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# TITLE NEWS

OFFICIAL PUBLICATION  
*The American Title Association*



VOLUME 19

NUMBER 2

OCTOBER, 1939



# TITLE NEWS

Official Publication of

## THE AMERICAN TITLE ASSOCIATION

VOLUME XIX

NUMBER 2

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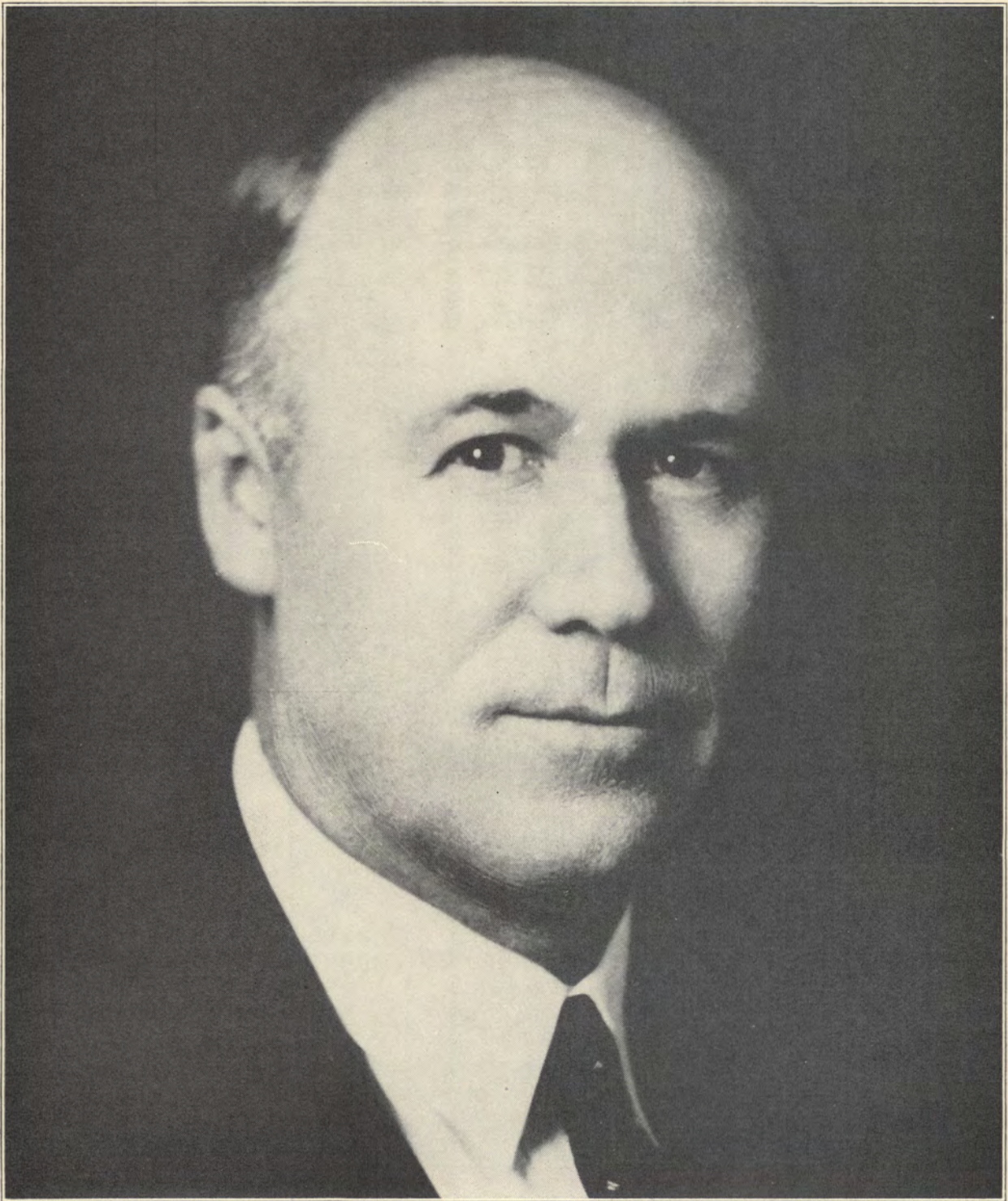
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JACK RATTIKIN  
FORT WORTH, TEXAS

