener pastures and winds up in the selling of real estate, fire, casualty and other insurance, or making mortgage loans. This is the second part just referred to and will have no treatment in this discussion, for obvious reasons. I have been informed that the purpose of this paper, and upon which I should confine myself, is the possibility of developing things naturally coming within the category of a pure title business. And, is that not well, for have not those in the abstract business become so wearied with the detail and confinement of making abstracts, they have turned more to the things just over the fence which *looked easier* and *more remunerative* rather than studied the possibilities afforded by making their own vocation a *specialty?* For, after all, does not the abstract business offer, if you please, acres of diamonds, and it should not be a forest of such density that we fail to see the trees? Aside from that, going into these other lines puts the abstractor into *direct competition* with his largest group of customers. There is at least some excuse for thinking these others more profitable, and that is, the usual fees for an abstract job are so utterly inadequate in comparison to the importance of the service rendered that with the number usually in the business in each community few abstracters make any money, or find it possible to exist from abstract fees alone. The business itself is, in all too large a degree, not self-supporting. This, then, can be concluded by saying that there are other fields beside just the making of the occasional few new complete abstracts and extending to date others, the completion or extension orders greatly predominating and that are entirely pure title.

The second part of my subject presents two divisions of added earnings. FIRST, from the kind of business you are already doing, and SECOND, from the by-product avenue suggested above.

I want to handle the second part of the subject first, because that is its natural order and then, too, I want to get these statements out of my system right away:

No abstracter was ever overpaid for any job ever done and the common rule is he receives a very small fee for what he does.

Added to this evil, is the curse of competitive price making—cutting, and the vicious practice of giving commissions, discounts, and hoards of free service.

Lack of a minimum service charge, or a flexibility of adjusting the income per order so that the expenses of operation are received.

The impractical theory of charging by item, rather than upon the value of the property or work involved, for in so many cases it costs more to do a job than the fee received, and in others the title charge is in direct inversion to the value of the property.

However, these cases are to be covered in the open forum tomorrow and it is well, because each deserves special consideration. I do, however, want to make some suggestions for improvement in practices now in vogue generally and which, if corrected, offer chances for materially increasing income.

FIRST, the abstracter must get an idea of the money value of his work, then get the abdominal fortitude to get properly paid, run his own business, and not do every little thing as and for what everyone tells him to. This is doubly important right now, because the volume of business has shrunk; abstract prices never were increased in proportion to other things, particularly in relation to the added work and responsibility and now there must be so much an order, or the rent cannot be paid. It costs so much an order to handle one, and in the old days, there was such a volume and so many new abstracts, the income in some abstract offices regularly exceeded expenses. Now, I think I am safe in saying that 90% of all orders are continuations and they usually only average two or three entries and a certificate, which, at present popular prices, without any commission off, will only bring from $4.00 to $7.00,—not enough to pay for the mechanics of handling, much less liability, interest on plant investment, etc.

So, let's first say, establish publicly to the world, and put into effect, a minimum certificate charge of at least $5.00. That will materially add to the stable income of every abstract office.

I will now briefly sketch over several other improvements that could be made in customary practices. Get together with your competitor and increase your charges; when possible cut out discounts and commissions, cutting prices, and each then running a race to see who can get to infinity first; quit giving away plats—draw them fancy and pretty, then charge and charge plenty for them, especially the complicated ones; charge for the caption—it is something—and can be charged for, although many will disagree with me; quit giving away, or charging so little for, special titles that are the forepart of later divided or plotted tracts, titles up to the plat of sub-divisions, or abstracts to vacant lots; (in these classifications fall much of the loss of available revenue.) There cannot be a wholesale, or repeat, business in everything to make it profitable. Just because a piece of property is vacant or has no value, is no sign it should be accompanied on its way in a sale by a free abstract. It can be added to the sale price or paid for by the purchaser the same as the curbing, sewer or other accruments or improvements. The same holds true in special titles running through many tracts. Abstracters in each place should at least get together and establish some commensurate standard price for these chains or conditions, if it is felt necessary to make some concession. The suggestion is made, too, that if the entries in these titles were originally typed out, or at least neatly mimeographed on decent quality stationery instead

of looking like so much waste paper, they might create a little larger opinion of value. Charge separately and the same for each entry of a mortgage, the assignments and the release thereof. For strangers, it may seem many abstracters take a released mortgage and lump it and all its subsequent history into one entry when it could be broken up into separate ones; eliminate the continuation certificate, meaning the reduced fee charged for continuations, even though a change of title; make continuations by adding supplemental chains to the previous work, undisturbing it, and beginning the new by a continuation caption for which another caption fee, the same as an entry, can be charged; charge for a complete certificate—the customer wants to know and has to find out from some source about taxes and judgments, as well as the conveyances, so if you leave any of these out, render this service as you should, but for pay; let the certificate charge be a minimum, and charge extra for each tract of land searched, each year's taxes run, and each name included in the judgment list.

Some of these things will sound like heresy to all of you, all of them to some of you, but nevertheless they are logical, possible and each, in some cases, are all being successfully put into effect in some places.

Now, as to *new tricks* out of the bag of additional activities—all, mind you, within the realm of a pure title business. The abstracter has never been afraid of trampling on the toes of his best customers, the real estate and mortgage men, but has had an unholy terror of the dignity and majesty of the law. For this reason, he lets dollars slip away from him when it comes to drawing deeds, mortgages, affidavits, correcting titles by securing and drafting affidavits, etc.; and, yet, real estate men, bankers and notary publics reap a reward from these very things.

An abstract office should be a *title service station,* a place where a specialty is practiced by a specialist. Business demands that all these things be done before a deal can be consummated, and the gap bridged between finding the buyer or borrower and the money paid in safety. It is in the order of things that there should be some place, some one place, where this can be done. Complying with *attorney's requirements* affords one of the greatest profitable and most logical sidelines for an abstract office. Many have developed this business to the point where its revenue approaches, or is equal to, the regular abstract fees, and having the service available, is welcomed by the public and especially the attorneys. Abstracters should do everything possible to see a deal through, to make an abstract office a service place instead of a chamber of horrors, and make real estate *mobile* by drawing and getting the necessary affidavits, quit claim deeds and other corrective matters. In short, do everything not the actual practice of law occasioned by going into court, and get amply paid for it, for where else can the customer better get it, and how can he complete his deal without?

Some of you, many I hope, who have a nice income from specializing in the appreciated work of correcting titles, will wonder at my presuming to include this as among the suggestions for a new activity, and, yet, it is a fact the distaste the average abstracter has of doing anything of the kind, holding all he is expected to do is certify the abstract to a certain date, while the customer may in vain implore him to get the necessary affidavits and other matters, and vainly curses abstracts, the abstracter, and the system because he has to spend his time or hunt around for some other one to pay to do the necessary. In this connection, might I add that an old timer with a pride in remembering things, either for a consideration or not, can be put together as a workable affidavit machine and made to produce dividends.

Another suggestion—*don't cuss examiners* for making requirements, and tell the seller and the buyer—his own client, what a darned old fool he is. Let him make requirements—plenty of them—that's what his client pays him to do and all you need do is to get a little pay too, by fixing 'em up and getting paid. Charges for this can be based on items, and/or a service charge computed on pay for skill, knowledge and value for the act rendered.

This reminds me, too, that you don't have to only charge by the item for these *long—in figuring-out* matters, such as exasperating metes and bounds tracts, or other complicated messes. In those cases, a service charge in addition should be made of about a $25.00 minimum.

Of late, there has appeared a nice gadget for more money—the *Rectigraph,* or photo producing machine. In previous conventions, there has been presented the matter of the abstracter making a contract with the county to do its recording by this process, getting enough for each instrument to defray the cost, or with a little profit too, of a second why for this takeoff. In addition, he has equipment that puts him in the specialty of reproducing exact copies of many things demanded for commercial use.

The daily report of documents, suits and other matters filed, usually mimeographed and published daily, or two or three times a week, with the banks, real estate men, credit bureaus, lawyers and other as subscribers, pays the rent and golf expense of many an abstracter. The compilation of a list showing the expiration of mortgages of record, with annual supplements thereof, finds a ready sale among mortgage loan people, the original for at least $25.00, and yearly supplements thereafter at about $10.00.

If your local *lumber, building supply dealer,* or contractor comes in to find out who owns a piece of property, you can rest assured he wants to file a mechanic's lien. It's worth something to him, so charge a couple of dollars, even though you might have to stall awhile and write up some kind of a fancy statement.

Wall ownership maps of the county can best be prepared by abstracters and sold profitably, not necessarily given away as an advertisement. Abstracters in oil or mineral countries can testify as to the money to be made from ownership maps, whole county or district, which, when once made, can be kept to date by corrections.

Possibly you have a real estate man in your town who specializes in outlying *business or trackage property.* He could use a location plat in his sales that would show how it "lay" the adjoining streets, their widths, the corners, etc., and maybe several real estate men in your town would use them if they ever had the idea presented.

Have you ever compiled a list of the *out of town tax payers* and *non-resident land owners?* It affords great opportunities. Such a list can be prepared by a combination of your own efforts, plus co-operation from your county treasurer. You can get the names and addresses of most of them from the tax records, the carbon copies of receipts in the treasurer's office, or by getting him to let you get the information from the annual batch of letters that come into his office. You can easily prepare a form letter to send out to each, saying you will be pleased, upon receipt of at least $1.00, to advise them of the amount of the taxes they have to pay, or for another dollar, will pay them for the owner upon receipt of that amount plus another dollar for paying, and a greater response might be secured in the latter case if you specify the check for taxes should be made payable to the county treasurer. This list also will bring an unexpected amount of business if you will write each landowner stating probably (being a non-resident) he might like to know the condition of the title to his land—maybe his abstract has never been continued to date since the purchase, and you would be glad to extend it. You will be surprised at the response you will get in immediate business, as well as put your name before them for the puture. I recall one customer of our office who, after having this presented to him, regularly each year ordered a supplemental abstract covering the time from his deed to the present.

If you live in a resort country, or where there is a water front residential development, make an attractive plat of the territory, with all the outlines of the platted lots, blocks, etc., carefully shown, and circulate all the owners, resident or far away, with the suggestion they might like a plat of their lot and where it is, and you will be glad to send one for a buck or two. You will be surprised how many will buy them to show their friends the

shape and location of their summer or recreational home.

Speaking of plats, every abstract office would find it profitable to prepare accurate tracings of all plats of all subdivisions in the cities, drawn to a scale of 200 or 100 feet to the inch, or a size to be legible, and on a sheet that will fit in an abstract, make blue prints of them, and then insert in every new abstract, regardless of whether wanted and charged for. After the initial cost of preparing the original tracing is absorbed, the sale of blue prints made from it at a cost of a few cents will soon bring profit.

I trust that I have suggested some things that fulfil the subject, although I know my listeners can themselves tell many more. The things mentioned can be put into effect everywhere and if so, whether one or all, more money will be realized. But the biggest obstacle is not that there are not many additional activities for abstracters and added earnings, but they are so reluctant to put them into effect.

The abstract business should be self-supporting and profitable, as all other specialties are. If there are only so many orders, then the price each should be high enough to make the conduct of the business worth while.

Logical activities and additional branches of business are a necessity nowadays for the abstracter too, and as all others have found out. When in doubt as to where you can buy something, anything, go to the drug store—you'll find it. Vick's Vaporub has added a throat spray and cough-drops; Amos and Andy added a mouth wash to their taxi-cab, lunch-counter, beauty parlor and toothpaste businesses; Standard Oil added tires to their filling station stock of gas and oil; the radio people began making refrigerators, and the refrigerator people radios. The abstracter gets too busy with details and lost in labyrinth of records until he has little time or inclination to think and do about the more business end of his business. The work is valuable—the making or breaking of every realty transaction, the bridging of the gap between finding the second party and closing the deal. There are many things he can do, but he has become a fiend for trying to see how few things he should. If abstracters would spend as much time in evolving ideas for more work and building a groundwork for additional income as they do in trying to figure how they can keep from doing this, that and the other thing and they can keep from charging, they would be considerably better off. I am not advocating gouging the public, neither am I shouting we be glorified by martyrdom. I might ask, what others are so kind to the abstracter—or the general public to the extent they handicap their own welfare?

I believe in the abstract business and its possibilities, but those in it must get money-minded—actually a little bloodthirsty, if you please—and first take full recognition of the opportunities and worth of its pretty well defined regular routine, adequate pay for that, then take advantage of additional activities by actually putting them into effect, not just thinking of them, and get adequately paid therefor.

It is by additional activities and increased revenue that the abstract business will become a specialty, the abstracter a professional man and the man and his vocation occupy their proper place of high respect.

I hope I may have given some of you a helpful suggestion. Some of you are doing all of these things I have mentioned. Those of you who are not doing them, and can, should by all means in order to make more money. (Applause)

THE CHAIRMAN: The next and last order of business on our program this morning will be the report of the judges of the Abstract Contest by Hugh Ricketts.

Report of the Judges of the Abstract Contest

Hugh C. Ricketts, Albright Title and Trust Company, Newkirk, Okla.

Mr. Chairman, Ladies and Gentlemen: This is the first national abstract contest that has been conducted by the American Title Association. There have been several state abstract contests, the experience of which, I believe, was the basis for this contest.

There was "fowl play" about this. There was an agreement similar to the one Al Capone had with the United States District Attorney and it worked about as well. The judges in the contest were not to be made known. Furthermore, when Dick Hall asked me to make this report for the judges, he promised to furnish a football suit for my protection, but he has failed to furnish it.

In defense of the judges, I want to tell you how this was handled. The abstracts which were submitted in the contest were sent at different times to three different parts of the country. They were all graded separately by each individual judge and those grade sheets sent to the Secretary's office and averaged there.

I am rather put out because I understood I was to announce the winners of the contest, but on arrival here this morning, I found that you already know who are the winners of the prizes.

However, I had a great deal of satisfaction over one thing and that was that the abstract that I selected for first place received first prize. After I had examined and graded that abstract and had graded the best looking of the others, I found that abstract was about one-tenth of a point ahead of fifteen other abstracts. I looked to see whose signature appeared, and found that of Bill Clarke. It proved that justice will prevail and that an outstanding man makes an outstanding abstract; all of you who know of Bill Clarke's work in his state association know he is an outstanding man.

The other judges were to have furnished the comments which I was to present to you, but they were so completely exhausted after completing their work they were unable to be in attendance at the convention. I have received one letter. All it says is that they were uniformly good abstracts; that twenty-five or thirty were outstanding and that it was very difficult to decide which were the best. I knew that before Henry Fehrman's letter was received.

I found in my examination that the best abstracts came, for the most part, from the western states.

When we have more time, I am going to join Mr. Morrison and give you some statistics in which I think you will be interested, especially as to some of the prices which are charged, bearing out some of the information Mr. Morrison gave today.

I might say, for the benefit of those who may not have seen the display of the prize winning abstracts and the prizes, Mr. Weaver of Alma, Kansas, was second and the West Coast Title Company of St. Petersburg, Florida, third.

THE CHAIRMAN: We will continue the discussion on the Abstract Contest tomorrow morning. I think there is a great deal of comment we can make.

We will have the report of the Nominating Committee.

Report of the Nominating Committee

W. A. McPhail, Chairman, Rockford, Ill.

Mr. Chairman: The Committee appointed by you to nominate officers for the Abstracters Section of the American Title Association for the year 1932 wishes to report the following recommendations:

For Chairman: Arthur C. Marriott, Wheaton, Illinois.

For Vice-Chairman: Russell A. Davis, Fairbury, Nebraska.

For Secretary: Mrs. Pearl K. Jeffrey, Columbus, Kansas.

For Members of the Executive Committee:

S. E. Gilliland, Sioux City, Iowa.

Jack Rattikin, Fort Worth, Texas.

C. D. Eidson, Harrisonville, Missouri.

Ben O. Kirkpatrick, Tulsa, Oklahoma.

John Claymore, Huron, South Dakota.

I move the adoption of the report and that the rules be suspended and the Secretary instructed to cast the unanimous vote of those present for the nominees recommended by the Committee.

... The motion was seconded and upon being put to vote by Roy S. Johnson of Newkirk, acting as Chairman pro tem, was carried unanimously and with applause ...

ADJOURNMENT

GENERAL SESSION

Thursday, October 22, 1931

President Lindow called the meeting to order at ten o'clock.

PRESIDENT LINDOW: I will ask for the report of our incoming President and the Chairman of the Executive Committee.

Supplemental Report of the Chairman of the Executive Committee

James S. Johns, Pendleton, Oregon

I have to report that the Executive Committee appointed one of our hosts, Roy S. Johnson of Newkirk, Oklahoma, to fill the unexpired term on the Executive Committee of Stuart O'Melveny, whom you elected Vice-President.

It is my hope that at the proper time this afternoon you will discuss the subject of the publication of TITLE NEWS *and whether* or not you wish to have it published on a subscription basis.

Several state officers have wanted to know what plan or action the Executive Committee has adopted with reference to finances of the Association for the next year. The Executive Committee would ask that those states which have not as yet gone on the Seattle schedule do so as quickly as possible. When this is done, that will mean approximately $9,000 that can be raised.

The budget has been reduced to the minimum, as you know, so that it is down to about $22,500 for the next year. Therefore, that will leave to be raised from Sustaining Fund pledges a smaller amount than was necessary a few years ago.

We urge every state that is not now on the Seattle schedule of dues to adopt that schedule, and as to the Sustaining Fund pledges, we want to leave that to the liberality of the contributors.

With your permission I will read the items of the Budget which has been prepared:

BUDGET FOR 1932

Assistant Treasurer's Salary	$ 600.00
Office Equipment	100.00
Office Rent	2,200.00
News Bulletin	1,000.00
Postage	1,250.00
Regional and State Meetings	500.00
Stenographers	3,250.00
Stationery and Printing	650.00
Supplies and Miscellaneous	2,000.00
Secretary's Salary	6,500.00
Telegrams	200.00
TITLE NEWS	2,500.00
Traveling Expense	1,750.00
	$22,500.00

The item of traveling expense of officers to the Mid-Winter Conference has been eliminated. The officers will pay their own expenses. The item of stationery for the Chairmen of Committees has been eliminated, as well as for the officers except the Secretary, so that as I said yesterday, we are to have the honor and privilege of furnishing our own stationery and postage.

Are there any questions about the Budget? It has been reduced from practically $35,000 to $22,500, and we hope that perhaps an even greater saving may be effected.

ADJOURNMENT

Title Insurance Section

Thursday, October 22, 1931

The session was called to order at ten-forty o'clock by Benjamin J Henley of San Francisco, California, Chairman of the Title Insurance Section.

THE CHAIRMAN: The first address on our program this morning is entitled, "Reports and Certificates Complementary to Exclusive Title Insurance." Unfortunately, the author of this paper was compelled to leave. I will ask the Secretary, Mr. Humphrey, to read the paper which was prepared by Mr. W. P. Waggoner, president of the Security Title Insurance and Guaranty Company of Los Angeles.

"Reports and Certificates Complementary to Exclusive Title Insurance

W. P. Waggoner, Los Angeles, Calif.

Mr. Henley did not make entirely clear the way in which he expected me to treat this subject. I suppose there are a few here who have little or no information concerning the incidental or, as Mr. Henley calls them, the "complementary" services, which we are selling in Southern California in connection with title insurance. I shall try to explain our practice as concisely as possible and make the explanation clearer still by furnishing samples of the forms used.

I have with me a few sets of the forms discussed in this paper which I shall be pleased to give to anyone who is interested in them, as long as the supply lasts and will mail a sample set to anyone, who requests one, either here at the convention or by letter to the office. The number appearing in the paper following the sub-head corresponds with the number of such form in the set.

FORECLOSURE AND QUIET TITLE GUARANTEES AND POLICIES. Forms I, II and III)

When default has occurred in an obligation or claim secured by land, or when conflicting rights affecting land remain in dispute, the owner of such obligation, claim or right, desiring to proceed against the land or adjust the dispute, must ascertain what persons are to be affected by such procedure and to what extent. Accordingly, if he be a prudent man, he orders a title report. In some communities the necessary information is given in the form of a brief abstract of each instrument affecting the title recorded subsequent to the lien to be foreclosed or to the right to be determined. In communities of exclusive title insurance, in most cases, this information is given in a form of a guarantee or policy which shows the ownership of the property, all liens, encumbrances, claims and charges against the title in the order of their priority, and, in addition, sets forth the names of persons who must be made parties defendants if an action is necessary, their addresses as disclosed by the public records, the township in which notice must be published, and where a promissory note is involved, what persons are liable in case of a deficiency judgment. The form which the Foreclosure Guarantee or Policy takes varies little with the different companies, except with respect to setting forth the description of the mortgaged premises. It is the contention of some of the companies that confusion may be avoided by the elimination of the description, thus compelling the lien holder to refer to the mortgage which necessarily sets forth all of the land, properly the subject of foreclosure proceedings. If other information, which might be of assistance in collecting the claim, settling the dispute, or realizing on the security, is disclosed by the title examination, such information is also included.

The charge for this type of service follows generally the policy schedule.

CONDEMNATION GUARANTEES OR POLICIES.

These are similar to and generally follow the plan of Foreclosure and Quiet Title Guarantees or Policies.

COURT PROCEEDINGS POLICIES. (Form IV)

In many communities of exclusive title insurance, instead of preparing an abstract of court proceedings or a report as to their regularity, it is the practice, to write a guarantee or policy as to such regularity.

The charge for such Guarantee in Southern California is $15.00 for the first $3000.00 of liability assumed, plus $1.00 for each additional $1000.00 or fraction thereof. Where the policy is issued, only as to the regularity of the issuance of Letters Testamentary, Letters of Administration, or Letters of Guardianship, the charge is $5.00 for the first $3,000.00 of liability assumed, plus $1 00 for each additional $1000.00 or fraction.

MECHANIC'S LIEN INDORSEMENTS (Form V)

In California the Standard Loan Policy forms, other than the American Title Association Form, do not insure the priority of the loan against possible claims of laborers or material

men (mechanic's lien). Many lenders are now requiring such insurance. The Southern California Board of Title Underwriters has adopted a standard indorsement to meet this demand which is now in general use in that section.

When the A. T. A. Form Policy, or the indorsement attached to a standard form policy, is issued in connection with a construction loan, an additional charge of at least 75% of the schedule loan fee is made.

RESTRICTION VIOLATION INDORSEMENTS.
(Forms VI and VII)

Certain lending companies are also requiring insurance against possible loss, by reason of the existing restriction violations and, in some instances, against the right of re-entry which might defeat the lien of their encumbrance through a future violation. To meet this demand, a standard Indorsement has been prepared and is now in general use.

These indorsements are, of course, only attached after a thorough examination of the restrictions themselves, a report of conditions on the ground, and, if necessary, after obtaining waivers from holders of reversionary interests and others, who might by the terms of such restrictions have the right of enforcement. In the case of insurance against future violations, an additional charge of at least 25% of the schedule fee, with a minimum charge of $10.00, is always made. In the case of existing violations, an additional charge of at least 25% is made, except in cases where the form of policy issued carries a fee of 1¼ times the standard loan schedule, in which event the additional charge may be waived at the optios of the issuing company.

The indorsement forms, above mentioned, have been approved by practically all, if not all, of the large insurance companies and others who are lending generally throughout the United States.

LETTER REPORTS.

Our experience leads us to the conviction that many people, through ignorance or in order to save fees, accept and order letter reports in connection with transactions when policies should be obtained. If an error in such report or an adverse claim is later discovered, such people make a claim against the company, regardless of the fact that the report may show it was given at a reduced rate and without liability. The company is thus placed in the position of having to settle or adjust such claim, as a matter of policy, or receive much adverse publicity from disgruntled report holders. About two years ago, the use of letter reports, as such, in Southern California was discontinued entirely.

PRELIMINARY REPORTS.
(Forms VIII and IX)

It has been the practice in Southern California for many years, upon completion of the examination of a title in connection with a policy order, to render what is called a preliminary report showing the condition of the record title. These reports were given originally in connection with orders from escrow holders to aid in the closing of their escrows, but were soon being required in connection with nearly all orders. The same class of operator, who had been closing deals on letter reports, now proceeded to secure a preliminary report without procuring the policy, and many people were thus misled into a false sense of title security.

As an additional precaution against the use of reports, where real protection required insurance, we redrafted our preliminary report form. It is now so designed that one fully familiar with the order will have complete information regarding the property, but no purchaser or lender could read it and feel that he had any security or even authentic information until a policy was actually issued. In setting up the condition of title on the full preliminary report form, unrecorded papers in possession of the company are included in the examination, in addition to those of record; the report therefore may or may not reflect the true condition of the title as disclosed by the records.

In addition to the so-called long form preliminary report, the companies have prepared and adopted a standard short form report which sets forth, in lieu of the condition of title, only matters which do not conform to client's instructions. It is the general practice to issue this short form report for all individuals and for as many banks and lending companies as possible. However the practice of requiring long form preliminary reports is in general demand in Southern California. The short form report is more satisfactory to the company and would be to the client if its advantages were explained before the custom of demanding long form reports was established.

In some counties an additional charge of $2.50 is made for each long form report issued. In most counties, however, probably due to custom, no additional charge is made. In communities where the practice is not already definitely established, the additional charge should be made.

Orders cancelled, after preliminary report is issued, are billed out at one-half of the regular schedule fee, with a minimum charge of $10.00.

LOT BOOK CREDIT REPORTS.
(Form X)

All title companies have calls from time to time for information in connection with credit reports, property listings, etc., regarding the ownership of and encumbrances upon land. Southern California has a standard "short form lot book report" on which a pencil notation is made of the name of the apparent record owner, and any unreleased trust deeds or mortgages shown by the company's account books. This information is given at a charge of from fifty cents to one dollar and a half per parcel, and without liability on the company.

MISCELLANEOUS REPORTS

Title companies are also called upon to write Mechanic's Lien Reports, Judgment Lien Reports, Tax and Bond Reports, Chain of Title Reports, Property Search Reports, Chattel Search Reports, and Lot Book Reports which give more information than that set forth in the Short Form report mentioned above. In time of depression this type of work can be developed to return considerable revenue to the company.

The charges for the work vary considerably in different communities. In Southern California the service given and the prices charged generally follow the schedule.

MECHANICS LIEN REPORTS.
(Form XI)

Mechanics Lien Reports set out any notices of completion, notices of non-responsibility, mechanics' Liens, and actions to foreclose the same which might affect the land under search. The charge for this service is $2.00 plus $2.00 for each lien or action reported.