*President, American Title Association  
Attorney, Stewart Title Guaranty Company*



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# Proceedings of the Thirty-Third Annual Convention

— of the —

## AMERICAN TITLE ASSOCIATION

August 21, 22, 23, and 24, 1939 — — San Francisco, California

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### Report of the President

Last October at the convention of the American Title Association in Oklahoma City, you conferred upon me the highest honor within your power to bestow. I accepted the trust which you had placed in me with the very definite feeling that you had given it willingly and graciously and enthusiastically. Every event that has transpired in the course of the past year has served to prove to me that I had correctly sensed your temper.

I know of nothing more gratifying in life than to feel that one enjoys the confidence and respect of his fellowmen and during this entire year of my administration, so many of you have gone out of your way to make me feel that the confidence in me which prompted you to do me this honor still exists. Accept my thanks, please, for one of the happiest years of my life.

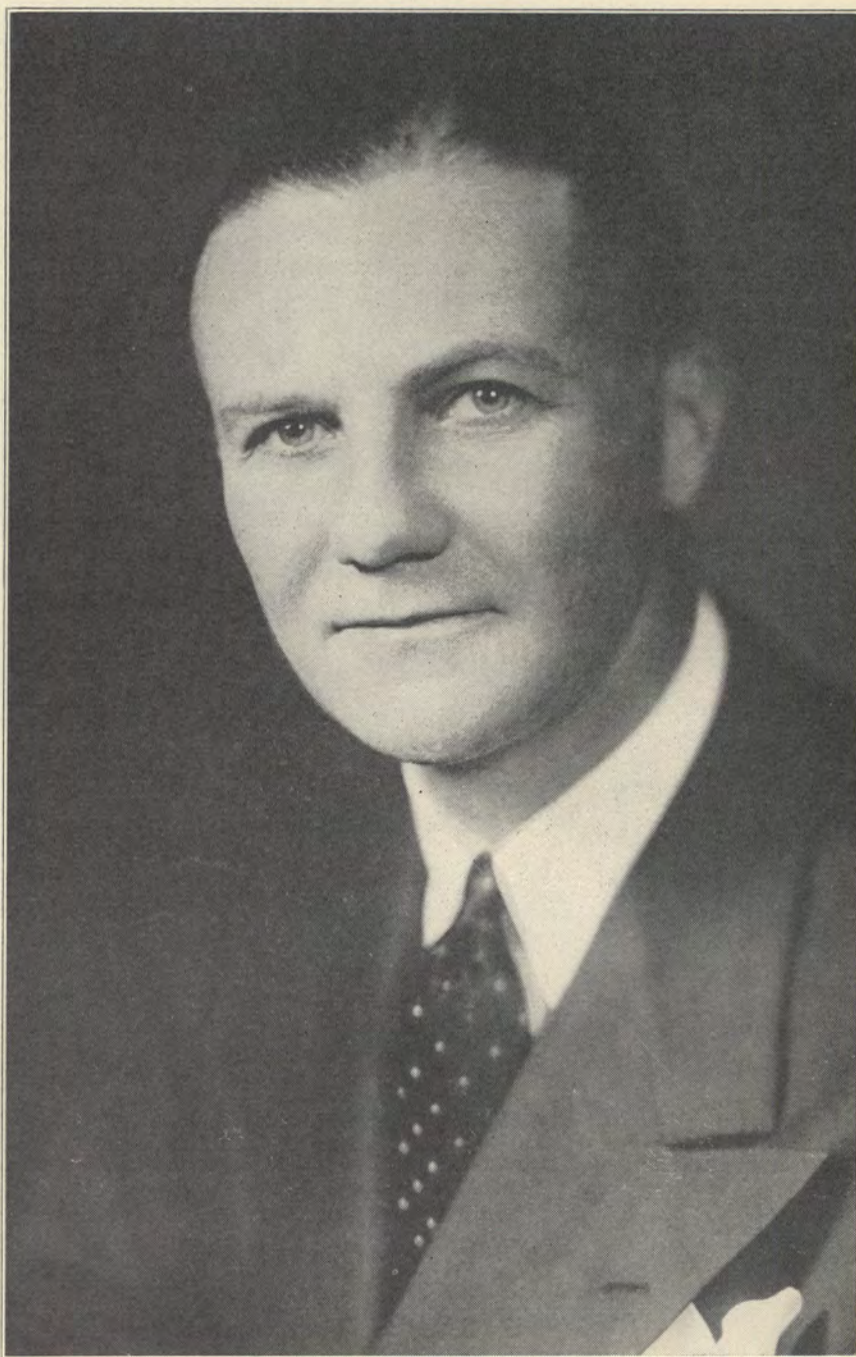
#### Board of Governors

Your association enjoys the benefit of an unusually competent and conscientious Board of Governors. They have served you faithfully and energetically and capably through the year. Your Treasurer, who himself has done a most meritorious and sometimes thankless job, will report a most successful financial year. Your Executive Secretary maintains his unique ability to keep everybody informed upon practically every subject and keep them, like "Carnation cows", contented and happy. So you see, that leaves very little for the President to do, which is just exactly what he has done—very little.

The past year has not been unusual in any respect. We seem to have been beset by the same type of troubles, in a mild degree to be sure, that have been a source of irritation to our daily routine since the beginning of time;—threatened Torrens legislation—explosive outbursts from Bar Associations hither and yon—and other ills and ailments with which you are all familiar. I see nothing really serious in any of the situations.

#### Standardization

Some progress has been made in standardizing practices and procedures, not as much as I had hoped. A few of the State Associations have done a magnificent work in this regard—stabilizing prices—eliminating vicious and unfair competition—bringing to their



**PORTER BRUCK**

*President, 1938-1939 term, American Title Association  
First Vice-President, Title Insurance & Trust Co., Los Angeles, California*