JUDGMENT LIEN REPORTS.
(Form XII)

Judgment Lien Reports set out any money judgments against a person or corporation named in the report which, at the date of the report, would constitute a lien upon land in the country. The charge for this service is $5:00 per name plus $2.00 for each judgment lien reported.

TAX AND BOND REPORTS.
(Form XIII)

Tax and Bond Reports set out all unpaid taxes, street assessments or bonds affecting the property described in the report. The charge for this service is $2.50 (minimum) for one lot, plus $1.00 for each additional lot mentioned in the report.

CHAIN OF TITLE REPORTS.
(Form XIV)

Chain of Title Reports set out a reference to, or a brief abstract of, all instruments or matters of record relating to or affecting the title to the land described. The charge for this service is $10.00 plus $2.50 for each reference reported.

PROPERTY SEARCH REPORTS.
(Form XV)

Property Search Reports list all property, together with the encumbrances thereon, acquired by the person whose name appears in the report, within the period covered by such report and still owned by such person. The charge for this service is $5.00 per name for one year, plus $2.50 per name for each additional year, plus $1.50 for each property examined, with a minimum charge of $15.00.

FULL LOT BOOK REPORTS.
(Form XVI)

Full Lot Book Reports show from an examination of the Lot Book the apparent owner of the property and any apparent liens or claims against the title to the land. The charge for this service

is $2.50 plus not less than 50c for each encumbrance, claim or lien reported. The block for this particular report on the sample forms is an old set-up, the block under the new form will read as follows:

LOT BOOK REPORT

Issued after an examination of the property indices of the title plant of the issuing company in the county mentioned on page one hereof to the extent that such indices contain direct posted references to the specific property described in this report, subsequent to the stated date, for the purpose of showing the apparent owner of the record title to said land and any unreleased liens or encumbrances affecting the same, without examination, however, of any instrument or proceeding through which such apparent title to or lien or encumbrance upon such land was acquired, without examination or report as to the sufficiency or validity of any such instrument or proceeding and without any representation as to the validity of the apparent title to or lien or encumbrance upon said property.

CHATTEL SEARCH.
(Form XVII)

Chattel, or Personal Property Encumbrance Searches, set out any sale, notice of sale, lease, assignment, pledge, mortgage, or involuntary transfer of any interest of any person named in such report in and to the personal property therein described. The charge for such service is $5.00 per name for one year plus $2.50 per name for each additional year, plus $1.50 for each reference reported.

In smaller counties the charges for Chain of Title, Property Search, and Chattel Mortgage Searches are, in some instances, 50% below those listed herein. These prices, as given, carry a nominal liability of $1.00. If additional liability is required, an additional charge of $2.50 per $1000 of such liability is made.

Formerly, each of the above reports had a separate form. Southern California Board of Title Underwriters, about a year and a half ago, adopted a Standard Form which carried, on its last page, a schedule showing the coverage under each such report, the first page showing the kind of report, the property, and dates covered in such report with a reference to the box or paragraph of the schedule applicable. The form has been most satisfactory both from the viewpoint of the company and its clients.

MUNICIPAL DISTRICT CERTIFICATES AND LIEN PROTECTION SERVICE CONTRACTS.
(Form XVIII)

In Southern California this plan was devised to meet a demand for a service showing districts, not covered by standard form policies, which might create a burden upon the land, also for a service assuring notice of future taxes and assessments in ample time to allow payment before delinquency, or before exorbitant penalties attach.

The types of protection service vary a little but generally the purpose is to notify the client of delinquent taxes, assessments and bond payments, accruing subsequent to the date of the contract, in ample time to prevent the possible sale of the property in satisfaction of such taxes, assessments or bonds. In order to render this service the company posts the contract to its account books in a distinctive ink, thereafter when an assessment is posted against the account the Poster immediately notifies the service department and a notice is sent to the client. Once each year all contracts are checked and the clients are notified of any delinquent taxes, City or County, and of any delinquencies in bonds, either as to principal or interest. Samples of the forms of the different types of notices are set forth as Form Nos. XIX, XX and XXI, these notices are mailed to the clients in duplicate.

Charges for the service vary from $2.50 to $4.00, depending upon the kind of certificate or type of service. These prices are, in the opinion of the writer, not commensurate with the service rendered and should be increased on property of higher value, however, in southern California as a "complement" to general title service, even at the price charged, they have produced an attractive revenue.

This particular service may be limited to States of complicated tax and lien laws which provide inadequate methods of notice to property owners. If you happen to be operating in a community where the service would be applicable and desire more information, a request addressed to the writer or to the Realty Tax & Service Company of Los Angeles, attention Mr. Bogue, will bring you all the information which we have available on the subject.

RENTAL OF PLANT PRIVILEGES.

Many of the railroad companies, oil companies, and similar corporations from time to time require information on large blocks or tracts of land. It has been our experience that in these instances it is difficult to give a report or policy that will give the exact information required by such a company for the purpose at hand. We have accordingly worked out a plan whereby a representative of that company may have the use of the title plant and the services of one man to work with him on a basis varying from $25.00 to $75.00, minimum, per eight-hour day, the amount of the charge depending largely on the size of the county and the amount of the company plant investment.

This service has been developed into a good source of revenue as the companies have proven to their own satisfaction that they can get the information from our account books, paying even $5.00 a day, much faster and cheaper than they can by digging through the public records. It has been our experience that without exception these large companies agree that the investment we have made, in making this information quickly available, is well worth the price we are charging for its use.

It will be found from an examination of the samples which I have here that these services run all the way from merely simple memoranda taken from information to which we can quickly turn, to formal and responsible statements. To us they mean added revenue in the form of a very lucrative return from our plant investment as well as the promotion of good will. To the customer they represent an added service both with respect to convenience and possible monetary savings. Highly specialized, they give him adequate information or protection as the case may be, setting out in detail the facts he desires and eliminating those portions of the ordinary title evidence which have no bearing upon his requirements.

In connection with the use of such forms, I wish to call your particular attention to a danger which should be guarded against; namely, their misuse. In some instances this may be the result of ignorance on the part of the customer who does not clearly understand what actual liability, if any, the forms carry. Again they may be deliberately misrepresented to the uninformed as policies by unscrupulous operators. Both of these possibilities are facilitated by the fact that in the minds of the majority of people anything issued by a title company is a policy. I would therefore like to stress this point, that where companies go into the business of issuing these types of service, they should clearly explain to the customer just what he is getting.

Remember that it is the completeness of your title plant which makes this service available. You have spent years of time and thousands of dollars in building it for the issuance of the standard and accepted evidence of title. This is an opportunity to broaden its usefulness and make it pay additional revenue.

Many of the services, exclusive of Guarantees or Policies, can be produced at minimum cost, for they do not involve the detail of careful checking and examination, and for that reason may or may not show the true condition of title. This point should be made clear to the customer; stressing the fact that you are able to furnish him information for a specific requirement at a reduced figure with a fair degree of, but not absolute, accuracy, because (a) the information is coordinated and easily available in your complete title plant, (b) that the work costs less to produce because it is not complicated and is not handled with the care given the issuance of the insured evidence of title, and (c) because there is no liability on the issuing company or any representation by it that such service is complete and therefore free from error. If properly presented he will therefore

realize that he is not in any sense receiving a policy of insurance, but at the same time is getting information with a fair degree of accuracy which he could not go to the public records and dig out for himself with the same amount of accuracy, in the same length of time or at anything like as low a cost.

While we must be careful in many of the services to control their use to the requirements of our patrons in connection with matters which require information rather than protection, we can, by not insisting upon the client paying for a policy in connection with such cases, gain good will and at the same time educate prospective clients to the value of our title plants and to the absolute necessity of obtaining insurance before purchasing, loaning or otherwise dealing in property where erroneous or incomplete title information would cause such client to expend money for which he would not otherwise have been liable.

In conclusion, I feel that these "complementary" services are advisable, both in principle and in practice. The title salesman who knows no more than to sell his services *downward* can make disastrous use of some of the forms here discussed. The title salesman who understands his clients' requirements can use these services as levers to boost higher-priced commodities and thereby increase his policy business, using something that the investment in his title plant, which he is called upon to maintain anyway, enables him to produce at little cost.

THE CHAIRMAN: I want to thank Mr. Waggoner for preparing this paper and Mr. Humphrey for reading it

This is a subject I have not before heard discussed at a convention of either the National or a state association. I think the paper has a great deal of constructive, valuable material.

The next subject for discussion is "Selling Title Insurance." It will be discussed by three men from as many different parts of the country.

The first discussion of the subject will be by Mr. William Gill, manager of the Title Department of the American First Trust Company, Oklahoma City, Oklahoma.

"Selling Title Insurance"

William Gill, Oklahoma City, Okla.

Title Insurance, more commonly known in Oklahoma as "GUARANTEED TITLES," generally speaking was almost unheard of prior to 1923. Consequently the use of this method of evidencing the ownership of real property in Oklahoma is yet limited. Those of you who have had the same experience will quickly admit that those who "pioneer the field," so to speak, have no little task.

During the past 5 years and more particularly the past 3 the increase in popularity of this method of protecting real estate investments has rapidly increased. Today this protection is available and has been accepted, at least to some extent, in each of the 77 counties in Oklahoma.

The operations of the Company with which I am connected are statewide. Realizing, however, that the sale of title insurance must commence in the large cities and from there extend to the smaller communities and rural sections, our efforts have been more particularly confined to Oklahoma City.

In introducing Title Insurance or Guaranteed Titles the public in general, having previously known nothing but the "Abstract and Attorney Opinion," were skeptical of the superiority afforded realty investments by the adoption of a system which so radically departed from that used since the opening and settlement of the Territory of Oklahoma.

To properly present to the public the benefits of a Guaranteed Title it was necessary to educate our employees before they could intelligently present the subject.

As a basis for the introduction and selling of title insurance we had a "Campaign of Education," which in itself was a stupendous and expensive undertaking. The hazards were further increased, at least from the standpoint of the Executives, by reason of the impossibility to show a net earning from premiums which would in any favorable manner compare with the expenditures incident to such a campagn.

Local loan companies, Banks, and Building & Loan Associations were reluctant to accept mortgage policies, it having always been the custom to use the abstract and attorney opinion. Such a radical departure from this practice was looked upon with disfavor by their officers and governing boards. Realtors and others handling real estate transactions believed that Guaranteed Titles would hinder rather than facilitate their operations.

It is the natural tendency for most of us to follow the line of least resistance and in order to secure the assistance of the realtor, which is a very important factor to consider, occasional "get together meetings" and luncheons with the realtors and salesmen of the larger real estate firms were arranged. Tactful arrangements for speaking engagements before civic clubs and gatherings is another method of educating the public.

After five years of "Grief" however, most of these objections have been overcome by adopting the above methods and a systematic campaign of education thru the Newspapers, Direct by mail advertising, personal interviews and solicitation.

Eastern investors, Life Insurance Companies, residents and realtors from title insurance states welcomed the introduction of Guaranteed Titles in Oklahoma—this fact alone did much to remove the erroneous impression that such protection was not worth while.

There yet remains in Oklahoma, however, considerable skepticism on the part of the local abstracters as to what effect Title Insurance will have upon their business and a major portion of our business, coming from all sections of the State, is being produced by the efforts of our own organization or comes to us direct.

Subdividers were quick to see the advantages of Title Insurance but hesitated to substitute it for the abstract since the investing real estate public apparently preferred not to accept any new system and particularly so long as there existed a possibility of the next purchaser demanding an abstract. Many realtors while approving Title Insurance were suggesting to their clients the possibility of being required to pay for an abstract when the property was later resold. To overcome this objection and sale resistance, we guaranteed to furnish the holder of our title guaranty with an abstract, down to the date of such Guaranty, WITHOUT COST. Provided, the purchaser refused to accept the Guaranty in lieu of the abstract after a representative of our company discussed the advantages of a Guaranteed Title with the purchaser. In only a very, very few instances has it been necessary to furnish an abstract under these conditions.

When a subdivision is being sold under contract to furnish the buyer with a Guaranteed Title the title company should keep in close touch with the subdivider and as quickly as a sale is made interview the purchaser or by mail advise him that the title to his property is protected by a guaranty. Thus, when the contract to purchase has been completed the possibility of dissatisfaction or objection is reduced to a minimum.

The "Open House" method of selling homes now used by a large number of realtors and builders affords a title company a splendid opportunity to reach prospective home owners. We consider it well worth while advertising to give the purchaser of a limited number of "Open House Homes" a guaranteed title without charge. A sign announcing the fact that arrangements have been made with the owner to do this together with other advertising matter is placed in a conspicuous place in the "Open House" and quite frequently results in the prospect demanding a Guaranteed Title when a home is eventually bought. Just recently a magnificent home, completely furnished, was offered for sale by a leading realtor and opened for inspection for one week. More than 5000 people viewed the home as well as our sign neatly framed and displayed in the living room.

Naturally any title company will have losses—were this not true there would be no occasion or demand for its product. The best advertisement for any Title Company is to earn a reputation of cheerfully and promptly paying its losses. Then "Cash in" on the loss by letting the public have the facts concerning it. Recently we guaranteed a title to property located in Southwest-

ern Oklahoma which had been sold through the Probate Court at a Guardian's sale. The record title was complete—there was attached to the Guardian's report and settlement a receipt from the minor for the proceeds of the sale. The application for Guaranty was accepted—the Guaranty was written and delivered. Shortly thereafter suit was filed to recover the land, the minor claiming no consideration had been paid; that he had been induced to sign the settlement upon promise of payment. After investigation we elected to contest the minor's claim, obtained a favorable lower Court decision which was later reversed by the Supreme Court. Our client had an opportunity to dispose of the property and a settlement was made with the claimant. A half page advertisement by our company was carried in local papers giving the facts concerning the loss together with a photograph of the insured, he being an extensive land owner and well known, which in a very definite and concrete manner presented to the public the danger of relying upon the record title in Court Sales.

At this time we are attempting to determine our liability upon an owner's Guaranty in connection with a forged quit claim deed. As quickly as the loss is paid and the forger apprehended the story will be released to the local papers and the loss advertised.

Keep in mind the importance of giving the public concrete examples of losses actually suffered. No citizen of your community is particularly interested in a title loss occurring in some other section of the country but he is somewhat concerned in something which happened to his neighbor, or in his immediate community which caused a loss.

Public contact employees should be able to cite local cases of title losses to prospects—data concerning losses should be compiled and kept. The possibility of forgery is more forcefully presented if you can produce a photostat of a forged deed covering property in your City—the mortgagee will more seriously consider Title Insurance essential if you give him a definite example of a loss by local parties. The possibility of an erroneous survey against which we guarantee for an additional fee, occurs more likely to the real estate investor when shown photographs of local properties together with a survey showing the encroachment on adjoining property.

Realizing the importance of educating employees of loan companies, banks and real estate firms to think along title insurance lines, we recently conducted a title school. The course included handling of escrows, complying with attorney requirements, elementary real estate law and of course the advantages of title insurance. Such a course, if properly handled, will not only create good will for your company but will stimulate the title insurance business.

THE CHAIRMAN: The next discussion of this same subject will be by Mr. E. B. Southworth, executive vice-president of the Title Insurance Company of Minnesota.

"Selling Title Insurance"

E. B. Southworth, Minneapolis, Minn.

We have tried not to have our discussions of this subject overlap, so I will try not to cover any of the points made by Mr. Gill.

One thing we have found advantageous in selling title insurance in a community where it is not largely used has been to acquaint the members of our firm not only with men in the real estate and banking business, but with the individuals in the community.

We have found that by joining practically every service club in the city of Minneapolis, we are thrown in contact with people from all branches of business, and in this way information is often received from time to time regarding future real estate deals that have not been announced to the public. By that means we are able to send a man to see the prospective real estate owner before he has committed himself to a lawyer to have the title examined and passed on by him.

We have also followed various other leads which we obtain in the same manner. For instance, we have made it a practice to have our counter men talk to real estate dealers when they come into the office not only about the individual order but about business in general. We often get information about prospective deals in that way.

We get the same kind of information from the mortgage bankers and we also work with the surveyors. We can often obtain from a surveyor the name of the party who ordered the survey made. We can go to him and get the full information. We have in our office six men who are in position to go out and interview purchasers. These men work on various things in the office but are always available, and when we hear about a real estate deal, we select the man from these six whom we think is best fitted to talk to the particular buyer. We get a great many owner's policies in that way.

We also follow the newspapers quickly and any tip that there may be a deal in the making is carefully investigated and followed. We don't rely on the buyer coming into our office; we send a man to see him in every case.

One other point we have used advantageously is to follow the advance sheets and the minute a lawsuit is decided by our Supreme Court or the Supreme Court of an adjoining state which has some effect on real estate titles, it is written up as a news story and given to the newspapers. It does not always appear in exactly the way we give it to them, but the idea of the uncertainty of title security without protection is presented to the public on every occasion. The newspapers are usually glad to have this material, especially if it is well written and is of such a nature that the public can appreciate the trend of the story.

I don't know of anything else I can say on this subject that is not going to be covered by Mr. Graham or that has not been covered by Mr. Gill.

THE CHAIRMAN: Don Graham, whom we all know, is a former Chairman of the Abstracters Section. Apparently he is ascending the ladder and he will now tell us how he sells title insurance.

"Selling Title Insurance"

Donald B. Graham, Vice President, Title Guaranty Company, Denver, Colo.

I am sure that neither Mr. Gill nor Mr. Southworth nor I had any idea of coming here and attempting to tell companies that have been selling title insurance for years how to sell title insurance. We did feel, however, from the subject which was assigned us by the Executive Secretary's office, that we might lend a little help to companies that are just getting started or companies in states where title insurance is being sold in competition with the abstract and the attorney's opinion. Therefore, anything I have to say is addressed to that class of title man.

I am sure you will all agree, before you can sell anything, the first thing you have to do is to sell yourself. My experience in attempting to sell title insurance extends over a five year period. When I first started, I thought title insurance would be received with open arms by any one I cared to call on and that I would spend my time largely in personal solicitation. I still believe that is the most effective way in which title insurance can be offered to the public, although of course, the other means, such as advertising, for instance, are also very important.

Another thing I think is very important to the abstracter who desires to get into the title insurance business is to have a title insurance policy that really means something to sell, that has something behind it. It is a rather difficult task for the average county to organize a title insurance company that is sufficiently strong to impress the public in any way.

We have a medium sized company. I find from Walter Tuttle's advertising report, which you will hear, that we are the average company selling title insurance and abstracts in the United States; that we serve the average territory and the average population, and we have the average income. For fifteen years we have sold our own policy, but in order to get a class of business which has been passing over our heads —that is, the chain store business, the nation-wide organizations that buy real estate and lend money whose business we weren't quite large enough to secure—we have entered into an underwriting agreement with a large company.

We have found that to be a very wise policy and I hope that such agreements will be adopted by a number of the companies over the country. I think it will help to solve the difficulties that the smaller title insurance and abstract offices are facing at the present time.

In Colorado we believe that marketability is a very essential factor. We sold ownership and possession insurance for fifteen or sixteen years. It met with some measure of success but we were continually confronted with the statement of attorneys who made examination of titles and wrote opinions thereon, "They do not guarantee anything on which you really stand a chance of loss."

Since we have been writing marketability insurance we can combat any statement any attorney might make along that line. We are giving full coverage and believe that is the eventual solution of the difficulty. I think it would be advisable for any company that is not now writing marketability insurance to consider it. Of course, there are large title companies in the United States that by virtue of their size and their prominence in the community do not have to consider that, but I am talking about the average abstract office that wants to get into the title insurance business.

Another thing I find that causes trouble is that a good many of us are afraid of our rate sheets. If we call on a prospect or the prospect comes to see us, we want the work and usually our own job depends on getting a certain amount of such work. If the premium is three or four times the amount of the usual fee for the attorney's opinion, we are very apt to feel timid about mentioning our rate. We have to sell ourselves first and not be afraid of that rate sheet. The chances are, ninety-nine times out of a hundred, the rate is not high enough considering the protection we are giving.

I think if there are any members of a particular organization who are weak-kneed about this matter of rates, their courage should be bolstered. We offer real protection and service that is usually worth more than we charge, and we should overcome that fear.

One more thing I would like to mention is this: I believe the abstracters law that was promulgated by the American Title Association and that has been enacted in four states is the keystone to success for the average title insurance company. It is just as important, if not more so, to the title insurance company as it is to the abstracter because we all know how difficult it is to offer a cheap abstract and a cheap attorney's opinion in one hand and a title insurance policy on the other, the premium on which is four or five times the amount we have been charging.

The abstract law as passed in Colorado in 1929 has worked very well, and I would say that the title insurance companies could do nothing better than to support such a law and see that those states in which it failed at the last session of the legislature try again until it is enacted. (Applause)

State-Wide Title Insurance

J. E. Sheridan, Detroit, Mich.

About a year ago, while on a trip East, I was told by Mr. Edward Clark, Chief Counsel for the Prudential Life Insurance Company, that if the other three big life insurance companies would go sled length in their demand for title insurance, he would gladly join in the demand. I told him I was delighted to hear this statement. But, as a matter of fact, I shuddered at the thought of what would happen if they put this demand in over night.

My company has now been in statewide title insurance for over six years, which may permit me to claim that I have a slight bit of information on the subject. I have made contracts in cities the size of Flint and in the cross-road hamlet, and I have met with abstracters whose earnings run into five figures and others whose gross receipts total less than $7,000 per year.

When we first considered extending our activities, we had many discussions in our own organization about the form of contract we would use. This finally settled itself into a contract which, in brief, provides as follows:

A twenty-year term, with the privilege of cancellation by either party at the end of ten years, or one year's written notice, or, in the event of insolvency of the other party at any time;

Abstracting and examination to be performed by the local abstracter or his attorney, over the signature of the abstract office;

The latter to be responsible for errors in abstracting, and, secondly, for a careful examination of the title;

> The abstracter agreeing to "reimburse the Guaranty Company forthwith for any loss or expense the Guaranty Company may sustain or incur under any policy issued pursuant to this contract, occasioned by any error, oversight, fault, or negligence of the Abstract Company in the performance of its undertakings hereunder, or arising from any cause that the Abstract Company could have avoided or prevented";

That he shall maintain records of the title insurance files to which we would have access at reasonable hours;

The contract to be exclusive both ways during its life;

We to furnish all forms free of charge, and to furnish advertising copy at the cost of paper and printing;

We to be responsible for all of the so-called "unknown dangers" in land titles and to assume responsibility for any objections to title presented to us as such and waived by us.

We have talked on title insurance to real estate boards, bar associations, meetings of bankers, regional and otherwise. We have secured active cooperation from some of our affiliations in making arrangements for these and other publicity features, and from others we have received no co-operation.

As against that attitude of indifference, and keeping in mind that two wrongs do not make a right, I might say that our own Legal Department has perhaps leaned backward in its zeal to protect the company. This is probably occasioned in large part by the fear of loss due to unmarketability rather than a fear of failure of title.

In the last six years we have issued many thousands of policies in our state-wide work. We have had some losses—not many as yet, and we expect not many. It is not improbable that we will have some litigation on account of the question of marketability, particularly where subsequent transfers will be made and the title comes into possession of a resident of an urban locality.

From the background of six years' experience in the extension of statewide title insurance, it is my conviction that the problem can best be attacked and solved by two forms of contract as follows:

A contract which is purely agency in character, under which the abstracter solicits an order, transmits it to the Title Company and is responsible for payment of the account—he to prepare an adequate abstract of title for the use of the home office, he to be responsible for the accuracy of that abstract and perhaps to certify in some particular form the abstract itself to the title insurance company, in order that privity of contract could be established.

While I have a rather open mind on the amount of commission he should receive under this plan, it strikes me that the equitable way would be for him to get a reasonable fee on the lower bracket of insurance with the rate of commission decreasing as the size of the policy increased and the rate per thousand of insurance decreased.

Among those who would be tendered this form of contract would be those abstracters who do not have within their own organizations members of the bar qualified to examine titles. This thought comes to me for two reasons:

1. The perfectly obvious reason.
2. A business reason.

If an application is received for, say $1,000 of title insurance, it is unlikely that the applicant will be willing to pay, first, an abstracting charge; next, a premium, and, on top of that, an attorney's fee earned by an outside attorney retained by the abstract company for the purpose of examining that particular title.

Also among those who in my belief should receive this form of contract are those abstract companies which, for one reason or another, have other than a complete abstract plant of the records in their county or a plant the value of which is slight or which has little or no reserve and slight financial

strength. If the title insurance company shall sustain loss due to an error of the abstract company, there is little consolation for either in the seizure by the title company of the plant. The title company doesn't want it; it would start off in the community under a handicap and totally unacquainted with the plant itself and local conditions; it would be handicapped by questions of personnel and many other problems. For these reasons, it is my further belief that a limit of size of order be reached and that on all orders for amounts at or above that, a re-check of the title, as disclosed by the abstract, should be made against the public records, to determine the adequacy of the abstract itself.

The problem last above presented is one which permits of much leeway and the application of good horse sense. In one county, the title insurance company might be warranted, because of the personal responsibility of the owner of the plant (and subject, of course, to his willingness to endorse by private agreement or otherwise the certificate of the abstract company), in accepting orders far in excess of the value of the abstract plant itself.

Under this first form of contract, with all examinations made at the office of the title insurance company, it would mean additional expense to the title company in personnel, acquisition of maps, atlases, etc., from the various counties, and other increased additional expense. As compensation for this increase there would be the receipt by it of a larger percentage of premium.

The question of service to the public is an important one. Under this first form of contract there would unquestionably be a slow-up in service. It would be necessary that, first of all, the abstract be extended to date, then forwarded to the title insurance company, examined, and report sent back. In the case of a mortgage policy, where the mortgage is recorded after the title has been examined and a second search to pick up the mortgage itself becomes necessary, it would mean the abstract would have to be re-certified (or some certificate from the extract office in lieu thereof) and sent to the home office, at which time the policy itself would be prepared. So, under the most favorable circumstances, service would not be of the best. It would perhaps mean that at all times the state business would require a clear track. It would mean careful watching, even to the point of the reception and dispatching of mail. This may seem a point of slight importance, but it might spell the difference between success and failure.

The contract should, of course, be exclusive both ways; that is, the abstracter should agree to solicit business only for the one company for which he acts, and the title insurance company should agree to direct all business in that county through the affiliated office and to pay commission to the abstract office whether the order originates in the latter or not.

* * *

The other form of contract would be with abstract companies located in the larger communities of the state, companies of financial strength, with complete abstract plants properly staffed, those with systems of accounting, and, certainly not among the least important, the fact that there is a reserve for losses which is constantly maintained and on the payrolls of which are members of the bar qualified to examine titles. I do not mean by this some self-appointed examiner who, through long experience in abstracting, may be qualified to examine titles. For all I know perhaps there are some abstracters in the country who may be better examiners of titles than are some members of the bar. But it is a little difficult to determine how competent one not skilled in the law by education, training and experience may be in the examination of an intricate real estate title.

With an abstract company such as described above, the contract would provide, in the main, as does the present form of contract to which I first made mention, that not only would the abstracting be performed by it but the legal examination of the title made, report given to the applicant over the signature of the title insurance company, executed by the abstract company and then, or at a later date, the policy itself issued. Such an abstract company should be empowered to sign for the title company not only preliminary reports but, in most cases, the policies themselves. It would and should be responsible to the title company for payment of accounts.

The division of premium under this form of contract need not necessarily be constant. It might vary according to the financial strength of the abstract company and also vary according to the size of the policy. To illustrate, an abstract company in "A," having total assets of $100,000, receives an application for a policy $10,000 in amount. On this it should receive the maximum of its percentage of premium as set out in the contract. The next order it receives would be for, say $100,000. Here I feel the title might well be re-examined in the home office of the title company, not at all with the thought that the attorney for the abstract company is not qualified, but solely for the protection of both. For this re-examination, and for other reasons, the percentage of premium to be earned by the abstract company should decrease according to a schedule of division of premium previously set up in the contract.

In passing I should also like to see written into such a contract a strict provision against rebating or price cutting by either party.

* * *

To the large title insurance companies contemplating engaging in state-wide business (do I hear murmurs of lese majesty (?)), I would suggest this:

1—Do not expect compliance with system in its most minute details and as you may have it in your own office. Please remember many abstract companies with which you will be affiliated are wholly owned by an individual or a family, the life savings of whom are invested therein, who are much better acquainted with titles in their own countries in a minute than you will be in a year;

2—Acquaint your agents constantly with the little tips about changes in law, about odd decisions, about new rulings which come to the attention of your Legal Department. The average abstract office has no large law library, it has no staff which has the time to do hours of research work. You have. Give your agents the benefit of this;

3—Help them to advertise title insurance and remember they are not salesmen and never pretended to be such. Frequently they don't understand title insurance and make no pretense of understanding it in all its ramifications. Help them help themselves in putting title insurance over. Send speakers from your own organization to their towns and help them make the arrangements for these meetings;

4—In preparing advertising copy for distribution in the state, keep in mind that it will be read—if it's read at all, by bankers, lawyers and others who know a little about practically everything in the county;

5—Do more than your part in giving service. And if for any reason you are forced to hold up completion of an order, use the telephone and telegraph freely to explain the delay;

6—Disabuse your mind of the belief that you are vital to the state in which you reside. You are not. Land will be sold and title conveyed under the abstract system for some years to come. And there will not be wholesale failures of title because the deals have not been closed with title insurance;

7—At least annually have a business session with all your agents;

8—"Play ball" with the other title insurance companies of your state. Don't infringe on their territory unless they indicate they are unwilling to extend their own facilities into the state;

9—Work to uniformity of premium charges with other title insurance companies in your state.

* * *

To the abstract company affiliated with the title insurance company I would say:

1—Don't expect the impossible. In many states title insurance is still a child and the title insurance companies in those states may properly be called Pioneers;

2—Title insurance will not sell itself. And the title company cannot do it all. Talk title insurance on every occasion. Perhaps you can do your best when you receive an order for an abstract or extension thereof and when you are delivering the finished product;

3—Do your part in promptly and properly distributing advertising matter sent to you. Follow up this advertising by not only keeping an up-to-the-minute mailing list, but promote whenever possible discussion on title insurance;

4—Give promptly and completely information which the title company asks. It may seem entirely out of order to you that it should ask for this proof of death or affidavit as to that or this quit claim deed, but please remember that it probably is asking for something which will clear up a question of marketability of title and which, if not cleared, might result in loss to you.

I am sold on the extension of title insurance state-wide. Today we are in a depressed real estate market which naturally means that both a title insurance company and an abstract company must hesitate about any campaign which means an outlay of cash. But even in these depressed times we can lay the groundwork for the harvest which is bound to come to us.

The day is coming when title insurance will be universal. Personally, I feel that that day will have fully arrived when the title insurance company and the abstract company jointly assume a policy of accepting each other at face value; when both aggressively advocate the extensive use of Title insurance; when both, through advertising, personal contacting with attorneys, bankers and real estate operators, give publicity to their product. On that day, and not before, will we have successful extension of state-wide title insurance.

OPEN FORUM

Conducted by Hon. George L. Allin, New York City

For many years I was connected with a title company but I am now just a common, ordinary garden variety of practicing attorney. I have a background of over thirty years of intimate connection with one of the large title companies of the country—if it were not for my good friend McNeal, I would say the largest company, but of course, he would deny it. So I can say some things that may be of interest to you.

All of the questions which I have been asked to answer, with the exception of one, have been submitted to me within the last twenty-four hours, and those of you who know what a stress and strain we have been under for the past day or two—not exactly connected with title insurance—will know I have had little or no opportunity to study them or the answers thereto.

The program calls first for a review of the proceedings of yesterday morning's session. I think perhaps I can touch upon those matters which I selected for review more advantageously in connection with answering these questions than I could by making a special paragraph or chapter of them.

The first question submitted to me was this: "Will there be any outstanding advantage, with relation to judicial decision, if uniformity of title guaranty prevails?"

The answer to that question, of course, involves a discussion of one of the topics considered yesterday, namely, the advisability of a uniform title policy. Much was said yesterday about the advisability and inadvisability of a uniform title policy throughout the country. Frankly, let me say, I am not in favor of a uniform title policy for this reason: In any phase of human endeavor, uniformity is always a matter of compromise. You can never get two individuals, or two groups of individuals, or two communities to agree on anything. Any agreement on any subject is necessarily a matter of compromise, and the trouble with compromise is that the compromise is always from the ideal down to the mediocre. I have never known of a compromise from the mediocre up to the ideal.

I was impressed by our friend from Texas who said that the ideal title policy was a policy which insured the title without exceptions. His illustration was an instance of exactly what I mean. When the policy got in the hands of the legislature, or even in the hands of the title companies as a whole, exceptions began to be written into it.

In the title insurance business there are two classes of mind, one class represented by a friend of mine, an officer of a title company who for the past thirty years has always tried to evolve a new exception to protect the company against the repetition of a loss. In other words, whenever it sustained a loss, he would direct his intelligence not to an attempt to do something which would prevent the recurrence of the same cause of loss, but he would endeavor to write an exception into the policy which would relieve the company from liability in the event of a repetition of such a loss.

The other trend of mind is that which tries to devise methods of search, methods of examination, methods of inquiry which will enable the company to foresee the cause of a possible loss and insure against its happening.

Personally, therefore, I do not think that uniformity of title insurance forms is advisable, and certainly we would never have uniformity of judicial decision even if we had uniformity of title forms.

In our state we have five appellate divisions and it is impossible to get uniformity between those five divisions on many questions of law.

In New York we have a form of lease which requires the tenant to make all changes in a building required to make it conform to governmental regulations. That is, if it is necessary to erect a fire escape to comply with fire ordinances, or to take off a stoop to conform with zoning laws, it is the duty of the tenant to do these things which failure to do entails what we call violations.

There came a case incident to the widening of Madison Avenue by the city. The question was, was it the duty of the tenant or the duty of the landlord? Our appellate division said it was the duty of the tenant and the Department of Brooklyn said it was the duty of the landlord. It was finally settled by the Court of Appeals, which ruled that it was the duty of the tenant to do it.

We are all aware o fthe difference in the laws of the various states in regard to real estate. For instance, in Connecticut and Massachusetts, a mortgage is a conveyance. In New York and most of the states a mortgage is a lien. Even though you have uniformity, you can't make the courts consider a mortgage a lien the same as the other states if they have been considering it a conveyance.

I will be glad to have you ask questions as I go along. Are there any with reference to this particular matter? If you differ with me, I should be glad to have you say so.

If there are no questions on that subject, I will proceed to the next question, although I do not understand the reason for its being asked: "Is it necessary to exhibit to the title company the paid note and satisfied mortgage where a mortgage is to be paid with funds derived from the new mortgage to be insured by the title company?"

In those states where a mortgage is a lien and not a conveyance, a mortgage is only security for a debt. We have very definite law on that subject. In our state in the decision in the case of The Assets Realization Company vs. Clark, for instance, it was held that the physical possession of the bond, which is the evidence of the debt, is the only essential thing and we cannot safely pay a mortgage to the record holder of that mortgage unless he has physical possession of the bond and surrenders it to us.

In the same way, we cannot take an assignment of a mortgage from the record holder of that mortgage unless we get physical transfer of the bond.

We had one case in our state in

which these were the facts: The true owner of a bond and mortgage sold the mortgage and delivered the bond to the purchaser but said, "The mortgage hasn't come back from the register's office; when it does, I will send it to you." That assignee did not record his assignment but he had possession of the bond.

Later that same record holder of the bond and mortgage negotiated a loan with a bank in Syracuse and gave as security assignments of several bonds and mortgages, including among them this bond and mortgage which he had previously assigned. He had the mortgage. He delivered the assignment; the record was searched and it was found he was the record owner of it.

He said to the bank, "I have mislaid the bond; when I find it, I will give it to you." He gave them the mortgage and assignment and they recorded the assignment, whereupon the question arose, who was the owner of the lien? The Court of Appeals held that the unrecorded assignee in possession of the bond was the true owner of the debt because the debt carried with it the security and the security didn't carry with it the debt.

I would like to know what the law is here in the West. In our part of the country, the actual delivery of the evidence of the debt, be it a note, as in Connecticut or a bond as in New York, is absolutely an essential prerequisite to the safe satisfaction of the debt and cancellation thereof.

. . . Albert Bell, Attorney of Tulsa, stated Oklahoma had a similar law, and Edward Landels of California said the law in that state was the same. . .

RAYMOND EDWARDS (Stewart Title Guaranty Company, San Antonio, Texas): In Texas, if there is a release of a mortgage, it does not make any difference who holds the note; if the record owner of the mortgage releases it, the title is clear.

We usually handle the escrow and the entire transaction of closing a deal for a man. If a man leaves a $50,000 note with us, if we close the transaction for him, we are interested, of course, in protecting ourselves and indirectly, the man we are guaranteeing. We get a release from the record holder and the title is clear. But suppose we do not get the note and it has been sold before maturity and is held by a bank. Could you answer the question as to whether the title company would be liable to the seller under those conditions?

MR. ALLIN: Under the law in the state of New York the title company would be liable for having taken the release from the wrong party if the note was past due. You would certainly be liable in the state of New York.

MR. EDWARDS: I think we would be in Texas, too.

CHARLTON L. HALL (Manager, Washington Title Insurance Company, Seattle, Washington): I didn't ask the question, but we have a case in court right now that is based exactly on that point in the question which was put to you. It is a case of a $25,000 mortgage on a piece of property held by a mortgage concern and the notes had been assigned. The assignment of the mortgage was not recorded.

The Penn Mutual made a new mortgage of $25,000 to take up the old mortgage and the agent for the Penn Mutual paid the other mortgage company the $25,000 but didn't get the notes. He did get a release. The release was delivered to us and we recorded it and insured the Penn Mutual for its $25,000 lien. The first $25,000 mortgage had been paid down to $19,000. The case went to the Superior Court, the original note holders having brought suit to have their notes declared a first lien. We lost the suit in the Superior Court and now the case has been taken to the Supreme Court. We are making a little law but I think we stand to take a loss.

MR. ALLIN: I am afraid so.

MR. EDWARDS: May I ask another question in that connection? I would like to know what the customary policy is over the country in a case like this—I think I can illustrate briefly. I had this transaction about a year ago.

There was a mortgage on property in San Antonio held by a concern in Kansas City. Their policy seemed to be that when a mortgage was paid, it had to be paid in Kansas City. That didn't suit me and we had many conversations over the telephone because they were about to foreclose if they weren't paid. It was finally ironed out because it was paid at Dallas, where they had an office and we had an office also.

I contended they ought to have their papers where they were doing business, and their answer was that if they had to send papers through banks all over the country it would take two or three clerks to do nothing but check up on the banks to which the papers would be sent. My answer was, if we had to send money all over the country, we would have to have two or three clerks doing nothing but checking up and getting the releases.

I wonder if the policy is general among people who have mortgages in other states to have the money sent to them when the mortgage is paid.

MR. ALLIN: I believe the Common Law rule of England and this country is that the debtor must go to the creditor and not vice versa. Of course, in our city of New York, the savings banks and the life insurance companies will never accept payment except in their own offices.

When we have a title to close with three or four mortgages on it held by as many different savings banks, it is extremely difficult to get all of the creditors in one place; in fact, it can't be done. We have adopted the practice of accepting from the mortgagees letters stating they will deliver a release upon payment of a definite sum of money on a certain day. We go ahead and close, and the title company representing the new owner sends its clerks around with certified checks and picks up the papers.

There is a risk involved, of course, because it might develop the papers were not right. If you think there is any danger of that, the thing to do is to examine the papers ahead of time. However, I do not think you can make the creditor come to you to collect his money.

MR. EDWARDS: It would be unusual for a man in Texas to have a mortgage on property in New York, but suppose he had. Would you not close the transaction as you would ordinarily and send the money to Texas?

MR. ALLIN: I have not had the experience so far away as Texas but I have known of a case where a man in Cincinnati held a mortgage on a piece of property in New York City. My office closed the deal and we communicated with a local attorney of our acquaintance and paid him a fee to examine the papers there in Cincinnati. He wrote that the papers were in order. We sent a draft to our bank's correspondent in Cincinnati and told the owner of the mortgage if he would be kind enough to go to that bank in Cincinnati, the bank would deliver the money to him when he turned over the papers. Naturally, he was not willing to come to New York.

EDWARD LANDELS (Secretary, California Land Title Association): I appreciate the law is as you have stated, that the purchaser of a negotiable promissory note from the holder, properly endorsed, prevails over the holder of a recorded assignment of the mortgage who does not hold the note. I think that is so in every state except Massachusetts, which is just the opposite.

But suppose there was a deed of trust and the notes are held by one who holds them by what appears to be proper endorsement but there has been an assignment of the deed of trust placed of record. Is the trustee under the deed of trust in as favorable a position as the purchaser so the trustee would be properly protected if he executed a reconveyance under the note?

I have in mind a case arising under circumstances where a loan company sells a deed of trust, records the assignment and the note is assigned in blank back to the loan company, and they fraudulently renegotiate the deed, endorsing the note in blank payable to bearer. If that is surrendered to the trustee for reconveyance and the trustee executes the reconveyance, would they be liable if they recorded the assignment outstanding? Must they search the records? I might say, the deed of trust was assigned by the holder, by the beneficiary.

MR. ALLIN: That is a question that cannot be answered in the abstract because it depends entirely on the terms of the trust indenture. In

every case I know anything about, that is always provided for in specific language in the deed of trust, or the trust mortgage, as we would call it.

MR. LANDELS: I am assuming the trustee permits reconveyance.

The legislature has passed a law in our state providing for recording of assignments and making that constructive notice.

MR. ALLIN: You mean constructive notice as against the mortgagor?

MR. LANDELS: Yes.

MR. ALLIN: That is not the law in our state. An assignment of mortgage is not constructive notice to any one except a subsequent dealer with the mortgage and not the owner of the land.

MR. HALL: Then your recommendation would be that it is the safer policy for title companies to demand the note be submitted to them?

MR. ALLIN: That is what I have been trying to say. The question is, "Is it necessary to exhibit to the title company the paid note and satisfied mortgage where the mortgage is to be paid with funds derived from a new mortgage?" My answer is, unqualifiedly, yes.

The next question: "What do you think of the practice of title insurance companies guaranteeing against mechanics' liens and what experience have you had with surety company bonds of indemnity, since they indemnify only in case of loss, leaving the title company to protect them against loss?"

That is really two questions, the first of which is, "What do you think of the practice of title insurance companies guaranteeing against mechanics' liens?" We have been fighting that actively in the state of New York for three years. So far we have won out. Senator Ferron and the majority leader of the Assembly agree with me but there are some others who, I think, do not know as much as I do about it, who differ with me.

I cannot understand and never could understand why there should ever be permitted a lien upon real property, which lien is not evidenced by some public record. I believe that the general rule as to the titles to real property is that somewhere in the public record, available to anybody who knows how to search the public record, there shall be a definite statement of the lien, the amount of the lien and the owner of the lien.

Why should a man who advances credit to a builder, delivering to the builder material to put into a building, have a lien on that without saying something about it? Also, why should that lien take precedence over the lien of another man who loans money to that builder with which to buy the material to put into it and who has no lien until he says something about it, until he files some evidence in the public record of the mortgage, or the deed of trust.

We have argued that back and forth in our state for years. In Pennsylvania they have the inchoate lien. In New Jersey they have the inchoate lien but it is easy to get rid of by filing the contract before you begin work. If you are going to give the manufacturer in western Pennsylvania a lien on the property the minute he has fabricated the steel which is intended to go into the job, you are going to make it extremely hazardous for anybody to deal with the property in New York. To date we have succeeded in convincing the legislature that they should leave the law as it is. We have no mechanics' lien in New York state until some notice of the lien is filed in a public place.

However, whatever the law is, I believe a mechanics' lien should be insured against. I don't see how you are going to be able to do any mortgage business or any fee business unless you do that, although I will confess, if you have this doctrine of the inchoate lien whereby some one may have an unfiled lien from the time the work is commenced, it is an extraordinary hazard.

They have that law in Missouri and in Ohio. It would be interesting to know how the title companies in those states work it out.

S. H. McKEE (Title Guaranty Company, Pittsburgh, Pennsylvania): My object in asking the question was to learn what the practice of other companies was about insuring against mechanics' liens. The practice of our company is to insure them. We have the inchoate lien in Pennsylvania. We get a release of liens and an affidavit that all persons connected with the building have either been paid or they have released their lien. Sometimes they will release the lien without getting their money.

MR. ALLIN: How do you take care of the people who have not yet come into the job?

MR. McKEE: This is all after it is finished.

MR. ALLIN: In our city we have tremendous operations. When they build a fifty, sixty or eighty-five story building like the Empire, for instance, they sometimes do not make contracts for months, or sometimes for a year or two after the work is started and make building loans as the work progresses.

MR. McKEE: We don't do that; those are advance loans and there is another method of covering that. You make your contract and put your advance loan on record, and your money is put aside in trust for putting up that building, which gives the advance mortgage a preference. You can not file a lien that will take precedence over that mortgage.

MR. ALLIN: If that is the Pennsylvania law and you can advance the money, that is all right, but when you have these large transactions the money lender can't advance the entire amount.

I closed the title for the Lincoln Building on Forty-second Street. They put mortgages on it, a first of sixteen million, a second of five and a half, a third of $1,600,000. There were three million dollars of equity behind that. It would not have been possible for all of that money to have been advanced at the same time.

MR. McKEE: The advance mortgage is a lien ahead of all other liens, provided the law is complied with.

JOHN C. ADAMS (Attorney, Title Department, Bank of Commerce Trust Company, Memphis, Tennessee): I think every title company insuring against mechanics liens—and we have to do that—will agree with your statement that there ought not to be any such thing as a mechanics' lien against the property until some evidence has been recorded.

We have the inchoate lien in Tennessee. If the material and work is done for a sub-contractor he does have to file the lien within ninety days. That doesn't help us because in nearly all cases, as the title companies know, it is impossible to wait that long to close the deal. The lien begins with the delivery of the material, so it is impossible to check that up and we have to do the best we can.

MR. EDWARDS: I want to make a statement and ask you a question. In Texas we have a Constitution that was passed in 1879. It is self-enacting. Fortunately there was a clause that does give the legislature some power to protect purchasers and lenders, but briefly, it is a fact, if we lend money before the time has expired in which they can file the lien, they need never file it, under certain conditions, and we are stuck.

The question I wanted to ask is this: You are correct when you say if we want to do a mortgage business we have to guarantee against mechanics' liens, but unfortunately, we haven't sense enough in Texas to charge for it. What I want to know is whether there is not generally an extra charge made for insurance against mechanics' liens.

MR. McKEE: The point of my question was this: What is the experience when you take a bond from an indemnity company to protect you against the loss in case there is a loss? Our experience is, if you get a release of liens, there is no sense in paying the exorbitant fee which the bonding company charges. It is outrageous in addition to the other fees. If you have a prospective loss, they say, "When you have the loss, we will pay it."

In the meantime, suppose your mortgage has a lien against it, or if there is a cloud on the title, you simply have to step in and purchase the lien if it is a good lien, or do something to protect your client. Then the bonding company steps out; they have no further interest.

MR. ALLIN: I can answer from my own experience. We have in our state what we call completion bonds, that is, where a new building is to be built, the surety company gives a bond that the builder will complete that

building free from lien. We always see to it in our office that the surety company specifically agrees either to complete the building at its own expense on demand or to pay or otherwise legally discharge a lien on demand.

We will never accept for any of our clients a surety company bond which simply indemnifies us against loss if and when we sustain it. The surety companies kick about it but they will do it. The American Surety, The Fidelity and Casualty, and the National Surety Company will do it. That is the only kind of a bond that is worth the paper it is written on. In this way you don't have to complete the building and pay a loss, or purchase the lien and pay a loss. You would simply call on the surety company in that event.

MR. EDWARDS: Would you answer the queston as to the extra charge for insuring against mechanics' liens in New York?

MR. ALLIN: In New York there is no charge, but we do not have the inchoate. We do, however, take a bond.

N. H. GILLOT (Pioneer Abstract and Guarantee Company, El Paso, Texas): A few years ago we insured a first mortgage on a piece of real estate. The owner was the contractor and said he intended to build an apartment. Later he got into financial difficulties. The mortgage company in El Paso had a first mortgage on the native ground. The material men brought suit against the owner and the Superme Court held that the mortgage had a first lien on the ground and the material men had a first lien on the building.

When the decision was rendered we bought the lien on the building from the material men.

MR. ALLIN: In other words, they gave the land mortgagee a lien on the land and the material men a lien on the building. That couldn't be done in our state because the land and the building are one.

Another question is: "Is it advisable to make mortgage investments liquid by allowing the assignment, without compensation or additional fee, of the mortgage policy to the assignee?"

I think this is the practice of all of the companies in New York City. If we issued a mortgage policy to a corporation that was in the business of selling mortgages—such as, for instance, the Lawyers' Mortgage Company—not a title but just a mortgage company—we would assign that title policy from the mortgagee to the assignee of the mortgage without charge. However, if we issued a title policy to an ordinary investor, not a corporation or an individual specifically in the business of making mortgage loans, and he or it wanted to assign the mortgage to another investor, we would charge a re-issue fee for reinsuring the title.

There is a great deal to be said—and I would like some of you people to say it—on the advisability of making a mortgagee's policy assignable without charge to the assignee of mortgage. Do you approve or disapprove?

WILLIAM H. McNEAL (New York Title and Mortgage Company, New York City): Your statements with reference to the New York Companies, in so far as I know the practice, not having direct contact with the New York organizations, is correct. An assignment of a policy without charge depends very largely upon the relationship which you have with the applicant for the assignment. It is a very uncommon practice, as I understand it, even in New York, to make an assignment without proper compensation.

In the national field as operated through the national department, the title policy follows the debt. For this reason I will say, a majority or perhaps all of the title insurance sold throughout the United States is sold at the behest of the originator of the mortgage, the ultimate consumer, or to be plain, the insurance company does not pay for the title insurance, and therefore, the methods of operation between the originating company and the insurance company vary in different states.

Some insurance companies take their mortgages direct to the insurance company. In that case our insurance policies run to the insurance companies. In other states and in other cases in other states, the mortgage runs in the name of the mortgagee or the mortgage company and is assigned by the mortgage company to the life insurance company, not as a secondary transaction but as an original transaction, because it is contemplated in the contract between the originating company and the insurance company that the originating company shall take the mortgage in its name and assign it to the insurance company that is furnishing the money.

Therefore, the national title insurance policy follows the debt for that purpose. However, if an insured in the national title policy wants to assign that indebtedness to some other party or individual and asks us to make the assignment free of charge, we refuse to do it except in very rare cases.

MR. ALLIN: That is practically the same as the New York practice.

MR. McNEAL: I consented to two assignments in the last month but I can't remember any other time when that was done.

CHARLTON HALL: In Washington we issue policies to the mortgagee and his assigns. If the mortgage is sold the assignment does not have to be consented to, which helps in the liquidity of the mortgage.

MR. McKEE: I was the originator of that question, also, and the matter of the assignment was not so important with me as the question of trying to make mortgages liquid like any other security. Cannot that be done by having a clause in the policy whereby the mortgagee can assign the policy to some one who puts up the money?

MR. HALL: That is what we do.

MR. ALLIN: That is exactly what we do.

MR. McKEE: That is the only case in which we favor the assignment.

MR. HENLEY: The standard form of policy used in northern and southern California contains a definition of the insured which defines as the assured, among others, the assignee of a debt insured by the policy. Therefore, that policy, to use Mr. McNeal's expression, always follows the assignment of the debt.

There is one thing I would point out, however, that in that type of policy the assignee receives no assurance that the assignor has not previously assigned the debt to some one else or that some tax or other lien has intervened between the date of the original encumbrance and the assignment.

MR. ALLIN (to Mr. McKee): Do you cover the original assignment without fee?

MR. McKEE: We have a small fee.

What I was trying to get at was this: One of our banks which failed had $1,100,000 worth of mortgages. It was a neighborhood bank and that was the way they did business. They covered their loans by mortgages instead of in some other way. It was the only way they could do business. Since they failed they want to know how they can sell those mortgages. If they had a policy of title insurance with each mortgage, if they had a survey, an appraisement of the properties by competent appraisers and all the things necessary within their files, it seems to me there ought to be some way by which the mortgages could be transferred.

If they had our policy on each of those one hundred or more mortgages, if they came into our office with a purchaser, they could transfer any one of those mortgages, so far as the title is concerned, the next day. Unfortunately, they do not have a policy. They depended upon their lawyer. That is not a merchantable case.

What we are trying to do is to use that as an advertisement to urge people to have their mortgages insured by title companies so that when the transfer is made and they need money they can come in and get the title the next day.

MR. ALLIN: That is another argument for title insurance.