members the realization that there is a place for everybody—if the business is conducted on a “common-sense” basis. Unfortunately, with many of the Associations, the desire seems to be there but the results are disappointing. However, it seems to me that a far better feeling exists among our membership than that which characterized it some years ago. We don't hear so much criticism about our competitor. We seem to have learned the art (or science) of introspection—of self-analysis—of understanding and curing the faults that *we* have in our own business (and remember we *all* have them)—not simply muttering to no avail about the faults of others. I say that in that respect we have made definite progress—and to progress is to be healthy.

Let me leave this one thought with you. Keep your confidence in yourself—and in your ability to serve your community honorably and well. We have an honorable vocation—we give a necessary service. Respect it. Don't let fear of results affect the decisions you make for the betterment of your service or for the increase of your income. What we need is courage—courage to do the right thing, irrespective of immediate consequences. If you will plan your business with just ONE thought in mind—Fairness—fairness to the customer and fairness to your competitor and fairness to yourself—then you will have nothing to fear. Torrens promotions—Bar Association difficulties—labor disputes—all will iron themselves out. Just be fair in your business. Remember it's sometimes easier to cheat yourself than it is to cheat the other fellow, but one is as bad as the other.

In spite of some of the political and economic fog which seems at times to engulf us, the title industry has fared not too badly. We have seen the collapse of an occasional institution—but

only the occasional one—and we have likewise seen the survival and successful progress of practically our entire membership—economically speaking. I see nothing but prosperity for the business in the future. There are a few lessons still to be learned—a few bar-

riers still to hurdle—but let us remember that the United States of America is still the most prosperous and progressive nation in the World and that if we, in the land title business, progress with it, we cannot fail to prosper with it.

## Report of Councilor to United States Chamber of Commerce



ARTHUR C. MARRIOTT

Chicago, Illinois

*Councilor to U. S. Chamber of Commerce*

*Vice-President, Chicago Title & Trust Company*

It was my great pleasure to attend, as your representative, the sessions of the twenty-seventh annual meeting of the Chamber of Commerce of the United States, held at Washington, D. C. May 1st to 4th, 1939.

The Chamber, as you know, is an organization of business men representing the local Chambers of Commerce, trade associations and all phases of business activity throughout the country. Housed in a magnificent building of its own in Washington, it maintains a large staff of full-time employees; and through its officers and committees it carries out year round the policies adopted at its annual meeting.

Many nationally prominent business men gave addresses at the forenoon sessions, or in the afternoon conducted and participated in round table discussions of subjects of vital interest.