I want to pass on to a question that seems to have given you people a great many headaches; that is the case of Isaacs vs. Hobbs, this bankruptcy question. I think, in the first place, most of us have misread that decision. The case was really Isaacs vs. the Hobbs Tie and Timber Company. (U. S. S. C. 75 Law Ed. 332.) A man in Texas owned property in Arkansas, the property being subject to a mortgage. The bankruptcy court in Texas appointed Isaacs as trustee in bankruptcy and ordered him to sell.

The chronology of the case is very important. After the bankruptcy court in Texas had appointed the trustee and ordered him to sell the property in Arkansas, the mortgagee in Arkansas went into the state court to foreclose his mortgage. This is also important—there were ancillary proceedings in Arkansas.

I want to stop right there, therefore, to point out there isn't a thing in Judge Roberts' opinion in the Isaacs case which has to do with that thing which is frightening us, constructive notice of bankruptcy. The question did not turn at all upon the matter of constructive notice. Judge Roberts did say, and say correctly, that bankruptcy in Texas embraced property of the bankrupt in Arkansas, but Judge Roberts did not say that the filing of a petition in Texas gave the dealer with the property in Arkansas constructive notice of the bankruptcy—and in my humble opinion, it did not.

The practice has always been in the United States courts in bankruptcy matters that if a trustee in one federal judicial district wants to go into another federal judicial district, he has to go in through ancillary proceedings, and that is what was done in that case. Then, having gone into Arkansas, Isaacs first had the state action removed to the federal court of Arkansas, and then said to the federal court of Arkansas, "You can't proceed; you have to relegate the whole matter to the federal court in Texas because they have previously ordered me to sell", and the United States Supreme Court said, "That is the right procedure".

Within two months after that decision was handed down, we find the same Judge Roberts of the United States Supreme Court deciding the case of Straiton vs. New. (U. S. S. C. 75 Law Ed. 617.) The controlling factor of that case was this: In the state court of West Virginia a judgment lienor—not a mortgagee although the principal is the same—started to enforce his lien and thereafter the defendant was adjudicated a bankrupt. He tried to stop the enforcement of the lien in the state court by the state lienor, and the same Judge Roberts who decided the Isaacs case decided that the state court could go ahead.

Judge Roberts did say that the court in bankruptcy had the right to be informed of the proceedings and had the right to be consulted in the matter, but that the bankruptcy following the precept in the state court did not oust state court of jurisdiction.

We have had two cases in the state of New York following that. The first was a decision by Justice Patterson, District Court Judge, in the case of Schulte vs. The United, and there an application was made by a mortgagee after adjudication in bankruptcy for permission to sue the trustee in bankruptcy. The trustee came in and relied on the Isaacs case, saying that the bankruptcy court had ousted the United States jurisdiction.

Judge Patterson decided to the contrary and his decision was affirmed by the United States Circuit Court of Appeals. So you have the case of Schulte vs. The United as direct authority for the proposition; all you have to do is to go to the bankruptcy court and ask for permission. The bankruptcy court has the power, and Judge Patterson went further and said unless you can show some peculiar reason why the bankruptcy court should not grant the permission, it is the duty of the bankruptcy court to grant the permission.

We had another case in the Eastern District of New York in the matter of Parrino, where the District Court in May of 1931 held the same thing, except they imposed conditions; in that case they gave the man permission to join the trustee in bankruptcy. But they said, "Go ahead up to and including your judgment of foreclosure, but we will not let you sell under that judgment until you come back and tell us all about it. Then we will decide how and when you should sell", but they said, "You can sell".

It seems to me we haven't anything to worry about in the Isaacs case. I feel confident in the statement I am making, that adjudication of bankruptcy is not constructive notice of that fact until ancillary proceedings have been brought, and I believe an innocent purchaser or innocent mortgagee examining the title in Cook County, Illinois, for instance, is not in any way affected by any constructive notice that the mortgagor has been adjudicated a bankrupt in Pennsylvania unless there is some filed record of it in the federal district of Cook County, Illinois.

In the second place, assuming you have the knowledge of it and the fact exists, if the lienor starts first, he will always come out ahead. If he starts after the adjudication, he can either have his sale in the federal court or, with the permission of the federal court, he can have his sale in the state court.

The United States Supreme Court has decided emphatically twice—I haven't the citations but I know there are two—that a trustee in bankruptcy cannot sell free from a recorded lien in the state law without giving personal notice, first, of his application for an order to sell to the holder of a lien, so a mortgagee is amply protected by that ruling of the federal courts.

JOSEPH KNAPP, Jr.: Doesn't the court go even further and say before he may have permission to sell he must prove his equity in the lien?

MR. ALLIN: Probably.

MR. EDWARDS: The referee determines whether there is a probable equity, doesn't he?

MR. ALLIN: I don't know of any case in which the referee has determined that. I presume on proper proof presented to the referee in bankruptcy, he might attempt to do that.

MR. EDWARDS: I would like to ask a question pertaining to the statement you made.

Unfortunately for us in Texas, we cover a large territory. The Western District in Texas is probably as large as the original thirteen colonies. Do I understand you to mean that if a proceeding in bankruptcy is anywhere in a district, that will be constructive notice including all property in that district but not outside of the district?

MR. ALLIN: "Yes" to the first question and "No" to the latter. I think you have to make your search in the district court of the district, whether it be one square mile or one hundred, but you don't have to go outside of the judicial district.

E. C. WYCKOFF (Fidelity Union Title and Mortgage Guaranty Company, Newark, New Jersey): In New Jersey we have to go to Trenton to search for judgments because judgments rendered in the Supreme Court are docketed only at Trenton. They become a lien on all property in the state of New Jersey, so we have to make that search in Trenton. The same thing would apply in Texas, although it would be a smaller portion of your area.

MR. EDWARDS: As I understand it from what little I know of the bankruptcy law, the decisions are uniform as to how you can sell free from lien. If the Hobbs case is authority to give exclusion to the bankruptcy court—and the federal court does, under certain conditions—you have the right to sell free of liens. Suppose the holder of a mortgage sat by until more than six months after the bankruptcy before he did anything and then started to act. Would he be precluded from filing a claim that would preserve his lien after that perod of time?

MR. ALLIN: There having been a sale?

MR. EDWARDS: No, but more than six months elapsing before he started to act. Would he lost his lien?

MR. ALLIN: I don't think so, unless he proves as a general creditor. I have never heard of any one doing that. Any holder of any lien proving as a general creditor in bankruptcy loses his security and comes in as a general creditor, but any mortgagee can still enforce his lien six months afterward or any other time.

MR. WYCKOFF: In the Hobbs case, do you consider that the context Judge Roberts uses in referring to the bankruptcy court refers to the bankruptcy court as such or that the referee in that case is the bankruptcy court?

MR. ALLIN: Yes. The referee is the Court.

A. W. LANDIS (Kellett-Landis Abstract Company, West Plains, Missouri): You are making clear, are you, that the Hobbs case is a matter of jurisdiction?

MR. ALLIN: Yes.

MR. HENLEY: We have a situation in California which is possibly different than that in most of the other states. I would assume, however, that

in so far as bond issues and similar encumbrances are concerned, where a trustee sells in foreclosure instead of judicial foreclosure under the ordinary mortgage, the same question would arise.

The sequence of events is important in that case, also. Let us assume, for instance, that property is subject to a deed of trust. The trustor is adjudicated a bankrupt. No trustee is appointed; the trust deed is in default and the trustee under the deed of trust desires to sell. The question of conflicting jurisdiction of courts does not exist. At the same time, the property is constructively in the possession of the bankruptcy court and the trustee under the deed of trust cannot proceed with the sale without the approval of the bankruptcy court.

It does not seem, however, that there is any clear procedure for obtaining from the referee or the bankruptcy court direct an order permitting the trustee under the deed of trust to proceed with the sale. If that is true, it also appears the trustee in bankruptcy must initiate the proceedings whereby the property is abandoned.

Do you consider we are correct in our view that is probably the safe procedure?

MR. ALLIN: I do, if you have a trustee in bankruptcy appointed, but you started your statement of supposed facts in your suppositious case with the statement although there was adjudication in bankruptcy, there was no trustee appointed. I believe that if the trustee under the deed of trust succeeds in selling with the permission of the bankruptcy court before a trustee in bankruptcy is appointed, the purchaser from the trustee under the deed of trust gets a good title.

We all know that the bankruptcy law says when a trustee is appointed, the title of the bankrupt vests in the trustee as of the date of adjudication. Nevertheless, we have had that question arise in our state several times, and if the title of the bankrupt is divested from him through the exercise of the power of sale under the deed of trust before there has been any appointmnt of the trustee, such sale having been with the consent of the bankruptcy court, the title is good.

However, if a trustee in bankruptcy is appointed before the trustee under the deed of trust sells, then he gets the title, not as of the date of his appointment but as of the date of the adjudication, and therefore, the sale has to be by the trustee in bankruptcy.

MR. HENLEY: Assuming that the trustee proceeds with the sale without order of the bankruptcy court; do you consider it void?

MR. ALLIN: I think it is voidable.

LYLE SAXON (New York Title and Mortgage Company, Dallas, Texas): Is it regular to have the trustee disclaim interest in the property when there is no equity in the property?

MR. ALLIN: A trustee in bankruptcy calls it an abandoned asset, with the consent of the referee.

RALPH C. BECKER (Mechin-Voyce Title Company, St. Louis, Missouri): Do you always find that these so-called trustees in bankruptcy are willing to make the abandonment? If they think there is a vestige of an equity, they will put up a battle. What do you do when they say they won't make the abandonment?

. . . Mr. Allin indicated he preferred to have Mr. Henley answer the question . . .

MR. HENLEY: I think in that case it would be necessary to insist that the trustee in bankruptcy proceed with the sale of the property under the bankruptcy act, subject to the mortgage

MR. ALLIN: You can always force the trustee in bankruptcy to "fish, cut bait, or swim".

Another question which was submitted to me is two-headed: "What is the liability under a policy for loss resulting from depreciation of the value of the real estate?"

I want to treat that in two ways. Is a policy of title insurance, a policy of indemnity, or is it like a valued marine policy?

We know that practically throughout the United States a fire insurance policy is a policy of indemnity. The insured must have an insurable interest in the subject matter of the insurance at the time of the loss. If I insure a building I own and then sell it, and the building burns after I have sold it, I can't collect on the fire insurance because I have no insurable interest in the building at the time of the loss.

If I insure a building for $50,000 and at the time of the loss it can be proved the building was worth only $30,000, I can collect only $30,000.

It is not so in a valued marine policy or a life insurance policy. If a man insures his life for $50,000, at his death his family gets $50,000, and it may be a question whether his death is a loss or a distinct benefit to the family. (Laughter.) The same is true in marine insurance. I can insure a boat or a cargo for a definite sum of money and if there is a loss, I can collect a definite sum of money, irrespective of the value.

The same is true in insuring an automobile policy. Of course, I have to pay a little more for a valued policy.

What is the measure of loss in the case of a title insurance policy? The first thing to consider is this: Take a case, for instance, where a man buys a piece of property for $50,000, which is the market value of the property at the time of purchase. It depreciates in value, either through natural deterioration or through loss in the market value of real estate in the neighborhood.

Then we will assume for the purpose of the question that there is a total loss of title—something that seldom happens—there is a forged deed somewhere in the chain of title and the true owner comes in and gets the whole title. The question is, is the man entitled to the $50,000, for which he was insured, or is he entitled to recover from the title company the $30,000 which was the actual proved value at the time? What about the contrary argument, if a man buys and is insured for $50,000 and the value increases to $70,000? Is Tweedledum equal to Tweedledee or not?

In the case of the Empire Development Company vs. the Title Guarantee and Trust Company, our Court of Appeals decided emphatically that a policy of title insurance was a valued policy and that a man could recover his loss whether he was responsible for the loss himself or not, and the court said in that decision—I am not quoting literally but paraphrasing—that to deprive a man of that which you have insured him he had is as much a loss to him as to deprive him of what he actually did have.

The facts in the case are peculiar; perhaps I can make you understand the decision by relating them. It looks like a strike on the part of the Empire Development Company. The facts were as follows: The company made a contract to buy a piece of property and agreed to pay all assessments that might be levied on the property after the contract was made, even if they came on as a lien before the closing of the title.

That was exactly what happened. After the date of the contract assessment of about $6,000 was levied; a good, valid lien on the property at the time of the conveyance. The Empire Development Company said, "We have to pay that lien and will pay it in a few days. Don't issue the policy until after we have paid it and then issue it as a clean policy".

About two weeks after the title was closed they paid the $6,000 and then the title company issued a policy dated as of the date of the closing, free and clear of this lien. So you see, on the face of the record, the Empire Development Company had a title policy without exception at a date on which the property was subject to a lien of $6,000. Being in need of the money in their business, they sued the title company for $6,000 and the Court of Appeals brushed aside all equities, all arguments, and simply said, "You insured the Empire Development Company on this particular date free of lien. The title was not free of lien. You must pay them back".

That was what the Court held in that decision. If the policy is a valued policy, you can recover up to the amount of the policy irrespective of the actual loss, but on the other hand, if it is only a policy of indemnity, you can recover only what the actual loss was, or in the case of depreciation, you can recover only the depreciated value.

I think all of the title companies in New York City have put a clause in their policies which is the nearest approach to what we call a co-insurance clause in fire insurance which, it is possible to devise, so if there is any fluctuation, the insured carry part of the risk themselves. There has never been any thought given to the matter of depreciation, or at least, no clause inserted in the policy covering that.

MR. WYCKOFF: Suppose in that policy the title company had as of the date of writing its guarantee set up the $6,000 lien, but that in connection with setting that up they had said, "We indemnify against any loss by reason of this lien", knowing it was to be paid but putting in this indemnity. What would be the situation as to liability as compared with the situation you stated?

MR. ALLIN: You mean they accepted it but nevertheless insured against loss by reason of it?

MR. WYCKOFF: Yes.

MR. ALLIN: They wouldn't be liable because the story would be told. That is what happened; we reformed the policy; we did not pay the loss.

PORTER BRUCK (Title Insurance and Trust Company, Los Angeles, California): What do you mean by reforming the policy? You say you did not pay the loss.

MR. ALLIN: We went in with a counter claim and said the policy was issued by mistake and ought to have contained an exception, and on the re-trial the court allowed us to re-write the policy and put in that exception.

H. LAURIE SMITH (Lawyers Title Insurance Corporation, Richmond, Virginia): Will you inform us as to this situation, arising out of that one. A title company issues a first mortgage to "X" company, a second mortgage policy to "Y" company. A claim arises, which the title company proceeds to defend at its own cost and expense under the terms of its own policy. The claim is without merit but the claimant succeeds in protracting the litigation, hoping to effect a compromise.

Pending the litigation, during the period of "Hoover" prosperity, there came a decline in value so that when the case was finally adjudicated adversely to the claimant—

MR. ALLIN (interrupting): That was the second part of the question I was going to consider, and I will take that up now.

Say that at the time the loss occurs, that is, at the time claim is made, the property is worth "X" dollars but pending the litigation over the claim—whether the claim is successful or unsuccessful is immaterial—the value of that property depreciates.

I understand there is now a test of that very question, where a mortgagee is claiming not only the amount which he has lost by reason of the successful claim, that is, the establishment of the lien against the property, but also the loss which he has sustained by being unable to market the property when he wanted to market it and now having to market it at the present value.

Personally, I doubt whether a title company would be held for any such loss as that—I have no authority on that, however—because the title company cannot, in the last analysis, be deemed to have insured the permanency of the value of the thing insured, and if the value should appreciate, you can't make the title company pay more, so it would be logical to assume you can't make the title company pay that depreciation.

MR. LANDELS: But wasn't the loss due to the litigation?

MR. ALLIN: The loss was occasioned by the protracted litigation but the loss was not due to the protracted litigation. The loss was due to the fall in values in the market. It may be a fine distinction, but it seems to me it is a fair distinction.

I will admit, if they had sold the property prior to October 31, 1929, they would have received "X" dollars for it, but because of the pending litigation they were not able to sell until May, 1931, when the got "Y" dollars for it. I do not think the depreciation from "X" to "Y" dollars was due to the litigation although it may have been brought about because the litigation was pending. The proximate cause of the loss was the falling values of the market.

MR. HENLEY: Could it not be said that in the event the attack upon the title was unsuccessful, there was no loss within the terms of the contract?

MR. ALLIN: That may be said, too, of course, if you ultimately gain the victory.

HUGH M. PATTON (Union Fidelity Title Insurance Company, Pittsburgh, Pennsylvania): I am not speaking positively, but I think the Pennsylvania court has decided a title policy is an indemnity and the amount of loss is to be reckoned by the amount lost at the time of loss.

MR. LANDELS: Would your answer be the same in the event the litigation were successful and the title company had to pay, say, a lien for $1,000 but the other facts remain the same, that they are unable to sell pending litigation and depreciation results?

MR. ALLIN: My answer would be the same; I think the title company would not be liable for depreciation in value even though the inability to sell is due to the pending litigaton. I think that is a hazard any man takes in the ordinary course of business. Whether successful or unsuccessful, the claim is defended.

MR. McNEAL: Usually the title policy provides, of course, that the insurer shall have the right to defend these claims. As a matter of fact, when a claim appears, no one knows what is going to be the outcome. We have the right to go in and defend that claim and ascertain whether or not it is valid. The mere fact that in the interim the real estate depreciates in value does not seem to me to warrant the insured collecting the amount of the title policy in full as against the then value of the property.

MR. ALLIN: That is the way I see it.

MR. McNEAL: Another question—we have encountered this problem recently, whether a title insurance policy is one of indemnity or one of guaranty. You raised that question and Mr. Gill of the First American stated that policies in Oklahoma are considered guaranties. I think there is a great danger in making a distinction between the forms of surety in favor of a form of guaranty because a form of guaranty has much more power in the hands of the insured than a form of indemnity.

A suit has been threatened against us recently by an assured to determine whether our policy is a guaranty of indemnity or one of guaranty. We have come to the conclusion it is a form of indemnity and that the insured is entitled to collect up to the face of the policy, depending upon the value of the security by which he lost at the time it was lost, and that loss dates to the time when the question is settled as to whether or not the title was bad or was good.

ELWOOD C. SMITH (Hudson Counties Title and Mortgage Company, Newburgh, New York): What would be the result if a company insured a property which was worth $5,000 for the sum of $10,000 in the first instance, that is, insured it for more than it was actually worth at the fair market value?

MR. ALLIN: My answer to that is that if at the time of the loss the property is worth $6,000 or $7,000 or $8,000, you could recover that amount; that is the purpose of taking out the insurance.

Here is a suggestion that may help you to get business: It is a common practice in our city for a builder who buys a vacant piece of land for $10,000 and puts up a house or building for $25,000 to insure for $35,000 and cover not only the money he pays for the land but the money he expects to have in the building, and if we had a loss we would have to pay the $35,000. In that way we get a lot of extra fees.

There is another question on conditional bills of sale. We have a great deal of difficulty in our state and all the surrounding states over this matter of conditional bills of sale. Of course, you all know that things which are personal one day are realty the next, and vice versa. If a man has a farm on which there are growing trees and he gives a deed to that farm, the title to the trees passes with the title to the farm. If he cuts the trees and makes cord wood, even if he stacks it on the land, the deed does not carry title to the lumber. Incorporate the lumber in a building and the deed to the building will carry title to the lumber.

If a man has a clay pit and conveys the land, title to the bricks he has

made in the clay pit does not pass with the title to the land, but if they are put into a building, they become real estate again and he conveys the land and the real estate.

Such things are easy; but take the things which although they are natural substances, are taken from the land. Iron, for instance, converted into steel or copper. Are they real or personal? What is a heating plant? It consists of a boiler in the cellar, the risers through the building and radiators in the rooms. A plumbing plant consists of soil pipes, the pipes through the building, and bathtubs and other toilet facilities in the bathroom and kitchen.

What is a lighting plant? It consists of steel pipes in which are threaded wires which lead from central points in the basement into fixtures such as we see in this room.

How much of these various plants are real estate and how much personalty? Are the rises from the boiler real estate that go with the building? Are the radiators and the wiring part of the building? Are the electric light fixtures part of the building or not?

In the large apartment houses of any city there are thousands of dollars worth of absolute necessities for the use of the tenants of those apartments and without which they could not be rented, such as kitchen stoves, bathtubs, electric refrigerators, and electric light fixtures. When you insure title to the piece of property, do you insure the title to those things or not? I would like to know what you people think you do.

In our city we think we do if they are realty but not if they are personalty, but it is impossible to know until it gets to the Court of Appeals which they are. There are two or three things that are settled. Gas ranges, for instance, are always personalty, no matter how fastened. A bathtub is always personalty if it stands on legs on the floor; if it is one of the modern kind that is cemented in with the tile, it is real estate. If radiators are outside of the walls they are personalty and never go with the building; if they are inside the walls, they are generally considered realty, although one case allowed a vendor to rip out of the building the entire heating apparatus and leave the holes in the walls.

I think it is the duty of the title companies to examine for conditional bills of sale and chattel mortgages so when the title policy is issued it isn't a "weasel" policy but tells the purchaser he has unencumbered title to everything that is absolutely and actually essential and necessary for the use of that building. To do that, however, you have to search for title to personal property, and in our state we have a convenient way of making that search because it is provided by our lien law that if the vendor parts with possession of property which is to be used in connection with a building and which is actually put into a building, he must, in order to retain title to himself, file his conditional bill of sale before he delivers the job. One can search for that conditional bill of sale. Sometimes it is indexed so that it is hard to find, but in the cities one can find it.

JOSEPH S. KNAPP, Jr. (Maryland Title Guarantee Company, Baltimore, Maryland): About a year ago we had a similar situation to the one you mentioned about the heating plant. There was a conditional contract on record for the furnace cemented in the floor and the heating plant going through the building. Since then we have made a practice of running conditional bills of sale in every county in which we deal and furnish a report as to the conditional contracts mentioned in the record but assume no responsibility for clearing them up.

MR. LANDELS: California is one of four states, I think, that has no law providing for the recording of conditional bills of sale.

MR. ALLIN: Can a conditional vendor, then, retain title?

MR. LANDELS: Yes, notwithstanding he has to make no record.

THE CHAIRMAN: I want to express our appreciation of the very instructive session Mr. Allin has provided us. As he told you, he is no longer identified with a title company but is now in the private practice of law in New York City. He has taken time away from his own business to come here and conduct for us what I feel is one of the most instructive and interesting meetings I have ever experienced at any convention of the American Title Association.

We certainly thank you, Mr. Allin. (Applause.) . . . The session adjourned at one o'clock. . . .

ADJOURNMENT.

Abstracters Section

Thursday, October 22, 1931

The session was called to order at ten-thirty o'clock by Mr. A. C. Marriott of Wheaton, Illinois, Chairman of the Abstracters Section.

THE CHAIRMAN: We will have additional remarks by Mr. Hugh Ricketts regarding the Abstract Contest.

Supplementary Report of the Judges of the Abstract Contest

H. C. Ricketts, Newkirk, Oklahoma

Mr. Chairman, Ladies and Gentlemen of the Convention: I have noticed that everyone is interested in and a big profit is derived from such contests, learning what the other fellow is doing. I was certainly surprised the way the abstracters are making the most of the opportunity to look the abstracts over and gain what benefit they can from them.

One abstract was made by a young man twenty-two years of age, filing clerk in his office for one and a half years, and it was a good abstract. The only trouble was that his employer did not belong to the State Association in his state and the young fellow did not get the opportunity to exchange ideas with other abstracters through the meetings. If his employer belonged to the Association and he could see the abstracts of others he might have won that contest.

I want to give a few statistics. The actual number of abstracts submitted in this contest was one hundred and eleven. They are from twenty-seven states. There are three hundred and seventy abstracters of the American Title Association in those twenty-seven states. That means that this contest represents an average of about twelve to each state of the twenty-seven states. Every abstract state with a state association is represented. There were three states with no state associations.

There were fifty-four of these abstracts which show just one instrument on a page. Fifty-seven show more than one on a page. It was very evenly divided in that particular.

It used to be a very common practice among the abstracters to use printed forms. Ninety-three abstracters in this contest used no printed form while eighteen used the printed forms.

I think these figures are interesting, as uniformity is what we want; that is, uniformity to as great an extent as we can get it nationally. Last year the American Title Association had its first insignia cut made. I was interested to see how many times that cut was used. Three abstracters used it in the abstracts they submitted. Some state associations have cuts and that cut was used but there is not room for two of them on one abstract. What shall we do?

All but two abstracts were of a uniform size, that is, eight and one-half by fifteen; one was smaller and one larger.

I have heard a lot of discussion about the abstracts and I got a great kick out of it. I learned one thing—I know we are going to have considerable controversy before all abstracters are willing to admit there should be uniformity. We found that more state association contests have been conducted within the states than ever before. I am satisfied it will produce more uniformity in abstracts than we ever have had. They are going to come to a uniform size and this is the thing that is going to do it.

The American Title Association has fostered uniform certificates. I have observed that a good many states have uniform certificates. Twenty-three abstracts in the contest from seven different states had uniform certificates but I want to say something about those uniform certificates. There is no way of identifying them as being the certificate, for instance, adopted by the North Dakota Association or some other association. Unless there is some such identification, the exam-

iner must read the certificate just the same as before.

Kansas has an insignia on the certificate which is a copyrighted insignia. It cannot be used except by a member. I speak from my own experience that when an abstract comes to my desk on a loan and it is certified in the lower left hand corner, I don't have to read anything except the title and so forth. That is the great advantage of the uniform certificate. But I will suggest to those states who have not adopted a uniform certificate that they do so to get the full benefit of uniformity in the state. Of the twenty-three abstracts, seven were from Oklahoma and six from Kansas.

There were very few who used chronological order in the arrangement of the abstract, following the filing dates of the various instruments with any court proceedings in connection therewith. Some even put the court proceedings under separate cover, but the majority put the court proceedings at the last, instead of in their proper order in relation to the filing date of the instrument. I would ask the contestants who did not use the chronological order to look into the advisability of changing, in order to have uniformity in the arrangement of the abstracts. That is one thing we almost have reached, as shown by this contest.

There are a few features that are very interesting from the abstracter's standpoint, and you understand I looked at those abstracts from the standpoint of an abstracter who has been interested in the improvement of abstracts and who is interested in the things that can't be done in an office of large production. The small abstract office where the boss does all the work can do them but they can't be done successfully in an office of large production—they can't be done and make any money—and the abstracters must do that.

One of these features is the folding plat. Twelve of the abstracts entered used the folding plat. The plat may be unfolded and kept before the examiner during the entire examination of the abstract. Those using the folding plat had very fine abstracts. I want to call your attention to the plat because there is no question but that it is convenient. We have not determined as yet what the most convenient form of plat may be. Let's work out the best form possible and adopt it.

The certificate of Abstract No. 17 shows the purchaser of the abstract the terms of the sale. That is one of the big disadvantages of the abstract system and one we want to change. When an abstract notifies the purchaser—and it plainly says in the certificate there is no liability until so much money is paid—a certain amount of protection is given and it is a very valuable feature. This certificate provided a form right in the certificate below the attestation. I want you to remember that number—number seventeen. Maybe that is the idea we need to work on. It looks good to me.

In Abstract No. 42, the certificate limits the liability of the abstracter and quotes the rate for increased liability. Out of the one hundred and eleven abstracts that is the only one that had that feature.

Looking toward the valuation fee—another thing we have difficulty with in the abstract business is that the abstract on hotel property very frequently is a much smaller one and the fee is much less than on some Negro's lot on the edge of town. That is one thing that hurts our business. A practical system should be established to get more for an abstract on the valuable piece of property, like all publications and everything else are based. We will be better off. It is all right to limit the liability in proportion to the fee. The main thing is to get that thing over to the public in order that we can be paid according to the value of the property.

So far as the twenty-five dollar limitation is concerned, why not sell a fellow title insurance?

Several of the abstracts in the contest are bound on left margin in book form. However, compared with the total number there are only a few that are bound that way. I don't know where that manner of binding abstracts originated. It must be just the same as we bind our abstracts the other way—because they started that way.

You noticed from the exhibit that quite a few abstracters are using a cover. Some furnish that as optional equipment. If they want to pay for it they can get the leather cover; otherwise they don't. A hundred abstracts in the vault faced with an extra heavy cover cost quite a bit of money. It isn't practical for everyday use.

One long-form abstract with a stiff board cover was submitted and a letter accompanying it said that they had been using that cover for twenty-five or thirty years. Some of them use covers on the smaller abstracts. It is the large abstract that needs that support. There is certainly a need for heavy covers for the heavy abstracts.

Two abstracts, both from Kansas, had the certificate printed on the inside of their covers. That is an idea which is new to me and I pass it on to you for what it is worth; but the unusual feature that I wanted to mention is the advantage. Is there some one here to tell us? It is a smart idea.

I want to say a little bit more about prices. It is interesting that these prices range from a low of $14 to a high of $100. Either $14 is wrong or $100 is. They can't both be right. This was rather peculiar in that certain outside service was needed in the preparing of the affidavits and, therefore, in going over the price list the abstracters who prepared it said it contained five affidavits in order to get the relationship of prices and I cut those bills because most of them got one. Some did not charge for doing that. Some charge for the affidavits. The average price is $39.16. There were seven over $60; fifty-one from $40 to $50; from $30 to $40, thirty-four; under $30. There was no bill on six.

State	High	Low	Average	$5.00 or more below general average
Alabama	$32.00	$23.00	$27.50	
Arkansas	32.00	21.50	26.75	Alabama
Colorado	43.80	34.90	38.67	Arkansas
Florida	67.00	48.00	55.94	Kansas
Idaho	55.00	38.00	42.66	Michigan
Illinois	47.00	35.00	41.40	Minnesota
Indiana	53.00	24.00	38.50	North Dakota
Iowa	45.25	29.90	36.53	South Dakota
Kansas	35.60	22.00	30.42	Wisconsin
Michigan	41.00	22.50	33.30	
Minnesota	29.50	14.00	23.20	$5.00 or more above general average
Montana	51.95	45.00	48.47	Florida
Missouri	64.50	33.25	47.76	Montana
Nebraska	46.25	28.00	35.70	Missouri
New Mexico	44.75	36.00	39.62	Ohio
North Dakota	37.00	25.00	31.00	Oklahoma
Ohio	100.00	46.00	61.06	Texas
Oklahoma	60.75	32.50	46.73	
Oregon	40.00	35.00	37.50	
South Dakota	32.45	29.20	31.48	
Texas	65.50	36.00	50.25	
Washington	46.00	41.00	43.50	
Wisconsin	30.50	15.00	22.50	
Arizona	One abstract		63.50	
California	One abstract		43.00	
New York	One abstract		35.00	
Wyoming	One abstract		52.00	

Folks, there is meat in that thing. You know what you are able to do when you know what the general charge is for abstracts. Work it out together. There are about nine states that we have listed here whose state averages are running on the average generally. There are six states which are more than $5 below and there are six above. That means we are very far apart on prices. I almost tried to determine how many abstracts had one price. There were several for $40. It was too big a job. Out of the one

hundred and eleven there were ninety different prices. I think I am safe in saying there are ninety different bills out of the one hundred and eleven. None of them figure the same; some of them tried to give the minimum price of the abstract or what they are supposed to get.

Before I close I just want to call attention to the fact that the letters from both of the judges of these abstracts say it was a hard job because there is so much in them. Nearly all of the abstracts are good abstracts. There are a few on display which don't seem to be, but you know as well as I do that the abstracts you make may look to some one else from another state like an abstract he has never seen before.

I would suggest that a committee of this Section consider the matter of a plan to have the winners in the state contests compete in the national contest. In furnishing material for a national contest you can't get the stuff regardless of whether or not the law is the same in every state. Of course, it is much easier and you are better able to judge between two abstracts of the same type than to tell anything about one abstract by itself. However, if you take into consideration the fact the laws of different states have enough similarity about them, you can get an idea of every phase of the abstract. It occurs to me that you can cut down the big job of judging them and come nearer a uniform decision if one judge could get one of these title examiners and go right through and grade these—criticising them carefully.

Where are you going to get the outstanding attorney to take the abstracts? It takes knowledge of judging abstracts, in judging contests of such abstracts, so I suggest that this Section through a committee, or at least through the Executive Committee, consider the whole question of the abstract contest, if you want to continue it. I know it is of very great value and ways should be found to improve the method of handling the contest.

THE CHAIRMAN: We will have an address by Mr. R. A. Edmondson of the Washington County Abstract Office, Akron, Colorado.

"Discounts and Commissions"

R. A. Edmondson, Akron, Colo.

Mr. Chairman and Fellow Abstracters: It was my pleasure to attend for the first time the meeting of the American Title Association in Denver a few years ago. I remember distinctly that before attending that convention I had the idea that a convention of the American Title Association was a meeting and the abstracters received and title insurance men assembled and the abstracters looked on. I am glad to say to you that I came home with an entirely different idea. I soon learned the American Title Association was a place where all the people in the title business met and held a meeting and the abstracters received just as much recognition as anybody. I further learned that all of these things were just branches of the title business and that each was truly interested in the fine points and the troubles of the other and that no one held a monopoly.

Ever since that time I have been greatly interested in the activities of this American Title Association and I am frank in saying to you that my membership in the American Title Association and my own Colorado Title Association has been one of the best investments that I ever made. It has put more dollars in my bank account than anything of the kind that ever happened to me and, if that has not been your experience, possibly you may be somewhat at fault.

This brings me to the subject that I am to discuss—namely, "Discounts and Commissions." I suppose the reason the committee selected me to start the discussion on this subject in this open forum this morning is because they know that I am rather irreconcilable on the subject. It seems to me funny now when I think about it, but for quite a long time I was the prize boob in the abstract business in Colorado. I hate to admit it, but I gave discounts and commissions to every lawyer, banker, and real estate man in the country, and a few outside of the county but, at that, I suspect I was not any worse than a whole lot of others doing business in the state at that time and a great many other states.

I certainly am pleased to note from the report of Mr. Morrison that the abstracters are getting better in this regard. They are not giving the discounts and commissions that they used to but there are still some abstracters who seem to be standing in their own shadows.

When I first started in the abstract business I had a competitor who was a lawyer, a banker, a newspaper man, and an all around good business man—I'll have to admit that. He had hinted to me once that we ought to get together on a few things but I thought there was a catch in it some place. I did not think I could trust him. He had opposed me; he had romped on me about a few things; and I thought a way to set the brakes on that man was to take the business right away from him, and while it had been the custom in that community to give a fifteen per cent discount, in my antagonism I immediately jumped to twenty-five per cent.

I know you will forgive me when I explain to you that I was new in the business then. I had not yet learned that to give discounts was but another way of cutting prices and that to cut prices cheapens your product. It cheapens your profession and it cheapens you in the eyes of your customers and, like the prophet of old, causes them to laugh long and loud. I had not learned to realize that practices such as this would not only wreck my train but also the train on which my competitors were riding, and wreck the train on which the whole abstract fraternity was riding, if it kept up long enough.

In reflecting on the matter in later years I concluded that possibly I was only acting natural for an abstracter. It seems to be a great weakness for many of them because they try to grasp the big end of the business by giving discounts and commissions. I know better now. I know that to give discounts and commissions is not good business. It is a boil on the neck of good business. Somebody ought to stick a knife in it.

A visit to our state association meetings and hearing Dick Hall and a few others speak on this subject acted as sort of an operation on me and removed the blur on my eys. When Mr. Hall and Mr. Johns were conducting a series of regional meetings I was right on hand and, by the way, so was my competitor, but this was the first meeting of any kind for this competitor.

After listening very intently to what Mr. Johns and Mr. Hall had to say about the future of the business and finally, the proposal that all in that district get together and make an arrangement as to the prices, eliminating discounts and commissions and then maintain those prices, I was certainly pleased to see my competitor walk up ahead of me and put his name on the dotted line. It was conveniently agreed that these prices should not go into effect for thirty days.

That worried me; far into the night I worried about the storm that I knew was going to break when all these highly ethical realtors and highly ethical bankers and highly ethical attorneys learned of this arrangement of ours so I dropped in to see my competitor and said, "Let's put this rate into effect today, this morning, and cut out these commissions and so forth."

He replied, "It is all right with me—hop to it."

I went back to my office to get my feet braced for what was going to happen and what do you think happened? Not a thing. There was not a single individual who said a word about it in a criticizing manner. It was the easiest thing to put into practice of anything that I have tried that meant as much money to me as that did.

It only goes to prove that the American people have a spirit of fairness and understanding and are willing to give every one a chance, and I maintain that, if abstracters anywhere will only get together and arrange a schedule of prices and eliminate these discounts and commissions and stick to it, the attitude of the public, as well as the brokers and attorneys, will change to one of understanding.

I resent more than I can say to

have the abstracters of my state referred to as lowly creatures without spines. It is not the truth. We may have been "suckers" at one time but we are not any more. We feel that we are real people, that we are not afraid to assert our rights, that we have asserted our rights, that we are an important cog in the wheels of industry, and that we are just as "chesty" as any one anywhere.

In this matter of discounts and commissions, remember that there is just so much business in your county and just so much business in mine, and between the two of us we are going to get it all, so why give back part of it to the lawyers in the form of commissions? They don't split with you in any of their profits; neither do they come after an abstract until they just have to have it and when they have to have it, the price is not going to make any difference. So why not put the business on a profitable basis? Entirely eliminate all discounts and commissions and give your vocation the respect it deserves.

Mr. Chairman, if I could make a suggestion, I would say it would be well for this assembly to go on record or pass a resolution in favor of eliminating entirely all discounts and commissions. It is a foolish practice and without any advantage. Thank you. (Applause.)

THE CHAIRMAN:

We will have reports on the operation of the License Law in those states that have been successful in getting an abstract law enacted. I believe Mr. Bodley, South Dakota, is the only representative present from any of those states. We will be glad to hear from Mr. Bodley.

Report on Operation of License Law In South Dakota

A. L. Bodley, Sioux Falls, South Dakota

Mr. Chairman, Ladies and Gentlemen: Two years ago we adopted a License Law in South Dakota and operated under it for two years, and this year in July we relicensed it and have had no objections from the title men or the general public. We have received many benefits from the law and I want to say, it was through the efforts of the American Title Association we received the necessary "punch" to get the law enacted.

We have been able to increase our standards and increase our fees slightly. We have increased our income more than we have increased our fees through charging for the things that we do instead of flinging them away as we used to do.

Whether we continue this discussion will depend on you. If you have any questions, if you are interested in the law, I will attempt to answer your questions, give you any advice I can, and the gentleman from Montana, Bill Clark—who is now the best known abstracter in captivity—has agreed to assist me in answering any questions I am not able to handle by myself.

A MEMBER: Have you had any trouble, since the law was passed, in persuading the bonding companies to write your bond?

MR. BODLEY: No more than we had before. I think it would be easier to get bonding companies to write bonds under the Model Law for the reason that under the Model Law the abstracters are required to do more; they are required to raise their standards, their fees are a little better, they are less afraid of competition and put a little more time and interest in their business. I would say it was easier to get bonders for their abstracts. The bonds run from five thousand dollars to fifteen thousand dollars.

A MEMBER: Under the Model Law, have you a complete plant requirement for those now in the business?

MR. BOLDEY: When we adopted the law we licensed every one for a period of a year. But today if a man wishes to enter the title business he must first build a complete plant. This question has been asked repeatedly: "What do we consider a complete plant?" The law provides that it must be a copy or index of the records showing in comprehensive form all the instruments on record; all the comprehensive forms that would be sufficient to make an abstract from your plant alone.

A MEMBER: Are there any professional requirements of the abstracters? Do you have any examination for the abstracter boards to examine by?

MR. BODLEY: We have an examiners board consisting of three men and we have never held more than one examination.

A MEMBER: Do they examine abstracters as well as the plant?

MR. BODLEY: We have never had occasion to examine the plant. The law provided that any one who had been in business a year prior to July 1, 1929, would be licensed without any examination upon payment of his license fee of ten dollars a year.

After that we had one application to enter the profession in South Dakota and that was peculiar in this way: He attempted to enter by stating that he had been in the process of building a plant for a period of a year prior to July 1, 1929, that he had been making abstracts; his bond was dated in December. How he could make abstracts six months prior to having a bond, I don't know. He stated maybe he had not been at it for a year. He was asked to file affidavits complying with the law. We then required the examination because we were not satisfied with the affidavits. Upon examination and under oath he stated he had not started a plant. All it had consisted of was the abstracts he had made. He kept carbon copies of them.

A MEMBER: In that period you have had only one who wanted to become an abstracter? How many have you lost?

MR. BODLEY: Two have sold out. We make no requirement as to what they should do. Any one operating without a plant in South Dakota eventually would go out of business for when he dies or passes off the stage of operation he can have no successors because the successor would not have a plant. There is a provision in the law that the examination would be held then and some one would be licensed to go on with the business if he had a plant.

A MEMBER: Did the "curb-stoners" like the adoption of your law?

MR. BODLEY: Yes, for the reason that under a grandfather clause they were admitted without examination. This will work itself out eventually because there will be a title plant in each county. It will take a period of twenty or thirty years before that is accomplished.

A MEMBER: You have abstracters?

MR. BODLEY: We have abstracters in every county and plants, I suspect, in half of the counties.

A MEMBER: Do the abstracters work in more than one county?

MR. BODLEY: No, under the law they are licensed for a certain county.

A MEMBER: Does a licensed abstractor have a right to sell if he has no plant?

MR. BODLEY: He can't sell to anybody but a competitor who has a plant.

A MEMBER: Do you have any corporations?

MR. BODLEY: There are no corporations in South Dakota operating without a plant, to my knowledge. We had two or three that wished to incorporate. We stated to them, "Unless you complete your plant, you can't incorporate. Under the law you have to take the examination. It would be necessary to have a plant or operate under your present name until you complete a plant; then you can take a name."

A MEMBER: He has no right when he has no plant?

MR. BODLEY: When he has no plant he cannot sell except to a competitor, which would be an elimination.

A MEMBER: Does that apply to the corporation having no plant just the same as the individual?

MR. BODLEY: That is one of the things of the law—one of the exceptions of the rule. The corporation goes on forever. If they have no plant, we cannot compel them to build one to prevent them from continuing indefinitely without a plant. All we can do is get their standard up.

A MEMBER: If an individual abstracter has the license, has the plant, and desires to sell to one who has never abstracted, will the plant to which he sells be required to take the examination?

MR. BODLEY: If it is a corporation, he would come in as a member of that corporation. I would say there would be no difficulty, because that would comply with the law. We try to

eliminate fellows drifting in and drifting out. The public is interested in that; for that reason it should be worth something for a period of years.

Suppose there is a fellow who has been outlawed for six years. He buys the business from a fellow who has no records—all the abstracts will eventually become worthless and the public will rely on this individual when they pay for an abstract.

A MEMBER: What are the requirements?

MR. BODLEY: Registration of the individual abstracter. The office has to be in charge of the abstracter.

A MEMBER: Who could work for an abstracter and what does the examination cover, individuals or plants? If it covers individuals, then each one would be a different proposition but if the license was issued to the firm, then could the firm employ any number of abstracters in the firm?

MR. BODLEY: They don't license plants. The plant is the requirement to receive a license. I don't know that we have any partnerships of that kind in South Dakota. Of course, at home we have one corporation. Then there are two partnerships and one individual. We have tried to put over an abstracter law two different times and we got nowhere with it because of the partnerships in it.

A MEMBER: How do the firms sign their certificates?

MR. BODLEY: One signs the firm name and the other one signs "by the partners'." To make it work in Oklahoma, I would think you would have to agree with all these fellows under a law if they applied within one year after.

A MEMBER: Does that partner necessarily have to comply with the law?

MR. BODLEY: We have had no experience with partnerships under the law. As a matter of limiting the abstracters, usually it is hard for one to come in under the law. I might say that the Model Law provided for licensing the plant and certificate of authority for the individual abstracter.

A MEMBER: I am very much interested in the bond feature. What are your requirements under the bond?

MR. BODLEY: The bond is written and filed with the board.

A MEMBER: What is the requirement of the bond in protecting the public? What does the bond provide in the event of a law suit on the abstract?

MR. BODLEY: I can't answer that. A five thousand dollar bond practically covers his liability. I think the bond provides for it.

A MEMBER: Is that bond good for all time or does he have to renew it all the time?

MR. BODLEY: It is good for all time.

THE CHAIRMAN: We will now have a talk on "Collecting Accounts" by Julian Banker of Tahlequah, Oklahoma.

"Collecting Accounts"

Julian W. Banker, The Cherokee Capitol Abstract Company, Tahlequah, Okla.

In my investigation among the abstracters, I find only approximately twenty per cent of the men pay cash and the abstracters pay that loss. There is something wrong there. Why can't we go on an absolutely cash business and make everybody pay cash? When a man orders an abstract he orders it because he has to have it, not because he wants it. He expects to pay for it when the property is sold. We ought to wait for that time because that is when we have completed our work and should get the money. We ought to know at least when we are going to get it.

In Oklahoma in 1930 a firm of attorneys went to an abstracter and said, "We represent a certain trust company. We just foreclosed a loan for them. The vested title is in this trust company. Continue the abstract and we will mail you a check."

Nothing was done. The abstracter wrote the attorney and wanted to know why he could not get the bill paid. After eleven months the trust company wrote to the abstracter and said, "In the first place your charges were entirely too high. In the second place, our client did not have the money to pay;"—the abstracter did not know the trust company had a client and that the client was going to pay the bill—"Neither do we have the money. Of course, this is no obligation of ours; however, in view of the fact that we feel under moral obligation, we have dug down in our pockets and enclose our check for $28.10 entered in payment for $26.50 for the abstract and $1.60 for recording the deed. We trust you will see your way clear to accept this in full payment of the bill and you will have to charge the balance to 'Profit and Loss.' We have paid these bills for the last five years and have reached the end of our rope." The state of Illinois cut it to $28.10.

We had an experience a few months ago in our office. About the first of the year we received a letter from a loan company doing business here in Oklahoma asking us to make a supplemental abstract, or continue an abstract, and return it to them at our earliest convenience. We did so and sent the bill. By the fifteenth of the month we had not received payment, so we sent a statement and kept that up until about the first of April. We wrote them that we wanted to get cleaned up.

They came back with this answer: "Until recently we paid all our abstracts without collecting from the investor. We became so much involved we are going to have to discontinue this way. The trouble in this case is, the broker through whom we were dealing is in the hands of the trustee and the title has not been transferred to the individual investor as yet. As soon as it is, we will collect from the investor and remit you promptly."

About the middle of July they sent us a deed and a letter saying, "Please check the record from the date of that certificate, and if nothing interferes, record it."

We had the deed and had the check, so we kept both and wrote a letter to them stating that payment would have to be had for the previous charge before we would do as they asked. It was not long before we received a check in payment of the first account.

It seems to me that we should go on a cash basis. However, that is aside from my topic; my topic is "Collecting Accounts."

Oklahoma, some years ago, installed what we call "A Credit Bureau." It is nothing but an exchange of credit information. A card is sent the abstracter asking for information; the name of the debtor, his address, and the amount of the account, when the account was created, and any other information that the creditor wanted to give. The Secretary replies, issuing a bulletin giving the name of the debtor, the amount, and the name of the creditor. Last spring I revised the entire list and sent out a bulletin.

With such information furnished you, if you are in the credit business, you want to use that information. I have in mind right now an abstracter who sent in a name. I checked back and found that several times before that this man had been listed. The reporting abstracter had not used the information sent to him. He had ordered fifty dollars or sixty dollars worth of abstracts and gotten away with it.

Another thing you can do to eliminate a lot of bad business is to use the Better Business Bureau of which you are a member. Retail members use that membership—that is what it is there for. If your customer is from your own home city, ask the Retail Association or similar association what his credit is. Don't try to give him twenty-four hour service but find out what his credit record is and discount that fifty per cent. Then if there is any question, send him a draft and, in sending through the bank, I like the envelope draft, especially where the abstract does not show a very good title.

Another method that we use and that is used a great deal in Oklahoma is the notice of the lis pendens. I know there is no law on this in a great many states—there is none in Oklahoma—but we use it a great deal and get by with it. I might say that a few weeks ago we collected an account that was twelve years old by having lis pendens on record and we got the money and six per cent per annum interest and took our notice off the record.

You know how that reads: "Notice is hereby given that the undersigned, of the Blank Abstract Company, holds a claim in the amount of twenty-five dollars for abstract work covering the

following real estate in Blank county, which abstract was ordered done by Blank for his use and benefit. All persons are hereby warned that said claim is existing and unpaid and that action will be brought on said claim and lien will be taken on the property."

As to collecting the old account, there is no hard and fast rule. Sometimes you can go out and slap a fellow on the back and take it away from him. We collect a few in Oklahoma by the use of this credit information bureau.

Some months ago a man came to my office and ordered an abstract. I said to him, "When are you going to pay for this?"

"When I get title to this; I don't know whether our buyer wants it or not."

I said, "George, you owe So-and-So a bill, don't you?"

"How do you know that?"

"You get him paid and come back to me and I'll do it." He paid that account right away and came back. (Applause)

. . . The Session adjourned at twelve-fifty o'clock . . .

ADJOURNMENT

GENERAL SESSION

Thursday, October 22, 1931

President Lindow called the meeting to order at two-fifteen o'clock.

PRESIDENT LINDOW: Mr. Gill of St. Louis, the Chairman of the Title Examiners' Section, will take charge of the meeting of that Section.

CHAIRMAN McCUNE GILL (Title Insurance Corporation, St. Louis, Missouri): The first order of business is the appointment of a Nominating Committee to elect officers of the Section for the next year. I will appoint the following to recommend nominees:

Judge Elwood C. Smith, Chairman,

Olaf I. Rove,

Richard C. Lyon.

Next in order is a report of the year's activities by the Chairman.

Annual Address of the Chairman, Title Examiners Section

McCune Gill, St. Louis, Mo.

Our efforts during the past year were something of an experiment. Having much more to say than could be crowded into the brief period of a convention program, we decided to spread our activities over the entire year, and issued a series of pamphlets, which were mailed to a list of about three hundred, who, we thought, would be particularly interested in the subjects discussed. We added to the list all who asked to be included, and still have on hand a surplus of booklets which we will be glad to mail to any who will send us their addresses.

These American Title Association Studies, as they were called, were made to cover a variety of subjects, in the hope that some of them would meet the approval of each of the members. Some were legal briefs covering all of the States, and setting forth decisions on doubtful points of title law. Others were historical, and some were advertisements, which, being based on legal decisions, can best be compiled by the law members of the title business. Still others had to do with the practical handling of legal staffs, and the compilation of law plants.

The subjects of these sixteen studies are as follows:

A Limitation After A Fee Simple.

Some Impressions of Title Examining in New York City.

Revival of Mortgages.

Instructions to Examiners.

The Origin of Sections, Townships and Ranges.

Precatory Trusts.

Formulare Anglicanum.

The Difference Between Title Certificates and Title Policies.

Usury and an Innocent Transferee.

Abatement by Death of Defendant.

The Use of Escrows in Real Estate Transactions.

The Agent's View of Title Insurance.

The Duties and Liabilities of a Notary Public.

Inspection of Property for Title Insurance Companies.

A Law Plant.

An Electric Refrigerator in the Court of Appeals.

During the year an attempt was made to increase the membership of the Section, by enlisting the aid of the present members. Considerable success was had in this venture, and we wish now to thank those members who aided in this work.

This is one of the oldest sections of the Association. It was originally formed to serve the needs of practicing attorneys who examined abstracts. Its scope was next broadened to include the salaried examining attorneys of large lenders, such as mortgage companies and life insurance companies. More recently it has been pointed out that it can be further expanded so as to be of great service to the legal staffs regularly employed by title companies.

There are numerous ways in which this section can be helpful to its members and the members of the Association at large. One way is to engage in the compilation of legal information, somewhat along the lines of our recent experiments. This can best be handled nationally instead of by States, because, while each of us is interested only in the law of his own State, we usually find that the decisions of other States on a particular point are of great assistance. Also, it is usually impossible to find enough companies in one State to underwrite the expense necessary for such an undertaking. But if the principal companies throughout the Country would join in the work, the cost to each would be very small. If fifty companies could be induced to pay as much as half an office boy's salary for legal research work, we could lay down every month on the desk of each of their Counsel or readers, a complete printed study of some title question of their own choosing, as well as a numbered series of index cards to be scanned and filed, setting forth the current decisions of their own State. That the results of such a Title Institute would be of great value in the upbuilding of the law side of the title business seems quite obvious.

Another activity that has been suggested somewhat along the same line is the Exchange of Printed Matter. If the leading title men of the Country, when sending out printed advertisements, house publications, state association bulletins, legal briefs, and other printed matter, would instruct their secretaries to include other title men in their mailing lists, the gain in title knowledge throughout the Country would be tremendous, and the cost very slight.

Another highly valuable Exchange activity would be in connection with our experiences with Claims on Title Insurance losses. The experiences of each company vary widely, and those in one city might suggest protective measures in other cities that would prevent similar losses there.