Some of the policies for which the chamber stands are: that it is imperative that we work back to common sense in government, local, state and national—that men be put back to work—that individual liberties as we have come to know them be preserved—and, finally, that as a nation we learn to live within our income.

To those policies we all can and do subscribe, as individuals and as an organization.

## The General Land Office

JOEL DAVID WOLFSOHN

*Assistant to the Commissioner, General Land Office, Department of the Interior, Washington, D. C.*

Since the day centuries ago when the first Indian chieftain, for consideration, agreed to transfer some of the tribal domain, the question of title to lands has been a factor in the advancement of civilization on our continent. Today, despite the multiplicity of land laws, the problem is fundamentally the same. Who owns the land and why are questions which both your Association and the General Land Office are constantly being called upon to answer.

It would merely consume time if I were to review the growth of land title activities in the United States. You are all familiar with the history of development of the public domain, from the cession by the original thirteen States in 1781, through the acquisition of the Louisiana territory in 1803, Florida in 1819, the Oregon Territory in 1846, the Mexican cessions of 1848 and 1853, and the purchase of Alaska in 1867.

Concerned with the development of this vast expanse of magnificent fertile and fruitful land, the Government continued this plan with devices for rewarding soldiers, establishing communication, and refreshing the Treasury. Thus the lands were parcelled out in tremendous blocks, to the railroads, for example, and in smaller segments to homesteaders. Millions of acres were given to thousands of settlers.

Obviously, some form of instrument divesting the United States of its title and vesting that title in the purchaser, had to be issued. What was more natural than that it should be the usual form of conveyance employed by the early owner of the soil to pass title, a patent. And the Federal Government

issued more than six and one-half million of these patents signifying the transfer of original title and ownership into other hands.

### The First Patent

So far as the records show, may I note in passing, that the first patent by the United States for a part of its public domain, was issued March 4, 1788, to John Martin for 640 acres in northeastern Ohio, not far from the Pennsylvania State line, in what was known as “the seven ranges.” Martin was one of a small group of persons who were successful bidders at a public sale of Government land, held in New York City, during the months of September and October, 1787. He paid \$640 for his 640 acres, plus \$1.00 “for surveying.” The record, or copy, of the instrument of conveyance in this case, signed by two members of the Board of Treasury, “granted and confirmed”



the land to Martin "his heirs and assigns forever," and, curiously enough as we now look at it, "reserved one third part of all gold, silver, lead and copper mines . . . for future sale and disposition." Conservation, you see, is rooted in our history.

The earliest patent signed by the President, of which we have a record, is one bearing the name of George Washington, issued March 30, 1792, to the State of Pennsylvania to carry out a Congressional resolution. The instrument was acknowledged at Philadelphia. In 1796 a number of patents were issued in the name of President Washington, for land in that part of Ohio known as the Virginia Military Reservation. These military lands were surveyed in irregularly shaped tracts by metes and bounds surveys, the field notes of which record the surveyor as having meandered quite happily from a sugar maple on somebody's second line to three burr oaks on somebody else's fourth line, thence to a blue gum in some other place. The transitory and indefinite nature of these vegetative monuments furnished, quite unconsciously but none the less certainly, the foundation for litigation which has kept succeeding generations of lawyers in southern Ohio busy ever since. How different now with our iron monuments!

#### Ranges

These "seven ranges" by the way, marked the first efforts of the Government to use the rectangular system of surveys. The General Land Office has had ample cause to be glad of its adoption. The difficulties and complications which would have been created by a continuance of the metes and bounds system are incalculable.

Forms of patents have changed with the passing of the years, but basically they have remained the same as they were from the first, when Congress authorized the President to grant patents to certain purchasers of public lands. From that time to the present, land patents have been signed by the President, either personally, or by some one appointed for that purpose. Usually, too, they have been countersigned, first by the Secretary of State; then, between 1812 and 1836, by the Commissioner of the General Land Office; and, since then, by the Recorder of the General Land Office.

Title to public land may be, and often has been, passed by an act of Congress, or by deed, or again, as in the case of grants of land to States or railroads, by "approval" of a selected list; or as in the case of school lands in place, by virtue of the general enabling act for each State as it was admitted. With regard to school land in place, I might invite attention to the passage of the act of June 21, 1934 (48 Stat. 1185), under which the States may apply for issuance of patents to their school lands in place, in order that they may have some concrete evidence, for recording, showing their acquisition of title to those lands.