It has also been suggested by one of the attorneys for a large lender, that the Examiners' Section should set about to prescribe a National Standard Form of abstract and abstracter's certificate. We know that some State Abstracters' Associations have made notable progress in this direction. But after all, it is the examiners and not the abstracters who use abstracts; and a nation wide form would be of much greater usefulness than a different form for each State. The very excellent collection of abstracts in our first national abstract contest should make an excellent foundation for the building of such a form.

Another suggestion is the sponsoring of Title Examining Courses in the leading Universities of the Country. This has already been done in a few states and nothing could be better to professionalize this, our own branch of the law.

Still another, although not an entirely new, suggestion is to do something to get a few of our Fifteen Uniform Laws passed in all of the States. Most of us, no doubt, do considerable legislative work, not only for ourselves but for the real estate and mortgage fraternities as well. Passing bills is hard work, much harder than killing them, but it is to be deplored that more effort has not been made to pass some of these very meritorious proposals.

In closing this report your Chairman wishes, on behalf of the title lawyers of the entire country, to express the debt of gratitude that this section owes to our retiring Secretary Mr. Richard B. Hall. The tasks of the examiners have been made much easier by the activities of this man.

CHAIRMAN GILL: We will have the report of Nominating Committee.

Report of the Nominating Committee, Title Examiners Section

Elwood C. Smith, Chairman, Newburgh, New York

The Nominating Committee desires to report the following recommendations for officers of the Title Examiners Section for the ensuing year:

For Chairman: McCune Gill, St. Louis, Missouri.

For Vice-Chairman: Raymond Edwards, San Antonio, Texas.

For Secretary: Albert Bell, Tulsa, Oklahoma.

For Members of the Executive Committee: James E. Rhodes, Hartford, Connecticut; Mark B. Brewer, Tulsa, Oklahoma; V. E. Phillips, St. Louis, Missouri; J. E. Amerman, New Jersey; M. M. Oshe, Chicago, Illinois.

CHAIRMAN GILL: Are there any other nominations?

MR. SMITH: I move that the rules be suspended and these nominees be elected by acclamation.

. . . The motion was seconded, and upon being put to vote by Mr. Smith in the Chairman's stead, was carried unanimously and with applause . . .

CHAIRMAN GILL: Mr. C. H. Burnham is going to talk on an interesting subject, "Taxation of Title Plants and Title Companies," to which question he has given much study and thought. I have pleasure in introducing C. H. Burnham of St. Louis, Missouri, Trust Officer of the Title Insurance Corporation of St. Louis.

"Taxation of Title Plants and Title Companies"

C. H. Burnham, St. Louis, Missouri.

I have made a compilation of all our appellate and Supreme Court decisions on the taxation and execution of abstract companies and abstract books. I have also included the citations shown in the Cumulative Bulletin, Federal Reporter, Tax Appeals, and so forth, pertaining to the federal income tax affecting title insurance companies and abstract companies. Due to the limited time, I will not read this but will merely turn it to the reporter and ask that it be included in the report of the proceedings, and if there is anything in it that interests you particularly, you can read that part and forget the rest.

I might say that in all of my work I have found only one state in which there are judicial decisions to the effect that title companies are not subject to taxation. That is in Michigan.

In regard to the questionnaires that were sent out by our worthy Secretary as to taxation of title plants, the returns were very much below our expectations. Of the 2500 or 3000 which were sent out only 316 were returned. Thirty-two states were represented in those returns. No state sent in more than eighteen, so you can see there were not enough replies to determine whether or not they were fairly representative of the whole state.

Four states sent in eighteen answers each. These happened to be states in a row in the Middle West—Iowa, Missouri, Oklahoma and Texas. The information in those replies was very interesting and instructive. A schedule of the number returned from each state and the assessments, and so forth, will be included in the report.

There were five states in which abstract companies are not taxed. They are: New York, New Jersey, Maryland, Pennsylvania and Michigan. I might say that in Michigan, where they have judicial decisions holding that abstract plants are not taxable, there is one plant—in Battle Creek—that is paying a tax.

There were eight of the thirty-two states in which one hundred per cent of the title companies are being taxed. The assessments varied from a very low amount up to $150,000. The lowest was $75, in Missouri, and Missouri and California had the highest, which was $150,000.

The efforts of the abstracters and title men, although they could not get the tax eliminated altogether, were very successful in a good many instances in having the assessments reduced.

In one case a plant assessed at $14,000 was reduced to $4,000; one assessed at $50,000 was reduced to $20,000, and one assessed at $75,000 was reduced to $48,000. There were a great many that had reductions for lesser amounts. The reasons and manner in which those reductions were obtained were various. The reports will show those reasons in detail.

The most important holding pertaining to the income taxation is the recent case of Kansas City Title and Trust Company vs. Crooks, the revenue collector. In this particular case it was held that abstract books which have become useless because they are obsolete or because other equipment has been added to the office, are proper cases of personal property or obsolescence.

The manner in which the amount shall be deducted from the capital stock is that the period of time in which the books shall become useless shall be determined and the value of the books should be computed; then the value of the books shall be divided by the number of years in which it will take the books to become obsolescent and that amount deducted from the capital stock.

There are two decisions, one in Kentucky and one in New York, holding that title insurance companies which have another source of revenue besides their investments and the income received from premiums on their title policies are not insurance companies for the purpose of determining the amount of the income tax.

This will give you an idea of what is to be found in this data I have attempted to compile, and if there is any particular part of it in which you are interested, you may turn to that and read it. (Applause)

NOTE BY EDITOR: Mr. Burnham then submitted a written report which is very long and is in reality a brief setting out all the cases and the same is on file in the Executive Secretary's Office. Anyone wanting it can write the Executive Secretary.

PRESIDENT LINDOW: We will next have the report of the Judiciary Committee. Henry R. Robins, the Chairman of that Committee, was unable to be in attendance but he sent his report and I will ask Judge Smith of New York to read it at this time.

Report of the Judiciary Committee

Henry R. Robins, Chairman, Philadelphia, Pa.

. . . Judge Elwood Smith read the report.

During the year several matters have come before the members of the committee, of interest to the title business of the country, and to which the attention of the members is called as being of possible interest either to some or all.

1. Constitutionality of the Texas Title Insurance Law is upheld in the case of the New York Title and Mortgage Company against Tarver et al in the District Court of the United States for the Western District of Texas, Austin Division, No. 300, in equity.

2. The liability of a Title Insurance Company for the acts of its employees in concluding settlements in an escrow department was held to be created by a contract independent of the contract of title insurance contained in a policy. Pearson vs. The Central National Bank 102 Superior Court page 111 (Pennsylvania).

3. The case of the Atlanta Title and Trust Company vs. Boykin, Solicitor General, in the Supreme Court of the State of Georgia No. 7901, raised an interesting question. The Atlantic Title and Trust Company applied for an amendment of its Charter by adding to its corporate powers the right to prepare any and all papers in connection with a conveyance of real or personal property that it might be requested to prepare by a customer. The Solicitor General of the Atlanta Circuit filed a bill asking that the Company be enjoined from proceeding with the application to amend its Charter on the ground that such power would constitute the practice of law in violation of the laws of the State. The Lower Court granted the injunction but its judgment was reversed by the Supreme Court.

4. The subject of usurious contracts under Deeds of Trust and Mortgages has been the subject of some interesting litigation in Texas, and the attention of the members is called to these cases, and a full reading of the detailed facts and the opinions of the Court is invited, as some very interesting questions are discussed and decided. Schropshire vs. Commerce Farm Credit Company 30 S. W. Reporter (2nd) page 282, and 39 S. W. Reporter (2nd) page

11; Deming Investment Company vs. Giddens 30 S. W. Reporter (2nd) page 287; Bothwell vs. Bank and Trust Company 30 S. W. Reporter (2nd) page 289; Dallas Trust and Savings Bank vs. Brashear 39 S. W. Reporter (2nd) page 148.

5. In Rea vs. Kelly, Minn. Supreme Court No. 27747, it was held that a mortgagor's payment of a mortgage debt to the mortgagee without notice of an assignment to a good faith purchaser, discharged the mortgage although the mortgagor's title was registered under the Torrens Act, and the mortgage and assignment noted upon the Certificate of Title at the time of payment.

6. The case of Smoot Sand and Gravel Company vs. Washington Airport, Inc., decided by the Supreme Court of the United States on May 5, 1931, fixed the boundary line between the State of Virginia and the District of Columbia at high water mark on the right bank or Virginia side of the Potomac River.

7. An interesting discussion upon the rights of a purchaser of real estate to certain plumbing fixtures which were sold to his vendor under a conditional sales contract, is recorded in the case of Skinner vs. Stewart Plumbing Company 155 S. E. Reporter page 97, and the same subject was discussed in Greene vs. Lamport 174 N. E. Reporter page 669.

It has been thought advisable not to analyze the above cases, but merely to call them to the attention of the members for study and consideration. Otherwise, this paper would be a legal treatise instead of the report of a committee.

There are two cases, however, decided by the United States Supreme Court that have probably caused more comment throughout the country than any others, which it has been thought advisable to speak of more fully than the ones noted above. These cases are Isaacs vs. The Hobbs Company 282 U. S. page 734, and Straton vs. New 51 Supreme Court Reporter page 461, dealing with the right of mortgagees to foreclose in instances where the owner of the mortgaged property is in bankruptcy. As this question is on the program for the Open Forum on Thursday morning, October 22nd, it will probably have been fully discussed by the time this report is presented to the Convention. The Hobbs case appears to decide that where bankruptcy proceedings have been instituted against the owner of mortgaged property, all other Courts are ousted from jurisdiction to enforce the mortgagee's rights unless permission be first obtained from the Bankruptcy Court; on the ground that when a court of competent jurisdiction takes possession of property through its officers, this withdraws the property from the jurisdiction of all other Courts.

A reading of the Straton vs. New case seems to lead to the opinion that if foreclosure proceedings are instituted in a court of competent jurisdiction prior to the filing of a petition in bankruptcy against the owner, and the mortgaged property be taken into the possession of such court through its officers, then in the absence of a restraining order from the Bankruptcy Court, the foreclosure is valid.

After the decision in the Hobbs case was rendered, an analagous case came before the United States District Court for the Eastern District of Pennsylvania as a result of the bankruptcy of a large brokerage firm. The Court held, applying the principles of the Hobbs case, that the banking institutions which had made loans to brokers could not sell the collateral pledged for such loans without permission first being obtained from the Court in bankruptcy.

As a result of this decision, the Chairman of this committee communicated with the Honorable Thomas B. Paton, General Counsel of the American Bankers Association, regarding the advisability of procuring an amendment to the Bankruptcy Laws to provide that in the absence of a restraining order from a Bankruptcy Court, the holder of a mortgage may proceed to enforce his remedies contained in the mortgage against property of the bankrupt in such courts as have proper jurisdiction therefor; and also such amendment as the American Bankers Association might deem advisable to remedy the situation respecting broker's loans. Judge Paton replied that he would take the matter up with the Chairman of the Bankruptcy Committee, and advise later of the steps, if any, the American Bankers Association would take, and that if it decided to take any steps, he thought it would be advisable for the two Associations to cooperate in procuring the contemplated legislation.

Respectfully submitted,
HENRY R. ROBINS,
Chairman for the Committee.

PRESIDENT LINDOW: I will now ask for the report of the Legislative Committee and will ask Mr. Bruck to read the report which was sent by Mr. Sheridan of Detroit.

Report of the Legislative Committee

James E. Sheridan, Chairman, Detroit, Mich.

. . . Mr. Porter Bruck of Los Angeles read the report of the Legislative Committee.

Because of the lack of time it is entirely out of order that the full report of the Legislative Committee should be read. It comprises about forty pages of manuscript and would require over an hour to read. The full report will be placed on file in the office of the Secretary.

The Chairman might mention that the so-called "Abstracters' License Bill" failed of passage in Oregon, Indiana and Oklahoma.

No Torrens legislation, of his knowledge, was introduced.

In many instances legislation looking to the curbing of activities of trust and title companies was proposed. For the most part these proposals were sufficiently ironed out and either died in committee or were passed in such form that they are not particularly harmful to the trust business or title business.

The United States Congress passed H. R. 980—an Act to permit the United States to be made a party defendant in certain cases. This resolution takes care of what has been a vexatious matter—that is, the inability to establish the priority of a mortgage lien over the lien of the United States Government. The act provides machinery for the establishment of that.

Respectfully submitted,
J. E. SHERIDAN,
Chairman, Legislative Committee,
American Title Association.
Dated at Detroit, Michigan
October 19, 1931

PRESIDENT LINDOW: We will ask Mr. Wyckoff to give his report as Chairman of the Mechanics' Lien Committee and also in his capacity as Councillor to the Chamber of Commerce of the United States.

Report of National Councilor to the Chamber of Commerce of the United States

Edward C. Wyckoff, Newark, N. J.

In December of 1930 Edwin H. Lindow, then president elect, requested my consent to serve under appointment from him as National Councillor to the Chamber of Commerce of the United States. I acquiesced in this.

My credentials were duly forwarded to the office of the secretary of the Chamber of Commerce at Washington with the result that I received a great deal of campaign literature from all over the country with relation to the candidacies of persons desiring to secure our vote.

I adopted a policy of making no promises in answer to any of these requests and made inquiries through members of our association with reference to candidacies which I thought they would have knowledge of.

I then entered the caucus of the National Councillors residing in New Jersey on the evening prior to the convention meeting and succeeded in getting support for those candidates in which any of our membership indicated an interest, and then went along with the suggestions of other New Jersey Councillors where our association seemed to have no particular preference. I hope that the result of this is that should any of our members be actively interested in the future, we will have reason to call upon New Jersey delegates for support.

I took particular pleasure in supporting George D. Markham of St. Louis as Director under the Insurance Department.

Should any member of the association at any time be interested in knowing just how my vote was cast for candidates in any other division outside of

insurance which I have reported, I will be only too glad to advise them.

Of course, any member of the United States Chamber of Commerce will be deluged with a great deal of printed matter which is not of particular interest to him, because the chamber is dealing with matters of interest to every variety of business. Nevertheless, I believe that the contact is well worthwhile and that it can be improved as a means of making new contracts. We have never been very active in this respect.

I would like to call the attention of the membership of this association to the fact that the United States Chamber of Commerce has recorded its opposition to any legislation that would diminish the jurisdiction of Federal courts. If there are any members of our association who are not in accord with that view, I think that fact should be made known by any such member to our incoming president for his information.

A great deal of consideration was given to the increasing burden of taxation imposed by federal and state and local governmental agencies which emphasize the need for scrutiny of the costs of government. The studies by the United States Chamber would seem to indicate that it will be practicable to save throughout the United States during the year 1932 at least one billion dollars in public expenditures, which amounts to only seven per cent of current totals, without impairing necessary governmental services.

It appeals to me that members of our association should join with other local groups in the study of the tax problem. The question of taxation is one in which we should have particular interest because it affects the interests of our clients materially. It is beginning to dawn upon us that municipal tax rates cannot continue to mount.

At the 19th Annual Meeting of the United States Chamber of Commerce at Atlantic City, the following resolution was passed: "While private enterprise has been going through a period of deflation which has reduced ability of such enterprise to contribute to governmental costs, government has gone through no such deflation. On the contrary, expenditures of all branches of government, federal, state and local, are continuing to increase notwithstanding the curtailment of the ability of the country to pay. Increases in the total of taxation and even in the maintenance of the total at its present level will adversely affect the return of normal business activity."

Commenting upon this situation Hon. Will R. Wood, Chairman of the Appropriations Committee of the National House of Representatives, declared: "I know of no agency that can be of more service to the country at this time than such organizations as the Chamber of Commerce of the United States. If all such bodies would impress upon their membership and their membership, in turn, would impress upon the people the absolute necessity for retrenchment in expenditures, it would be most helpful. If this were done there would not be so many demands upon members of Congress for projects involving the expenditures of large sums."

The United States Chamber reiterated its declaration that government should scrupulously refrain from entering any of the fields of transportation, communication, industry and commerce, or any phase of business, when it can be successfully undertaken and conducted by private enterprise.

It would seem that our association might very well support that cardinal principle of the United States Chamber of Commerce. An example of governmental operation of a work which could be better conducted by private enterprise would seem to be the construction of a locality plant in counties to be operated by the state under state regulation upon fixed fees. In considering any such problem, however, we would need to exercise care and not oppose what is nothing more than a perfection of a proper recording system.

Any proposition in opposition to municipal operation of business which this association might make to the United States Chamber of Commerce should, of course, only be based upon facts ascertained after careful study and with proper arguments to support the complaint. It would injure our association to present a matter to the United States Chamber of Commerce which was hastily advised, and not supported by facts and reasons.

It would seem as though our local members might very well affiliate with local Chambers of Commerce in order to do their bit toward strengthening of the local structure which will, of course, reflect in the strengthening of the national organization.

One of the purposes of the United States Chamber of Commerce is to lend aid and encouragement to business men in bringing about the adoption of better business standards and the voluntary renunciation of unsound competitive practices.

I am in hopes that as time goes on our succeeding councillors to the United States Chamber of Commerce appointed by our incoming presidents may be men who will have the capacity and willingness to take a more intensive interest in the United States Chamber of Commerce than I have found it possible to take during the present year. It would, of course, be possible to waste a lot of time by following up those phases of the work of the National Chamber of Commerce which are of no moment to our particular trade association, but I think that we can use the contact much more effectively than we have succeeded in doing so far.

Respectfully submitted,
EDWARD C. WYCKOFF,
National Councillor,
American Title Association.

MR. WYCKOFF: I merely attempted in that paper to direct your attention to some of the activities which seem to have relation to our interests.

I will now read the report of the Mechanics' Lien Committee.

Report of the Mechanics' Lien Committee

Edward C. Wyckoff, Chairman,
Newark, N. J.

There has probably been more risk to title insurance and to mortgage companies arising out of the application of the Mechanics' Lien Laws of our several states than will arise out of any other single phase of the statute law. These laws not being based upon any underlying equitable principles but being purely statutory in their origin have had what would be considered interesting and laughable results were it not for the tragedies that so often follow.

We find these strict statutory laws often clash in such equitable principles as equitable estoppel and equitable assignment. Not infrequently we must submit to being gored by one or the other horns of this dilemma. The result is that we choose on the basis of the practical possibilities of a given situation.

While your committee has heretofore reported that it favors repeal, it has been appointed to draft a uniform law relating to "Mechanics' Liens," which the titlemen of each state could use as a base upon which to build, making only such changes as the condition of the constitution or needs of each state might require. It has found that the task was too great to be accomplished by a committee acting without funds and without unlimited time.

Our thought with relation to the advantage of uniformity throughout the country is not so new an idea after all. In 1791 Thomas Jefferson, James Madison and others of that day recommended that it would encourage master builders if a lien was created by law for their just claims on the house erected and the lot of land on which it stood; in 1803 Pennsylvania passed a lien law. Practically every state now has a lien law. Twenty-five years ago it was predicted that "There is a growth toward uniformity in the statutes of the different commonwealths and a consequent tendency toward uniformity in the decisions, and it will not be long until law relating to mechanics' liens will be as stable and uniform and as well settled as any other branch of English law."

He was a bit careless in that statement as the mechanics' lien law was not known to the common law. It is distinctly an American development.

Twenty-five years have passed since that prediction, but still we do not have uniformity of statutes or decisions.

Your committee was willing to do what it could in the circumstances, but has now decided that its work has really been accomplished for it in studies made by others.

Inasmuch as we were requested to draft a law of nation-wide availability, we thought that it would be a simple thing to read the decisions of the Un-

ited States Supreme Court and Federal Reporter System which would no doubt cover the litigation of the troublesome points of the law in each state. We thought that in this way we would permit the litigants to cut down our job for us. One hundred eighty-five cases resulted from examination of the digest index. Our hands went up over our heads.

A glance through the Federal decisions shows the variety of thought influencing both legislatures and courts.

It seems to be generally conceded that no lien for labor performed or materials furnished is given by the common law or in equity; and that such lien can only be acquired by virtue of a statute.

In states where constitutional provisions obtain the lien exists without statutory enactment; but the legislature may provide regulations for enforcement of the lien and may grant liens beyond those granted by the constitution.

In some states lien laws are to be strictly construed, while in others they are to be liberally construed; but in all cases the lien, being purely statutory, can be established only by a substantial compliance with the statute.

In most states it would seem that the law in force at the time a contract is made is a part of the contract.

There seems to be a wide variance in the state laws as to who is entitled to a lien and what property or interest therein is subject to the lien. In a number of states the laws with respect to public work and private work differ materially.

There is a wide play in the several states as to right of lien for work done on property that requires no building construction; and for fabrication of building parts under plans but not actually incorporated in the building.

There seems to be strong support for the proposition that where one takes real estate security for the price for erecting a building, it is inconsistent with the idea of a mechanics' lien, and no such lien attaches; and yet in some states a mortgage given to secure cost of materials is held to be a preference and, therefore, void as in fraud of other lien creditors.

There would seem to be plenty of variety of decision relating to lienable interests, when consent necessary by owner, when consent implied, etc.

The effect upon lien rights resulting from abandonment of a contract by either or both of the parties shows variance in judicial conclusions.

Rights of subcontractors and of stop noticemen are treated in numerous ways by the different states.

Many are the requirements for notices, recording of claims, and court proceedings to enforce liens.

Strictness of description is not generally required in defining premises affected by lien, provided property can be clearly found under description given.

Errors in statements of amounts due and defects in claim or statement are not uniformly treated.

"Visible Commencement," as a measure of time for commencement of lien is one of the uncertain elements of lien law.

Extent of Land affected by lien has many cases devoted to the question.

There seems to be a multitude of ideas when it comes to rules of procedure to enforce the liens and establish priorities as between parties.

Well, of course, any of you could find these as we did, but, having rooted them out we have decided that we will file with this report an "Index of Cases by States" covering only litigation reported in the Federal Courts in the West Publishing Company reporting system. When you want to know what the Federal Courts may have done with relation to the law of any particular state, consult the index. We have listed the cases alphabetically, with reference to their location in the Reporter System, and the indication of the point covered by the cases, in addition to listing them by states.

We have felt that the law of each state could be worked up better by the titlemen of the state in which the act was to be studied.

We hope, therefore, that we may have, in these schedules, furnished interested titlemen with some leads which will be helpful.

In 1925 a committee of the Department of Commerce was appointed by Secretary Hoover; and a committee of the National Conference of Commissioners on Uniform State Laws was appointed to cooperate with it.

The Hoover Committee is known as the "Standard State Mechanics' Lien Act Committee of the Department of Commerce" and it has been wrestling with the problem ever since. It had a secretarial force, quarters in the department and unlimited command of data through government channels. It has been submitting suggested forms for a uniform act to the National Conference of Commissioners on Uniform State Laws regularly since 1925.

The Fourth Report of this committee including a Third Tentative draft of a uniform act, will, I believe, be furnished to interested members upon request made to Mr. Dan H. Wheeler, Department of Commerce, Bureau of Standards, Washington, D. C. The appendix to this report is arranged to correspond with the order of the sections of the draft and describes the then provisions (1928) of the state laws on the points covered by the section of the draft under which they are collected. Those notes will be found to be of considerable aid to a student of the subject.

And it may be well to note at this point that the report of the Joint Legislative Committee investigating the lien law of the State of New York known as "Legislative Document (1930) No. 72" contains a digest of the laws of the various states upon certain specific provisions of law. For instance, under the statement "Liens attach at beginning of building" the law of twenty-five states is digested. I have no doubt that a letter addressed to the office of that committee located at 36 West 44th Street, New York City, will result in any one of you being furnished, at the expense of New York State, with this valuable document. The digests were prepared by William E. Hannan, Legislative Reference Librarian, New York State Library in November, 1929. It is well arranged and the table of contents on page 45 of the document will carry you immediately to the question in which you are interested. It also contains citations to the laws of the forty-eight states and the District of Columbia relative to Mechanics' Liens. See page 49.

Well, at last, a Uniform Mechanics' Lien Act adopted by the National Conference of Commissioners on Uniform State Laws was approved at Atlantic City this Fall. It is to be held in abeyance for one year and then promulgated in 1932 with efforts to secure its adoption by the Legislatures of the several states.

Your committee is advised that it is doubtful whether this act can be placed in print by the Department of Commerce in time to furnish the full text thereof to the delegates in attendance at this convention. We are, therefore, very much indebted to the New York Title Company which embarked upon a printing of this act for distribution to its various friends and has kindly consented to co-operate with your committee by furnishing a sufficient number of copies to give each delegate a copy. This copy will be based upon the act as published in the United States Daily. This proved to be a timely aid to us as we had determined that this act, the result of six years of study by business men and lawyers, criticised by eminent members of the legal fraternity embraced in the membership of the American Bar Association, should be recommended by us for use as a basic effort in each state, subject to suggestions which will follow later.

We cannot attempt, in the short time we have had, to constructively criticise this act. If we did we would only be reflecting the reaction of a single legal mind in each of three states. We rather feel that a study of this act, by counsel of the various states, will give you a much better basic set up than your committee could draft.

Your committee feels that the members of our profession are now given an opportunity to show a real spirit of cooperation with the Department of Commerce and the American Bar Association. Now is the time for each titleman to examine and constructively criticise the proposed act; and to pass on the reasons and authority for suggested changes before 1932. If this act is glaringly wrong you owe it to your clients to point out these errors before organized effort puts it forward for enactment in your state.

Do its definitions suit you? Perhaps one of the greatest points of difference will be the definition of "Visible com-

mencement of operation." Does the definition of the act give you sufficient certainty upon which to base a guaranty or advance mortgage moneys? Will the courts of your state interpret this clause differently than it has the rule now in force in your state?

It is well to keep in mind that the closer each state sticks to the recommended text, the greater the advantage to be derived out of the judicial decisions of one state in aid of interpretation in another state.

We must keep in mind that after all the only urge for a uniform act is the facility it will afford to those affected operating throughout the country for knowing with reasonable certainty what the remedies are no matter where applied. Similar judicial interpretation can only be had where legislation is similar.

A local consideration in any given state must include a study of the effect that certain words or phrases have been given by the courts of that state. This involves, of course, a study as to whether existing laws contain the words or phrases in connection with text similar to the provisions of the uniform act to be substituted for the sake of uniformity.

If the underlying principles of the proposed uniform law establish a different basis of control from the underlying principle of the current state legislation, then it may be that the local student will hesitate to substitute the new for the old. In this connection it may be well to remember that most local acts conferring the protection of a lien for materials and labor are a hodge podge resulting from the evolution by way of amendment and supplement since the first act conferring this protection. The original grant of relief has usually been very limited and extended here and there as various groups have sought to help themselves at the expense of others. Inconsistencies have grown up with this haphazard growth. It is altogether probable that if we are really to have nation-wide uniformity we shall have to throw overboard our junk and start fresh.

May we suggest, therefore, that if you really desire to aid nation-wide uniformity you consider the proposed act as though you were facing a new problem. Consider its fairness. Its clearness of expression. Does it protect the owner, the materialman, the laborer, the money lender, the security holders under the mortgage security? Does it enable each of these groups to get simple, clear and reasonable protection without injury to the other groups? Certainly a nation-wide law should do all of these things.

By placing all of these sources of information at your command your committee feels that it has performed all that it could for you in the way of service in the time we have had and considering the strenuous days through which we have been passing.

It has really been with a feeling of reluctance that we have considered the advisability of passing a uniform law in all the states. We feel that the economic structure of our country would in fact be strengthened if in every state in the union the uniformity of act expressed itself in terms of repeal of all existing grants of protection by way of lien and placed all dealers and laborers back upon the sound granting of credit.

We recommend, therefore, to this convention, that it act upon a resolution declaring it to be the sense of this meeting that repeal of all protection by way of lien for materialmen, contractors, etc., is favored.

Should your committee be overruled in this respect, as we suspect it may be; or should it be deemed advisable to study a uniform act pending the time when the sentiment will permit of a repeal; then we further recommend that it be resolved by this convention that it is the duty of every member of this association to study the act recommended by the Hoover Commission, and submit any constructive criticisms, and authorities therefor, to a Mechanics' Lien Committee to be appointed by your incoming President, to the end that it may study them and in one report submit to the Hoover Commission, all the criticism of our title fraternity as our contribution to cooperative effort with the bar and the department regarding this troublesome question.

Respectfully submitted,

MECHANICS LIEN COMMITTEE
AMERICAN TITLE ASSOCIATION.

Benjamin J. Henley,
148 Montgomery Street,
San Francisco, California.

George H. Bremmer,
Cuyahoga Abstract Title and
Trust Company,
Cleveland, Ohio.

Edward C. Wyckoff, Chairman,
755 Broad Street,
Newark, New Jersey.

PRESIDENT LINDOW: The next order of business is the report of the Advertising Committee.

Report of the Advertising Committee

Walter A. Tuttle, Chairman, New York City

. . . Mt. Tuttle presented his prepared report, following which he exhibited on the screen specimens of posters and other forms of advertising used by various title companies throughout the United States. . . .

Advertising is not magic but intelligently applied and supplemented by personal solicitation, it will play a vital part in building and holding business. We have striking evidence of this as a result of the questionnaire sent last March to the members of The American Title Association. This questionnaire covered many phases of the title business and furnished us with data that should be of value to every titleman. We covered in the questionnaire the population of the territory served by the reporting member; his gross income for 1926, 1928, and 1930; the sources of his business, his advertising appropriation and how it is apportioned. We also inquired as to the type of advertising appeal believed most effective and a number of other questions.

Almost three hundred filled-in questionnaires were received from the members of the Association and the information they furnished is available to you in the Analysis, a supply of which is at the Advertising Exhibit. There is no need to go further into the questionnaire except to point out that during 1930, a generally unsatisfactory business year, almost one-half, to be exact (46 per cent), of the members of the Association that returned questionnaires equalled or exceeded their gross income for 1926. More than three-quarters of these successful companies (78 per cent) did well-balanced advertising, forty-seven per cent of their advertising appropriations were spent in newspaper advertising. In almost every case these companies supplemented their newspaper advertising with direct mail advertising and personal solicitations to their customers and prospective customers.

The abstract members of the Association surprised me by their almost utter neglect of advertising or other new business activities. The questionnaire showed that many of them claim they have no competition and therefore see no reason to advertise. That seems sensible but it would appear that such an absolute monopoly ought to pay better dividends. The average gross income of the abstracter, according to our investigation, is $5,251 and his income has shown a steady decline since 1926. I cannot say that advertising is the tonic that the abstracter needs but I do believe that he is placing too low a price on the value of his services or is suffering from some form of competition that he does not recognize. But advertising should certainly be of value to the abstracter in combating the so-called "curbstone." In calling your attention to the advertising exhibit, I want to express our appreciation for the cooperation of:

Title Guaranty Company of Wisconsin.

Title Insurance Corporation of St. Louis.

Chicago Title and Trust Company.

The Title Insurance & Trust Co. of Los Angeles.

The Fidelity Union Title & Mortgage Guaranty Co. of Newark.

The New York Title & Mortgage Company.

In contributing to the expense of preparing the advertising exhibit each of these companies has performed, in my opinion, a real service to the Association.

I also want to thank the members of the Advertising Committee for the

support that they have given me during the year, especially Harvey Humphreys of Los Angeles who gave real help in setting up the exhibit as did Leo A. Moore of Claremore, who served on the local committee.

Part of the Advertising exhibit is the American Title Association Poster Service that was planned and put into effect by the Advertising Committee for the Title Insurance Section. We are now planning a poster service for the Abstracters' Section. If enough members will subscribe to make it possible, the Poster Service will be put into effect. To my mind, this poster service is a significant development in the Association's activities in that it represents cooperative buying and giving the members the benefit of the saving on wholesale orders. It should be worthwhile considering a similar plan for office forms, letterheads, abstract covers, calendars and other advertising data. Not only will substantial savings be made for the members but it will result in more standardized forms. The cooperative buying will also help make membership in the American Title Association a mark of prestige as the Association trademark would be produced on every form supplied.

A number of interesting incidents that indicate the value of advertising was disclosed by the advertising questionnaire returns. Take the case of the abstracter in a county of 50,000 that writes, "Being firm believers in advertising and after 20 years of trials and the study of the results from different methods, we now use two brands of direct advertising. One, a semi-weekly report showing all deeds, leases and assignment of leases filed, which we forward gratis to all customers and to the newspapers which reprint it giving us credit. Secondly, we publish occasionally a bulletin dealing with different subjects which affect real estate title and send it to lawyers, realtors, banks, mortgage brokers, oil men, large property owners, etc. These little efforts we have found are the best producing advertising in this country."

A large title company which found it necessary to cut advertising costs writes, "During 1930 we spent only 10 per cent of our advertising appropriation for newspapers, but went in heavily for free publicity, getting about six times the amount of free space as paid space."

One member, whose business in 1930 was more than double his 1926 figures writes, "We send a form letter, made as personal as possible, to each grantee in deeds when we do not have the abstract for renewal. We have, for nearly a year, prepared short articles on various real estate subjects. Four or five newspapers run them, gratis, and apparently pleased to do so. There is no telling just what business they bring in but we feel they are very worthwhile."

Another company, furnishing both abstracts and title insurance, located in a county of 250,000 has had his income increased from $35,000 in 1926 to $170,000 in 1930. One feature of his new business campaign has been motion picture advertising which he considers extremely valuable in introducing ideas relative to title insurance.

Direct mail advertising, according to another member whose business has shown steady growth, has been most helpful. He says, "We use a multigraph for all our direct mail work such as letters, blotters, memo pads and so on. We print legal forms with our advertising on it and give them to lawyers and bankers. We write all real estate owners in the county telling them when taxes are due and that we will, for a fee, look after them. When a sale is pending, we tell them about our escrow service, all of which brings us business while our competitor wonders why we keep such a large force (for a small town) while he hardly makes a living. We also take an active part in the Chamber of Commerce and the Rotary."

Jim Sheridan of the Union Title and Guaranty Company of Detroit, can always be counted on for sound advise on advertising or new business policies. He says, "I have a feeling that the advertising of an abstract or title company for perhaps the next two, or even the next three or four years, might be well directed by keeping in mind constantly the mortgage banker, first of all, and secondly the real estate broker. This, in my opinion, can best be done by personal contact. One way to serve the mortgage banker is by working with him on legislative matters; the encouragement of the entrance into the territory of large insurance companies and cooperation to help the turnover of real estate and real estate securities. I feel that the personnel of the abstract or title company should be well represented in every local real estate board, in the mortgage bankers groups, chamber of commerce, luncheon clubs and even in a country club and golf club for the purpose of contact more than for the purpose of entertainment."

PRESIDENT LINDOW: We will now enter into the discussion of the subject, "Interlocking Problems of the Underwriter and Abstracter in Agency Title Insurance Operations." This discussion will be led by one of our most able speakers, H. Laurie Smith of Richmond, President of the Lawyers Title Insurance Company. Mr. Smith.

Discussion

"Interlocking Problems of the Underwriter and Abstracter in Agency Title Insurance Operations"

Led by H. Laurie Smith, Richmond, Va.

In developing this discussion, the idea was that it should be presented from both sides, with a view to bringing out more forcefully the merits and demerits of agency operation and with the belief that out of that discussion would come ideas that would be helpful. As to my leading the discussion, I am at a loss to know my function as a leader. I assume it would be in order for me to outline certain fundamental propositions and then let those who follow in the discussion bring out the application of those principles.

This may turn out to be like the radio which the salesman put in the farmer's home on trial. Due to some faulty mechanical adjustment, there was a very poor connection and the result was, poor reception and a great deal of static. After a few days the salesman went back to complete the sale but the farmer told him to take the radio out. The salesman wanted to know what was the trouble and the farmer said, "Well, we don't git nuthin' but a heap o' squawkin' out o' the box and them 'lectric bulbs ain't worth a damn to read by!" (Laughter.)

This matter of the Interlocking Problems of the Title Company and the Abstracter in Agency Operations somewhat presupposes that that is the desirable method of developing title insurance. I doubt that there is complete accord on that question, but it is a fact and not a theory. Title insurance is being developed that way and it is necessary to discuss the problems which have arisen.

We speak of it in the plural—problems. After all, there is only one fundamental problem—make title insurance profitable to the abstracter and the other problems will solve themselves.

What should be the difficulty about that? Other forms of insurance are marketed and the marketing of the insurance is made profitable to the agent.

There are certain fundamental differences between title insurance and any other form of insurance. Of course, there is the one very vital fundamental difference that title insurance is indemnity against future loss arising out of the past happenings, but there are certain other differences.

Title insurance is based on the abstract and examination of the abstract, which brings in two other interests or groups; life insurance, fire insurance, casualty insurance do not have that problem.

There is another very vital difference from the agency standpoint—title insurance has no annual or recurring premium. The average insurance agency doesn't make a great deal from the original solicitation of business as compared with the value of the renewal premiums. That is a very vital factor. Weighed against that, however, is the fact that the potential sources of title business in any community are relatively few.

That may sound queer when one

thinks of owner's insurance and the thousands upon thousands of people residing in the cities, but so far as I know, owner's business is controlled by a middle man rather than the ultimate consumer, and if the agency is to obtain that business, it must be obtained through the middle man, whether that middle man be the real estate agent who may control it, or in some localities, the attorney. Mortgage insurance is very largely controlled by the loan correspondent or mortgage broker. Sometimes, of course, the business is obtained direct from the lending institution.

There again you have a very vital fundamental difference which has its bearing on agency operation. There is what might be termed a sub-heading of that arising out of the fact that usually the sale of owner's insurance is contemporaneous with the closing of the transaction. In other words, if I buy an automobile and do not take liability insurance at the time of purchase, during the life of that car, I continue to be a prospect for any insurance agent who wants to sell me liability insurance, fire and theft, or any other form of coverage for that automobile.

If, on the other hand, I buy a house and pay for it without getting title insurance and my money is gone before an agent approaches me to sell me insurance, the agent has a hard time selling me because if, after I have paid my money, there is something wrong with my title, I don't want to know it and I am not going to pay money for insurance because it is too late. If there is anything defective in the title, the title insurance company would refuse to issue a policy and I would be out just that much.

There are certain problems that arise out of these differences. The fact that title insurance is predicated on the abstract of title and the examination of the abstract by an attorney makes it very difficult sometimes for the abstracter agency to avoid conflicts which are prejudicial to his business. Of course, a simple illustration is that if in a communty, the custom is for the public to deal with the attorney rather than the abstracter and the attorney orders the abstracts from the abstracter, that abstracter has to be extremely careful about getting into conflict with the attorney.

There are problems for the company. There is the problem, for instance, of overcoming the resentment of abstracters and attorneys toward this innovation. It is strange there should be opposition on the part of abstracters because nothing is being taken away from them. The abstracter is simply being offered an opportunity to build an additional source of revenue. Why he should oppose such an innovation, I do not know.

Another problem for the company is to overcome the fear of the abstracter that out of this innovation may come a loss of identity and possibly ultimate absorption of his company by some foreign insurance company. That is a contingency which may arise. I don't know how other title insurance companies view it, but if they have the same difficulty that I have to find the material for competent management, they certainly will never seek to take on additional problems. In other words, I think that the fear of an abstracter that any foreign title insurance company would want to absorb his company and take over the management of it is utterly without foundation.

Another problem arises out of the difficulty of selling a product to the public which is not uniformly priced. That is a condition for which the title insurance companes are very much to blame, as I shall attempt to point out later. In fact, most of the problems are problems for which my company and other title insurance companies are responsible. The fault is ours and not that of the abstract companies.

That has not been due to any intentional omissions on our part; it has been due to the fact that the development of what is popularly known as national title insurance or regional title insurance is in the evolutionary stage. We are in a period of transition. If any title insurance company knows enough about it to speak with aboslute finality on any phase of it, I am not acquainted with that company. I wish that I could do so.

I do not know about other companies and I apologize for referring to my own company, but in a discussion of this kind, not only I, but the speakers who are to follow me, have nothing except our own personal experiences. Therefore, without a spirit of egotism, we must necessarily refer to those experiences.

My own company—and I believe, the other companies—have in a measure been doing laboratory experimental work on the various problems, and during this period we have failed to provide for many situations which have arisen.

From the title insurance company's standpoint, the first problem, of course, is to provide for sound underwriting, since that underwriting is not actually done at the home office. Their next problem is to make it profitable, to develop a volume of business that will remunerate for the time and trouble and expense of making such a set-up.

The third problem is to make a set-up so that the cost of administration will not absorb the profit. We have made a great many set-ups that have been very successful and we have made a great many that were complete failures. I suspect other companies have had the same experience.

The failure of the title companies to anticipate some of these problems which have arisen necessitates certain, what might be termed, historical reference. I think it is known to most of us that when the national rate, as it is now referred to, was first established, it did not contemplate acquisition cost. It seems strange that with the expectation of doing an insurance business, the premium should not have contemplated acquisition costs.

The conditions, of course, were unusual. At that time title insurance was known only in a few cities. The extension of title insurance to the small cities and towns all over the country was not even contemplated, and it doubtless seemed at that time that the business which could be obtained would be largely mortgage business obtained by solicitation of the life insurance companies and handled purely as a mail order business, which did not include any provision for acquisition cost by agences. That is how one of the sins of omission on the part of the title companies arose.

In other words, it grew to a point where title insurance was developed by agencies and yet there was no method of providing acquisitions costs except through the form of a "loading" charge. That is open to the perfectly obvious objection that if all companies operating in a given town or city provide the same loading charge and have the same set-up, it is all right, but if "B" company has an agency operating and has a loading charge and "C" company does not operate through an agency but issues policies from its home office, with a certificate of attorney, at the national rate, then the arrangement is not so satisfactory; there is competition on unequal rates. That is a problem which, it seems to me, is in process of being solved.

Some of the problems are the fault of the abstracters. They are largely due either to the temperament of the abstracter or to a lack of complete information, and it seems to me that the greatest sin of omission on the part of the title insurance companies has been their failure adequately to inform their agency connections in order that they might properly qualify to develop business.

Sometimes one encounters situations that are problems in one sense, and I confess I don't know what one can do about them. I have gone into abstract officers to check up on the results being obtained and sometimes, with very amusing results.

I went into the office of one abstract company, hoping that possibly a connection might be made. The manager said, "I already have a connection."

I said, "Is that so? I didn't know that. With what company?"

He said, "Really, I don't know. I have the papers around here somewhere," and he proceeded to dig around, first looking in his little iron safe, and finally under the counter he found his contract, his instructions and various material. All of those things had been sent him by the insurance company but he didn't even remember the name of his company. He had never opened the material that had been sent him; yet he complained that title insurance was a complete failure. So far as he was concerned, I think it was.

I had another amusing experience that struck me as rather amusing. I went into an abstract office, and in talking to the manager, I expressed some surprise that he had not written more insurance than he had. He said, "I don't try to write it; all I wanted with the connection was so if anybody insisted on title insurance I could give it to them."

Another abstracter, when I discussed the situation with him, said, "I have sold very little title insurance. People hardly ever ask for it." I was dumbfounded. Yet you would be surprised at the number of abstract companies having insurance connections that expect the public to ask for title insurance—the public that doesn't know the difference between a title insurance policy and an abstract!

How many of you ever went to an agent and asked for a life insurance policy? Probably everybody in the room has a life insurance policy, but he didn't get it by hunting up an agency and telling some agent you wanted a policy. I doubt if you have any other form of insurance coverage that was obtained by seeking an agent and telling him you wanted it.

Insurance isn't marketed that way, and any abstracter or abstract company that thinks he or it is going to have the good fortune to have the public come in and ask for title insurance makes a mistake. His agency connection is not going to be profitable to him.

It was contemplated this discussion would be developed by three men from the point of view of the abstracter and by three men from the underwriter's viewpoint. The first gentleman who was to have presented the discussion from the abstracter's standpoint, is Mr. Fred T. Wilkin of the Security Abstract Company of Independence, Kansas. Mr. Wilkin was here this morning but he was called away. However, he left a paper presenting his view of the matter. I think his presentation of the abstracter's viewpoint is very interesting and I would like to have some one read the paper, which is brief.

"From the Abstracter's View"

Fred T. Wilkin, Independence, Kan.

. . . Mr. Wilkin's paper was read by Mr. Becker of St. Louis . . .

It is admitted that the only way to solve a problem is to acknowledge and face facts.

I first want it understood that my few remarks will of necessity be confined to the limits of my personal experiences and observations which only extend and, as far as I know only apply to the small country abstracters of Kansas, Oklahoma and Missouri. I do not know how this will apply to Washington and Oregon, Texas and Arizona and other sections—though from my talks with abstracters from these other sections I would assume that at least the main problem is similar.

The problem and really the only problem in this subject is How can the abstracter write the business at a profit to himself and to the underwriting company.

One fact is there must be a profit to both the underwriter and to the abstracter for all contracts to be successful, and particularly those containing working agreements, must be mutually profitable to both parties.

The only way that I can approach and discuss this subject, perhaps, is to first give you a brief personal history of my own experiences.

I had been reading and asking questions about title insurance for perhaps five years before I made a title insurance connection and wrote our first policy. We wrote this first policy about ten years ago. The first company we represented was the Kansas Savings and Trust Company which was a local trust company in my home town, and for which company we did all of their title insurance business. My company did everything from preparing copy for the printer for applications and other forms to the soliciting and the writing of the policy itself. The stock of the trust company was owned by a local national bank and when the banking act was amended to allow national banks to do a trust business the national bank owning the trust company established a trust department and proceeded to wind up the affairs of the trust company. This cancelled our first agency contract. As we had been writing a fair volume of title policies —for a small county abstracter—several companies made overtures to us to represent them in our county. The Guaranty Title and Trust Company of Wichita having assumed the outstanding title policy liability of the local trust company, then being liquidated, we contracted and until a year ago last August represented and wrote their policies in our county. A year ago last August the Guaranty Title and Trust had trouble with the banking department under whose supervision they were operating and had to close their doors. This cancelled our second contract. Since that date my company has been a free lance on title insurance, placing our policies in different companies on a commission basis but without an agency contract.

This experience has taught us several things—the principal one being that as far as free policies are concerned the customer is not interested in the name of the insuring company or whether or not it has ten dollars or ten million dollars capital. The customer buys fee title policies because we recommend them to him. He did not consider that he was buying Kansas Savings and Trust or Guarantee Title and Trust title policies—he was buying Security Abstract or Fred Wilkin title policies, and he expected or knew that when and if anything happened that the Security Abstract or Fred Wilkin was to make him whole. This is, of course, not true of the mortgage policies and as far as the mortgage title policy business is concerned the abstracter can not, under the present agency system in our territory, write it except at a loss to himself, which possibly is one of the stumbling blocks between the underwriter and the abstracter agent.

We have never had personally much trouble to sell title policies, except mortgage policies, but you want to remember that we have never really operated under an agency contract. We wrote both of the contracts we had with the underwriters, we prepared our own copy and did our own advertising and we were not hampered or kept busy in trying to eliminate the mistakes incidental to long distance management. While I realize that this sounds egotistical, still, I think it belongs—in all the policies we have written and brokered during these ten years we have never even had a claim filed let alone any losses to pay, tho likely this can be largely attributed to the fact that to commence with the insuring company left everything up to us and we started off feeling the responsibility.

There are perhaps several reasons why more business is not being written by the abstracter agent. One of the principal reasons I would say is that the abstracter thinks that he does not have the full confidence of the insuring company. The agency contract in use in our section of the country first reserves to the insuring company the mortgage business, or they let him write it but they themselves compete with him at his net rate, and they have seen to it that the mortgage companies are constantly informed of that net rate. The contract continues and sets out step by step just what the abstracter is to do and that he is responsible for not doing it—all the way from publicly displaying the underwriter's sign to the forwarding of the net premium.

I do not doubt but that these contracts are needed in some cases—the insuring company has tried to cover every point and this likely is as it should be. There is no leeway from this contract, if you want an agency you sign the contract as printed. You are told that the representative's job depends on signing up so many agencies and that if you do not sign, and that promptly, that the contract goes to your competitor.

The abstracter agents of the state are then called together and another high pressure talk is given them collectively on how to sell title insurance, and at which meeting they adopt a uniform schedule of charges for title policies in which all profit for title work to be done by the abstracter is eliminated so that more title policies might be sold.

This may be the proper method in which to secure agencies but it would seem to me that under this method the insuring company was not consistent.

The printed contract the abstracter signed was prepared for the abstracter who knew nothing whatever, apparently, about the title policy business, while the one day schooling that was supposed to educate and elevate him to the rank of a master salesman could only be absorbed by one who already had a good working knowledge of this business.

I am still unable to understand why the insuring company themselves will spend weeks trying to sell title policies to a life insurance company loaning money on real estate and to mortgage companies at a rate in which the insuring company says it can not make a profit and then expect by a one day's meeting to so educate a group of abstracters, collectively, that the abstracter can go out and sell the really tough ones right and left.

It is my opinion that if the insuring companies, at least those operating in my section, will take a portion of the money they now use to announce their financial strength and that used in their scare or fright appeal advertising and use it in teaching their abstracter agents more about title insurance and thus better enable him to increase his sales of their product to his customers, that a considerable step will have been taken towards solving your problem.

MR. SMITH: The next presentation will be by Mr. Rattikin, also from the abstracter's view. Mr. Rattikin is President of the Home Abstract Company of Fort Worth.

"From the Abstracter's View"

Jack Rattikin, Fort Worth, Texas

Mr. Chairman, Ladies and Gentlemen: What I shall say from the viewpoint of an abstracter is entirely my own personal view, a view gained from my short experience of the last four years in the title business in Fort Worth, where there are four title companies. Two of them are incorporated as abstract companies—one of which is my own company—and two are incorporated as title insurance companies. One of them, only recently incorporated, is a fairly large title insurance company and the other is Maco Stewart's company, which bought out a local abstract company only a short time before.

When I entered the title business, I was very well acquainted with the abstract business, but not very well acquainted with the title insurance business. The first thing I encountered was the handling of some title insurance. Until recently practically all of the business in Fort Worth was abstract business. In fact, my own business is still from ninety to ninety-five per cent abstract business. The fact that two of the companies are now known as title insurance companies and two are known as abstract companies has divided this business so that practically all of the abstract business goes to my company and the other abstract company, and practically all of the title insurance business goes to the other two companies.

In my opinion the fact that two of the companies were known as title insurance companies came about through their writing business as local companies, while the two abstract companies write title insurance as agencies. We do not have the personal interest in developing the title insurance business that the two other companies have.

I will say that I have tried to develop a title insurance business to some extent and I have made a thorough study of it since the time I have engaged in this business, but from my observation and experience, the main trouble with an abstract company in a town of more than ten thousand people is that it does not have that local background for developing title insurance business.

I have suggested to one title insurance company that seeks agencies in our state that if they would develop an underwriting business, we would do a great deal more title insurance business and would do a great deal more business for ourselves. Looking at this business from my own standpoint, I know that I want to develop this business as my own business. In our town it costs a great deal of money to build an abstract plant and I have a great deal of money invested in our plant. Therefore, in developing a title insurance business, I want to develop it as my own and not that of the company I am representing. It is different from the ordinary insurance business in which the agent has nothing invested.

It has been my observation from interviews with other abstract people over the state of Texas that if the larger companies who desire to develop a title insurance business would help them incorporate or would assist them in any way they could to incorporate as a title insurance company with a minimum capital, they would be glad to use the large company as an underwriting company; they would get the benefit of the large title insurance company's capital and would be glad to make the same division of fees that they have been making, at the same time developing that business as their own business.

This matter has to be considered from the standpoint of the public, too. I happen to represent a Dallas firm; I am writing title insurance for that company. Fort Worth people do not like Dallas; being so close together, there is naturally very strong rivalry between the cities. That has had some effect, but even if I represented another company out of the state, I would have the same difficulty I have in representing the Dallas company. The people I write title insurance for are looking to my company.

A number of people whom I have solicited for title insurance have told me if the Home Abstract Company were behind it, they would take it. That happens more often in the case of home policies than it does with mortgage policies, but in developing an owner's title insurance business, the people want to look to my company and expect my company to stand behind it and see that their losses are taken care of if they have any.

That has convinced me what I ought to do is to incorporate as a title insurance company under the laws of the state of Texas with a minimum capital and then use the larger company as an underwriter. I would be glad to make the connection with a larger title insurance company that is doing a state or national business and have their underwriting certificate attached to every policy I issue. That would give the investor the benefit of that larger capital and at the same time would make it more or less the business of the company locally.

I think that is one important viewpoint that we ought to take. A number of abstracters to whom I have had occasion to talk in other towns in Texas that now have agencies of a title insurance company have expressed themselves as being in favor of incorporating as a title insurance company with a minimum capital if they could use the larger company as an underwriting company and that they could develop a title insurance business in that locality if they were so organized. They also stated they were not much inclined to develop a business which would eventually develop into entirely a title insurance business and have that business done exclusively through the name of the larger company.