#### Effect of Patent

Now, what is the effect of a patent?

A patent for public land is the deed of the United States; it is documentary evidence of the existence of the title, or of such equities, as justify its recognition and confirmation. As a deed, its operation is that (of a quit-claim, or, rather), of a conveyance of such interest as the United States possessed in the land. Such a grant passes to the patentee only such title as the Government has, not only as it was at the time of the survey, but as it is at the date of the patent. And it passes to



**RUSSELL A. FURR**

Indianapolis, Indiana

*Member, Board of Governors,  
American Title Association*

*President, L. M. Brown Abstract Co.*

the patentee in the absence of specific reservation, all interest of the Government, whatever that may have been, in everything connected with the soil and in fact everything embraced within the meaning of the term "land," including appurtenances, improvements and crops growing thereon at the time of the grant.

A Government patent is without covenants of warranty. It is not a warranty deed, special or general. It is also said that the doctrine of estoppel does not apply to it, so as to pass an after-acquired title.

A Government land patent may not be attacked or impeached by one having no interest in the land; and, since it is the customary method whereby a Government transfers title to its land, it may be used for that purpose where the act on which it is based does not direct that some other form of conveyance be used.

Patents are to be construed strictly and are not subject to the general rule that a grant is to be construed most strongly in favor of the grantee and against the grantor; and both the Government and the grantee are bound

by the recital of fact properly contained in a patent.

It appears strange that there are thousands of acres of land in private ownership in what was once public domain areas for which Federal patent was never issued, nor was such a step necessary to give legal color to the transfers. This paradoxical situation arose in sections where early settlement had been brought about through grants for portions of colonies of foreign nations on the North American continent.

The subject of patents on private land claims is a very large one, and I can touch it only in a most general way. As you know, these were claims to land based on grants made by the foreign governments which previously had had jurisdiction over the areas in which the claims are located. Sometimes they were granted for military or other services of a like nature; sometimes for cultivation. When the United States took over jurisdiction as a result of purchase or treaty with the former governments, commissioners or other adjudicating officers were appointed under Congressional authority for the purpose of examining into the nature of the claims to determine whether they should be recognized by our Government. Certain of these claims were found to be based on insufficient evidence of right and were not confirmed. Others were found to be sufficiently evidenced and were recommended for confirmation, usually in reports by the Commissioners, sometimes passed upon by the courts. These reports for confirmation would then be submitted to Congress and acts would be passed confirming the claims thus reported. The claims can generally be identified in the American State Papers, either Duff Green edition, or the edition of Gales and Seaton, both of which are fully indexed. In some cases we have held that title to these claims had so effectively passed under the original grant that nothing more was needed in the way of action by the United States to vest the title in the grantee, not even a patent. In (many) other cases, the General Land Office has issued patents on private land claims; and in those cases in which no patents have issued, we are authorized (under Sec. 2447, Revised Statutes) to issue patents in proper cases, and do so on application of the present owner when evidence of ownership, and names and addresses of adverse claimants, if any, are submitted. No especial form of application is required in these cases, but it should identify the land, claim and confirmer, and request issuance of patent. Patent usually issues to the confirmer in such cases.

Since the record status of private land claims, as a class, is so varied, I can merely suggest that when you have for examination a title involving one of them, you write the General Land Office at Washington, if there is any question as to its confirmation or patenting. Confirmation and survey are the important things to look for. And



may I add at this point, that there are just enough cases, not only private land claims, but all sorts of claims, which have been suspended many years ago, perhaps for some technical defect, and on which no patents have issued, to justify you in questioning all doubtful cases and in insisting on having the local records show passage of title out of the United States in all instances.

A patent, once it has been signed, sealed and recorded in the General Land Office, all in accordance with the record on which it is based, is beyond the reach of the office to alter or cancel, except by suit in the courts, or through jurisdiction obtained by voluntary reconveyance of the land involved for the purpose of correcting an error, or removing a conflict of some kind.