I think that is something the insurance companies that expect to do a state or national insurance business will have to take into consideration. They cannot expect somebody else who pays the cost of the entire operation and who is expected by the local people to stand behind their losses to develop that business unless they are developing it for the benefit of their own company.

Here is another point—when the title insurance companies contract with an abstracter to do a title insurance business, those contracts are written in favor of the title insurance companies. Nearly every contract provides it can be forfeited on thirty days' notice. I might undertake to develop a good title insurance business for this particular company and do considerable advertising, and then suddenly have my contract forfeited. That is another aspect that does not appeal to the abstracter.

Of course, some abstracters are contracting that business because, as has been said here this afternoon, they want to be able to take care of orders that are forced on them. All abstracters have an ambition, I think, some day to do an exclusive title insurance business and they would like to have it on

the basis that I have suggested, developed as their own business with the title insurance company with a larger capital standing behind them. When that can be worked out, I believe it will be more profitable to the title insurance company, that is, an arrangement as an underwriter rather than the present arrangement of an agency. (Applause)

MR. SMITH: Mr. Adams, who was also to take part in this discussion, is not here. We will, therefore, ask Mr. Charlton Hall of the Washington Title Insurance Company, Seattle, Washington, to present the subject from the standpoint of the underwriter.

"From the Underwriter's View"

Charlton L. Hall, Seattle, Washington

Mr. Chairman, Ladies and Gentlemen: My remarks will have to be confined to the limits of my experience, which is within the state of Washington and to the experiences of our company, which was organized twenty years ago. At that time all of the title business in the state was on the abstract basis. We organized the Washington Title Insurance Company and started an advertising campaign to change the system from the abstract basis to the title insurance basis.

We were fairly successful in Seattle and as our advertising was read in other communities, there came to be a demand for title insurance in these other communities, and although we had not at first contemplated going into other counties, we finally determined to do so.

We have tried two or three plans with that. First we appointed order-taking agents in other county seats. We confined the appointment to abstracters who owned tract indexes. The abstracters took the agency because they occasionally had a demand for a policy and not with the idea of trying to sell title insurance.

The system as it was at that time was that they should prepare an abstract first and submit the abstract to our office. Our attorneys would examine it; we would write the policy and send it to their office; they would collect the bill and send us our portion of the premium. It took too long to do business that way and we received very little business from it. Most of the applications received were on titles that were faulty, and if some local attorney would reject the title, the abstracter would say, "You can get title insurance on that" and they would send it to us. Our attorneys would examine it and find the same defects and perhaps some others and have to reject the title, of course.

We changed our plan and decided if we were going to have state-wide title insurance in the state of Washington, we would have to have our examiners in the offices of the various agents. We prepared a form of contract which provided these agents should employ one of our attorney examiners and pay his salary, and keep all of the title insurance premiums except the commission due us. We found there were very few of the abstracters who were willing to add that extra expense. Most of them had all the employees they needed and said they would not have enough title insurance orders to justify the salary of a title examiner.

Our advertising campaign was continued and there was more or less increase in the demand for title insurance policies in other counties, and we finally determined that the only way to put title insurance over in the adjoining counties in our state was to buy the plants, which we did. We started out on the basis of buying only a majority of the stock.

We operate under the insurance commissioner of our state and he made a ruling which did not permit us to buy a minority holding, so we had to buy a majority interest in these plants and we took charge of them and sent one of our title examiners from Seattle to each one of them and made him manager of that local plant. That plan is working very well.

All of our bulletins that go out from our legal department go to these outside offices, of course, and they are assisted in every way possible.

A great deal of the business in these outside counties originates in Seattle. We take the orders in Seattle and send them to our affiliate office.

We have continued making abstracts. We give people what they want. After twenty years, over ninety per cent of the business in King County, in which Seattle is located, is on the title insurance basis, and in several of the other counties over fifty per cent of the business is on the title insurance basis. In some of the counties we have just lately entered, probably only fifteen or twenty per cent of the business is on the title insurance basis.

Owing to the fact that the abstracter couldn't see beyond his nose, and if he saw a $25 abstract charge coming in, he wouldn't try to sell a $15 title insurance policy, we could not do business with some of them. We could not make a contract satisfactory to them and to us. Most of them, as has been mentioned twice before, took the contract simply in order to be in position to furnish a policy if it were demanded and did not expect to sell title insurance. That was why we had to change our policy.

We now operate in fifteen counties in Washington. We own fourteen companies, twelve of them wholly and in two we have a majority interest. We have four order-taking agencies and those four agencies aren't worth a tinker's dam. The companies we actually operate are operating at a profit, or have been until this year, and even this year, taking them as a whole, they are operating in the black. (Applause.)

MR. SMITH: We will next hear from Mr. Dana Milligan of Oklahoma City, Field Supervisor for the New York Title and Mortgage Company.

"From the Underwriters' View"

Dana Milligan, Oklahoma City, Okla.

With a great deal of what has been said on this subject I agree; with a great deal of it I cannot agree. Like all other speakers, I have to speak from my own personal experience. That experience, for the past two and one-half or three years, has been confined to Kansas and Oklahoma in the operation of an agency system.

I want to mention one point in Mr. Wilkin's argument before I go into my own views on the subject, and that is the matter of capital. I don't see how it can be otherwise than extremely important. I find large capital, liquid capital, one of my very best sales arguments. I don't use it to any great extent until I have a prospect at least somewhat interested, but I believe I can sell ten title insurance policies of a large, sound company to every one of a small or an unsound company. I believe the matter of capitalization is a very important one. It may not have proven so to Mr. Wilkin in his own community. Mr. Wilkin occupies an unusual position in his own home county.

He has been there for a great many years and has enjoyed the respect of the people in his county and has considerable prestige. I have no doubt there are a great many people in his county who would take a title insurance policy as Fred Wilkin's opinion on that title just as they would accept a policy as the opinion of their own counsel, and that is what they want. They haven't been sold the protective features of the policy at all. It wasn't necessary to sell them. What they wanted was Fred Wilkin's assurance that the title was all right and when they had that, they were satisfied.

But that condition does not exist in the majority of counties I visit. The abstracter in nearly every county is, of course, a man or woman of considerable prestige. Some of our best abstracters are women. Whether or not the public is willing to take a policy which merely represents the opinion of that abstracter depends on how much confidence the public has in that particular abstracter.

One of the previous speakers mentioned the matter of "home talent," saying he cannot sell the title insurance policy of a foreign company as well as a local company's policy. I can see there is probably a little something to that argument in the development of a fee business. I don't see that it has a great deal to do with the development of a mortgagee business.

It has been my experience in these two states that the great bulk of the money that is loaned on real estate security is foreign money. It comes principally from New York. It comes from large life insurance companies.

Those life insurance companies have been sold title insurance in their own offices. They have been sold title insurance by the large foreign title insurance companies that stand the expense of advertising and developing it. In the smaller companies they often put a limit on the amount they will take in any one risk. In some companies they do not put any limit.

The big demand for mortgagee title insurance comes from outside the state, in most cases. It certainly does in these two states. There is very, very little mortgagee business written either in Oklahoma or Kansas for any other than foreign life insurance companies.

So I can't see what difference it makes whether you are representing a foreign or a local company, whether you are writing your own policy with the underwriter's label on it to preserve your identity, or whether you are representing the foreign company direct, or in fact, whether you are writing the policy at all or not. If there is time to send the applications and opinions to the home office and let the home office write the policy and deliver it to the investor, I can't see that it makes any difference where or by whom the policy is written, just so the customer gets the protection.

In the letter I received announcing I had been placed on the program for this discussion, it was indicated that the agency system of marketing title insurance was failing. I can't agree with that, either. The agency system, as I see it, is not a failure. I think the system works well provided only that the agent really works it and the company works with him. This agency system, as I have observed it from working in it, certainly is not locomotive—it will not run itself.

That is, I think, the greatest difficulty I have in developing business. I can't go into any abstracter's county where I am a perfect stranger to the people and they are not known to me, and sell them title insurance. I might make one sale in a thousand calls but that is about all I could hope to do. But if an agent has sold himself to his local abstracter, if the people of the community have come to believe in him as a title man and have confidence in him and his ability and judgment in title matters, if he will go with that agent—or, having informed himself on the subject, without the agent—will make an effort, he can sell the title insurance policies of a sound company writing a contract broad enough to give the public the protection they are entitled to under the contract for which they pay.

It seems to me it is a matter of sale from start to finish. I have some agents in strictly rural counties in my territory who do sell title insurance. They sell it to farmers because they realize it is just as much a necessity to the farmers as it is to the promoters of the Empire State building. If a farmer has $10,000 and invests it all in one farm, he needs the protection just as much as Al Smith and his group did when they put up the Empire State building.

I have some other agents in rural counties who don't sell it, who don't try to sell it. As one of the previous speakers remarked, the agent signed a contract and put it in a pigeon hole and forgot it. I have had that same experience Mr. Smith related.

When I first came into the territory, I called on an agent and he said, "Yes, I have heard of your company. It seems to me one of your men was here a few months ago."

I said, "I thought you signed an agency contract with that man who came here and that you were established and set up as an agent; that you were probably selling some title insurance."

The man said, "I don't know; that man came out to see me at home about eight o'clock one night and it really was not very convenient to see him out there. We talked about fifteen minutes and I didn't see that it would cost me anything, and if I didn't take it, my competitor would. I guess I did sign up."

That man had had no study or knowledge of title insurance. No one had aroused his interest in it. Who could expect him, then, to make any effort to sell it even though he had it for sale?

I find various excuses and reasons given by agents here and agents there as to why they don't do more business. Some of them have a satisfactory volume of business and others have an unsatisfactory amount of business. When all of these reasons are boiled down, I find it comes right back to the matter of selling. It is just a question of selling, after all. If that agent is in a position to sell if he chose to, then it is only a matter of his getting out and doing it. Whenever he gets out and does it, he meets with some success, and the more he gets out, the more success he meets with.

The selling of title insurance is just like the selling of any other commodity, whether it is snuff or diamonds or bonds; if you don't know anything about it, you can't hope to sell it.

Coming back to Mr. Wilkin's paper again—he criticized the national companies for not properly instructing their agents. I think no company—I know my own company does not—expects that in one day of meeting it is going to be able to instruct a group of forty-five or fifty new agents, most of whom have had no experience, no training, no study whatever on the subject so that they can handle all of the details of the procedure of selling.

It would be impossible to give them one-tenth of the sales argument alone in that time. The only purpose of such a meeting is to arouse in the agent himself some interest and enthusiasm. If you can arouse enough interest to put him in an inquiring frame of mind, he will go home and read your literature, and he will write and ask questions about matters that are presented to him.

He gets a smattering of knowledge with his interest and then goes out and makes an effort to apply that knowledge. The first time he goes out he will be asked a lot of questions he can't answer. If he becomes discouraged, he will go back to his office and forget about it until you come back and see him again to find out why he is not selling. Then it is up to you to sell him again and go through the same process all over again.

I have gone through that with one agent eight different times. I go with him to a few prospects and he gets very much enthused, but the next day when he calls on a prospect and tries to do the talking by himself and is asked a question or two that he can't answer, it embarrasses him. Instead of finding out the answers to those questions, he may just sit down and forget all about it, and of course, he will never get anywhere with title insurance, and you have to go back to such a man again and again. It may take you ten years to sell one man. When you do get him sold, he is sold forever and he will stick. The big trouble is that these men get discouraged.

There is a great deal of difference in local conditions, of course. A man in a rural community has a different problem than the man in the city. Mr. Kirkpatrick's problem of marketing insurance is entirely different from that, for instance, of Mrs. Jeffery in Columbus, Kansas. One is a rural community; the other a city community. Each knows the problems of his or her particular community and each is the best means of meeting those problems. If they need help, they should be able to call on the title insurance companies for it.

I think there is no trouble about their getting help. The greatest complaint I have to offer is that they won't call on me for help even when they know they can use help and want it.

We don't expect counties and places that have used the abstract and attorney's opinion all these years to adopt title insurance as evidence of title without selling it. The abstracter has to be interested in it first and then shown how to apply that interest. There must be aroused in him the realization of the need for further study and the application of what he has learned, and then further study and further application, and so it goes on and on forever. It has been that way with me ever since I have been in the business, and that is some little time. Never a week passes that I don't learn something new. Almost every time I go into an abstracter's office, one who doesn't know anything about the business, he asks me questions about title insurance I can't answer. I am

not going to quit just because I can't answer them. I am going to find some one who can answer them, and if I can't find anybody who knows the answer, I will get two or three people together and work out the answer.

There is a great deal ahead of us in the future. I think we should go about the sale of title insurance as we go about the sale of any other commodity, first trying to have the agent know what he is selling and then applying the other principles of salesmanship, preparing his field by letter and by advertising, and so on, and following that with personal solicitation and not letting one refusal discourage him, but keeping at it until eventually he makes a great success of it.

I was born and raised in the city in which Sherman Beck has his office. I started my business life in that same city. I can remember how he and his brother made efforts to convert the users of abstracts to title insurance. Go to Hamilton County and make a few inquiries among the mortgage companies and banks and the larger owners of real estate, the potential prospects for evidence of title, and talk to them about a proposal to open a new title plant in Hamilton County to compete with Mr. Beck's institution and hear what they will tell you. You won't get to first base. At least 299 out of every 300 property owners hold his policy of title insurance. He has no competitors and he will never have a competitor. He owns Hamilton County, Tennessee, so far as the title business is concerned.

If I go into that county and set up in the title insurance business, I have to examine a title for a man from the beginning to date and charge him full rate for full indemnity, but he can go to Mr. Beck and get a considerably reduced rate because Mr. Beck has examined that title up to the day before yesterday and already has a large part of the liability. It would involve only a short time and a small increase in liability for him to examine that same title, and he can do it at a considerably lower rate.

Mr. Beck is just now arriving at the point that should be the goal of every abstracter who has not yet begun to fix his eye on that goal, the ultimate elimination of undesirable competition and the absolute control of the title business of the community.

Those are the things that can certainly be accomplished by title insurance and they can't be accomplished, so far as I havve ever been able to find, by anything else that has ever been offered as evidence of title.

I don't think the agency system is a failure, by any means. I can take you to good sized cities where the local agent has tried it and made a success. He has worked and tried and used the tools provided. I can take you into other communities where the conditions seem considerably more ripe but where an abstracter will put his contract on the shelf. He doesn't take the time or the interest to develop the business and hence it is a failure. It wasn't the system that failed; it was either the failure of the principal company in the first place to properly sell that agent on the idea, or it was the failure of the agent himself to take the arguments and the information and the tools the company furnished him and use them.

I have tried this system in Florida; I have tried it in Virginia; I have tried it in Tennessee, in Kansas and in Oklahoma, and a good many other places. I have never yet seen it fail when it was properly used. Show me an agent who does not have success with title insurance and I will show you one who has not tried; show me an agent who has made a success of it and I will show you one who had tried.

I could go on and talk for a longer time, but I think I have emphasized the points that I feel most emphatic about. One thing I particularly want to bring out for the benefit of the rural abstracter is to sell himself first; sell his own institution, his own office.

I can take you down to Hollis, Oklahoma, where Mr. Edwards is, a strictly rural county with a population of 3,000. There is no other town of any size in the county; they are merely cross-roads towns. Go into Mr. Edwards' office and look for dust; it isn't there. The woodwork is polished; his desk is clean; the floor is clean and the cuspidor is not full of cigarette butts of twenty years ago. The windows are clean and the pictures and calendar look as though they had regular attention.

When you walk into his office and ask for some title service, you get not only exactly what you ask for but a little more every time. When you leave you feel no displeasure in paying the bill. That is the way people in his county feel toward him. He believes in title insurance and when he tells the people in his county that title insurance is a good thing and the best evidence of title, they are interested just because he says so. He is the title authority of his county.

I can take you into some other counties and into abstract offices where the desks are piled up, the waste baskets and cuspidors haven't been emptied for months, the walls and floors are dirty, and the appearance of the entire office is such as to make you feel nothing good could come out of it.

My reaction and that of others to whom I have talked is that that man is not selling himself and his own institution and it is not to be hoped that he could sell any one else. There is no use placing the agency in his office because he won't do anything more with title insurance than he did with the abstract business.

I think if the title men will sell themselves and their own institutions, and then carefully prepare themselves for the selling of title insurance, studying and then applying that knowledge, then studying further and applying the increased knowledge, and meet conditions as they arise, they will not have much trouble selling a broad policy of title insurance that is backed by a strong title company. (Applause.)

MR. SMITH: Mr. Werner of Toledo was unable to attend the convention; therefore the talk by Mr. Milligan concludes this discussion. I hope the presentation of the problems from the divergent points of view will prove of benefit and value to you. (Applause.)

PRESIDENT LINDOW: I am sorry to announce that Hiram S. Cody, Vice-President of the Cody Trust Company of Chicago and Chairman of one of the committees of the Mortgage Bankers Association in connection with the President's most important Conference on Home Building and Home Ownership, will not be with us. We have called the Chicago office and have been informed he was making a tour and expected to be in Tulsa before noon today. Due to flying conditions he has been delayed. His very important and enlightening address will find a place in our printed proceedings.

The next order of business is the selection of the city in which we will hold our next convention.

Selection of 1932 Convention City

PORTER BRUCK (Los Angeles, California); On behalf of the California Land Title Association, it gives me pleasure to invite the Association to hold its 1932 convention in the state of California. We have counted on this for quite a long time and are looking forward to it and planning for it.

Not having the gift of oratorical ability, I am unable to extoll the beauties and advantages of California. Perhaps you have read about them in advertisements. However, we have brought an orator with us. I had asked Mr. Henley of San Francisco to invite you in his pleasant and magnetic manner. He said, "Oh, hell! Just tell them to come on out!" So I am just telling you to come on out.

MR. WYCKOFF: I move we accept the invitation to hold the 1932 convention in Del Monte, California.

MR. HALL: On behalf of the state of Washington, I wish to second the motion and I want to tell everybody that the Shasta "differential" has been removed and you can now make the circuit and come through Seattle either going or coming.

. . . Upon being put to vote, Mr. Wyckoff's motion was carried unanimously. . . .

PRESIDENT LINDOW: The 1932 convention will be held in Del Monte probably the latter part of June.

MR. BRUCK: Some time between the 15th and 25th.

The next order of business is the report of the Resolutions Committee. Mr. Woodford, the Chairman, was compelled to leave. Mr. S. H. McKee of Pittsburgh will present the report.

Report of the Committee on Resolutions

S. H. McKee, Pittsburgh, Pa.

Ladies and Gentlemen:

Your Committee on Resolutions offer for your consideration the following:

Whereas, a very valued friend of the Association, A. R. Marriott, President of the Chicago Title and Trust Company, during the past year has passed away.

Therefore, be it resolved that in his death each and every member of the Association feels a great loss and we here express our sympathies to his bereaved family and friends.

To our good friend, Richard B. Hall, we express our regret that he has severed his connections with the association. We regret also that we have lost the benefit of his untiring and efficient efforts in behalf of the association and hope he will retain his interest in the association. The many friends he has made during his connection with us will miss him and we wish him success in his new field of endeavor.

Resolution No. 2

Whereas, our hosts, the Oklahoma Title Association and the Chamber of Commerce of Tulsa, 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 Tulsa.

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 Committee and especially the Ladies' Reception Committee, who so thoughtfully and delightfully provided for the pleasure and comfort of our ladies.

And whereas, the Mayo has been very kind in looking after our comforts, be it resolved that: We extend to the management our thanks.

And whereas, the Tulsa Real Estate Board did provide cars for our trip to Pawnee Bill's and did so skilfully guide us through city and country to our pleasure and delight, therefore be it resolved that

The Executive Secretary write a letter to the Tulsa World and Tulsa Tribune expressing our appreciation.

And whereas, Walter Ferguson, Vice President of the Exchange National Bank of Tulsa, Oklahoma, delivered to us a most interesting and timely address.

And whereas, Charles C. White, Title Officer of the Land Title Abstract & Trust Company of Cleveland, Ohio, prepared for us an executive report on title insurance forms and

Whereas Benjamin L. Holland, attorney for the Phoenix Mutual Life Insurance Company, delivered to us a most helpful address on abstracters and abstracts,

And whereas, George Allin of the firm of Mark Allin & Tucker of New York City did so capably conduct a question box for the benefit of our members;

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.

Before reading Resolution No. 4, Mr. McKee offered the following remarks:

NOTE BY EDITOR: Mr. McKee then read Resolution No. 4 which is a very long resolution. After the Executive Committee passes on it at the mid-winter meeting it will be printed in the TITLE NEWS.

The following resolution was presented by Mr. Maco Stewart of Galveston, Texas. Mr. Stewart was compelled to leave and so could not be present to discuss the resolution. He asked that it be presented. It has not been discussed by the Executive Committee.

MR. WYCKOFF: I move the adoption of all of the resolutions as read except Number 4 relating to Russia.

. . . The motion was seconded and upon being put to vote was carried . . .

MR. WYCKOFF: In order to get the fourth resolution before the house, I move its adoption. My thought in suggesting that it be voted on separately was that the first group of resolutions was purely of a congratulatory nature, while this last resolution necessitated discussion.

. . . The motion was seconded by Mr. Rattikin . . .

MR. HENLEY: Before the motion is voted on, I would like to speak on it. I have no objection to the resolution but I would like to say, I doubt very much if this body has at its command the necessary information upon which to take a stand on a proposition of this type. The motion incorporates many features which it seems to me are questions of great importance and questions which involve in their decision information which is not in our hands. I am sure the information is not available to me and I would feel very reluctant to take a stand on all of the various matters involved in this resolution without having a much better opportunity to consider the facts upon which action must be based.

MR. ELWOOD SMITH: I would like to amend the motion to read that the resolution be referred to the Executive Committee and that action be withheld until the Mid-Winter meeting at Chicago.

I agree that the resolution presents a subject that requires considerable study. During the dinner last night I had the opportunity to talk to Mr. Stewart in regard to the matter. I think he is thoroughly sincere and honest about it and is very well informed on the subject. However, I doubt whether any others of us are so informed.

MR. McKEE: Would you be willing to have the resolution published in the local papers, with the statement that after discussion, it was referred to the Executive Committee? It is a matter that is vital to the people of this part of the country. For that reason Mr. Stewart was very enthusiastic about it and wanted us to take some action in regard to it.

MR. SMITH: It seems to me if the amendment to the motion carries, there would be no objection whatever to having the resolution published with the statement of the action taken by the convention.

. . . Mr. Wyckoff and Mr. Rattikin, maker and seconder of the original motion, indicated their consent to the amendment, which was duly seconded . . .

MR. BECKER: Do I understand that the amendment provides for the immediate publication of the resolution? There is nothing in this resolution that is at all germane to the title business. If one paragraph covered or referred to the title situation in Russia, we would be interested. I feel as Mr. Henley does, that it should be referred to the Executive Committee.

PRESIDENT LINDOW: It was my understanding at the time Mr. Stewart talked about presenting the resolution that it would come up for discussion earlier in the convention. I proposed that we would take it up early in this afternoon's session, at which time I thought Mr. Stewart would be here. However, he was forced to leave yesterday afternoon and so is not here to defend his resolution.

. . . Upon being put to vote, the motion as amended was carried . . .

MR. WYCKOFF: I had thought to have a resolution offered regarding consideration of the Mechanics' Lien Law but since that was not done, I would like to ask those who are here to take a copy of that law home with them and study it carefully and send in your criticisms and reasons therefore to the committee which the incoming President will appoint to carry on this work. I think we ought to give this study as an Association. It seriously affects us. A similar request will have to go out to the balance of the membership not present here today. It will be a great help if you will give this matter thought and consideration and send your suggestions and criticism to the Executive Secretary's office; it will then reach the committee.

PRESIDENT LINDOW: If there is no further business, the Twenty-fifth Annual Convention will stand adjourned.

. . . The session adjourned sine die at five-forty o'clock . . .

ADJOURNMENT SINE DIE

STATEMENT OF THE OWNERSHIP, MANAGEMENT, CIRCULATION, ETC., REQUIRED BY THE ACT OF CONGRESS OF AUGUST 24, 1912,

Of Title News published twice yearly at Mount Morris, Illinois for October 1, 1931.

State of Illinois } ss.
County of Cook }

Before me, a Notary Public in and for the State and county aforesaid, personally appeared Margaret Maddux, who, having been duly sworn according to law, deposes and says that she is the business manager of the Title News and that the following is, to the best of her knowledge and belief, a true statement of the ownership, management (and if a daily paper, the circulation), etc., of the aforesaid publication for the date shown in the above caption, required by the Act of August 24, 1912, embodied in section 411, Postal Laws and Regulations, printed on the reverse of this form, to wit:

1. That the names and addresses of the publisher, editor, managing editor, and business managers are: Publisher, American Title Association, Chicago, Illinois; Editor, J. M. Whitsitt, Nashville, Tennessee; Managing Editor, J. M. Whitsitt, Nashville, Tennessee; Business Manager, Margaret Maddux, Chicago, Illinois.

2. That the owner is: (If owned by a corporation, its name and address must be stated and also immediately thereunder the names and addresses of stockholders owning or holding one per cent or more of total amount of stock. If not owned by a corporation, the names and addresses of the individual owners must be given. If owned by a firm, company, or other unincorporated concern, its name and address, as well as those of each individual member, must be given.) American Title Association, Chicago, Illinois; Edwin H. Lindow, President, Detroit, Michigan; James S. Johns, Vice President, Pendleton, Oregon; J. M. Whitsitt, Treasurer, Nashville, Tennessee.

3. That the known bondholders, mortgagees, and other security holders owning or holding 1 per cent or more of total amount of bonds, mortgages, or other securities are: (If there are none, so state.) None.

4. That the two paragraphs next above, giving the names of the owners, stockholders, and security holders, if any, contain not only the list of stockholders and security holders as they appear upon the books of the company but also, in cases where the stockholder or security holder appears upon the books of the company as trustee or in any other fiduciary relation, the name of the person or corporation for whom such trustee is acting, is given; also that the said two paragraphs contain statements embracing affiant's full knowledge and belief as to the circumstances and conditions under which stockholders and security holders who do not appear upon the books of the company as trustees, hold stock and securities in a capacity other than that of a bona fide owner; and this affiant has no reason to believe that any other person, association, or corporation has any interest direct or indirect in the said stock, bonds, or other securities than as so stated by her.

MARGARET MADDUX,
Business Manager.

Sworn to and subscribed before me this 5th day of Nov. 1931.

JAMES T. KNAPP,
(SEAL.) Notary Public.
(My commission expires May 12, 1934.)