We sometimes find that patents and patent records were mutilated and defaced in an attempt to remedy, by cancellation, some supposed wrong suffered by the Government through the untimely issuance of the patent. The broad, equitable powers vested in the Secretary of the Interior, taken together with specific legislation, enable the General Land Office to reissue these patents, or otherwise cure the mutilated records, so that it will serve its original purpose.

The right of the United States to maintain an action to construe or reform a patent (which has been outstanding more than six years) so as to read into the patent the reservations required by law under which it issued is now being considered by the courts.

The Solicitor of the Department of the Interior in an opinion approved by the Department, on October 1, 1936, held that such suits might be maintained even though the patent incorrectly recited the act under authority of which the application was filed, the entry made and the title earned.

#### Rights of Parties

The rights of the parties become fixed under the public land laws upon submission of satisfactory proof and payment of the amounts due. If the courts should hold that something in excess is granted by a patent, they hold in effect that the Secretary has a right, or at least a power, to grant rights in the public domain without legislative authority. On the other hand, if the courts hold that a patent as written may be construed so as to exclude certain rights recited therein as granted, it becomes necessary, in many instances, for those having to do with the approval of titles to make inquiry as to the nature of the title that has been earned. This duty becomes particularly important where patents indicate that mineral rights are being granted in a mineral area under a non-mineral entry.

The opinion of the Solicitor has been made the basis of a suit in the District Court for the District of New Mexico in the case of *United States vs. Charles H. Price, et al.*, No. 46 Civil. In that case the district judge

sustained motions of the defendants that the complaint be dismissed for the reason that an action to construe a patent in the light of the statute under which title was earned was barred by Section 8 of the act of March 3, 1891, limiting the time for the filing of suits to cancel or annul patents to six years from the date of their issuance. Regrettably, in this case, the judge did not write an opinion.

An appeal from this decision to the Circuit Court of Appeals for the Tenth Circuit has been taken. It is the contention of the Government upon appeal that a suit to reform or construe a patent in the light of the statute under which it has been earned is not an action to cancel or annul it and is, therefore, unaffected by the limitation provisions of the act of March 3, 1891.

It is needless to state the importance of a decision of this question. The question is one that may have far reaching effects upon the care necessary adequately to pass upon titles to lands mineral in character that have been patented under non-mineral entries without a reservation of the minerals to the United States.

#### Delivery of Patent

Delivery of a patent is not necessary to vest title in the patentee. A patent becomes operative as an instrument of conveyance, the moment it is signed, sealed and recorded in the General Land Office. The record of a patent consists of a verbatim copy of the original.

Where patents have issued, containing errors in description (as they occasionally do in spite of all the care bestowed) or errors in name, or area, or other curable defects, the Land Office has authority to apply curative measures, in the nature of suitable proceedings, upon presentation of application from the injured person for relief. Action in such cases is made as liberal and free from technicality as possible consistent with good administration. Each case stands on its own merits, and no two are precisely alike. The final result in most such cases is the issuance of a new, corrective patent, which shows on its face its relationship to the instrument to which it is supplemental or for which it is a substitute.

#### Unsigned Patents

A certain number of very old patent records, too, lack the names of the signing officers. Congress undertook to remedy this by legislation, but the Supreme Court held that at least the initials of the signing officers must appear in the record to constitute evidence that the original patent had been properly signed and countersigned.

Just why these records were left without anything to show that the patents themselves were signed is unknown at this time. Possibly it was because it was the practice for many years to write the record of the patent before the patent itself was written. The patent being then unsigned it was quite all right to leave the record un-

signed; but, unfortunately, this omission was not supplied later when the patent was finally signed. Here, again, the remedy is by way of issuing a patent of current number and date, showing on its face the reason for issuance.

#### Delivery of Patents

The delivery of original patents by the land office, and the securing of evidence of issuance of patent by that office, are two matters in which I am sure you are especially interested.

In 1804, an act was passed providing for delivery of original patents for certain lands in Indiana through the local, or as we now say, district land offices, and it has always been the custom so to deliver them when possible.

However, because of the failure of patentees to call for them, in years gone by, they have accumulated in the district offices. Each district office, as it closes, or is merged with another office, delivers these old patents to the office to which its other records go; and ultimately the undelivered patents are sent to Washington, where they are filed with the cases on which they are based.

From time to time abstract companies have approached the General Land Office suggesting that these patents be turned over to them for delivery. While admitting the desirability of making delivery of such instruments of title, the office has felt that it had a duty to perform in seeing that such patents were placed in the hands of the persons entitled to them, and that those remaining undelivered were safely kept. Primarily, the office is interested in seeing that they are delivered to the patentee or his successor; and, secondly, that they are recorded in the county in which the land lies. No plan so far suggested has seemed to assure the accomplishment of these two purposes, except the one now followed, namely, both the district and the General Land Offices, surrender patents upon presentation of the duplicate final certificate (or duplicate final receipt before 1908). No evidence of ownership of the land is required from the person surrendering this instrument, since it is assumed that his possession of it is sufficient evidence of his genuine interest and right to possession of the patent. Usually, it is the patentee himself who surrenders the duplicate certificate or receipt.

The next method which the office uses is that of securing from the recording officer of the county in which the land lies, a certificate showing payment to him of the fee for recording the patent. On receipt of such a certificate (the General Land Office has a form which it uses for this purpose) the patent is sent to the recording officer, who after recording it delivers it to the person who paid the recording fee. This person may be the owner of the land, or an attorney or abstracter.

The third method of delivery is on submission of an affidavit setting forth that the affiant is the owner of all, or



a part, of the land patented, that the duplicate final certificate or receipt has been lost or destroyed, and that the affiant requests delivery of the patent.

It appears therefore, that the General Land Office endeavors to see that these patents get into the proper hands, or that they are safeguarded until they do. Not that it would make any difference in the state of the title if they did get into the possession of the wrong person, but rather to prevent unscrupulous individuals from using the possession of a patent to perpetrate a fraud on uninformed and unsuspecting persons.

#### Authenticated Copies

There is one point in connection with the delivery of patents to which I should, perhaps, call your particular attention. That is the fact that authenticated copies are admissible in evidence equally with the originals. This is specifically provided by the act approved August 24, 1912 (37 Stat. 497), section 3 of which states: "That all authenticated copies furnished under this act shall be admitted in evidence equally with the originals thereof. (U.S.C., Title 5, Sec. 490)."

The General Land Office receives, on an average, some 80 requests a day for certified copies of patents and other records. These come in largely because the original patentees failed to record their patents. They either did not call for them at all, or they lost them without placing them of record in the county.

To procure such a copy, all you need do is write to the Commissioner of the General Land Office, at Washington, D. C., describe the land which you desire the copies to cover, and enclose 40 cents for each patent which you believe is involved in your request. If you want the original patent, in case it is on file, enclose with your letter a certificate, or statement, of the recording officer of the county, showing that you have paid him the fee for recording the patent or patents.

If the land was approved or patented to a state, or railroad, and if you desire an extract copy of the approved list or patent record so far as it relates to certain land, your letter should so state, as the General Land Office as-

sumes that, in such a case, you will prefer to obtain evidence of transfer of title out of the State or railroad as the case may be. The office makes no charge for the delivery of an original patent.

(Be sure you enclose a sufficient remittance with your request, so that further correspondence is unnecessary. Excess fees are refunded).

The principal working diagrams or maps used by the General Land Office are the township plats of survey which furnish the basic information for the land descriptions used in disposing of the public lands. They are filed in flat steel drawer files, arranged alphabetically by States and numerically by township and range numbers and meridians.

Some are loose, others are still in the bound volumes, the form in which the plats originally were kept. As opportunity offers these old bindings are being removed and eventually all plats will be loose.

Main and supplemental plats of a given township are filed together in the loose file system. State maps of the public land states, rolled on wooden rollers are filed in stiff paper tubes plainly labelled with the name of the State. In addition there are the large map of the United States, the official map, about 5 by 7 feet, and a smaller working diagram of the public land States, in colors, showing the location and names of the various meridians used in surveying the public lands and the areas governed by each of them.

#### Copies

The public may obtain photolithographic copies of township plats where they are available, at 50 cents each; and, of course, photostatic copies of these plats may be made at any time for 40 cents each.

That there is a vast amount of misinformation as to the effect of mere possession of even a certified copy of a patent record may be appreciated when I tell you that not so many years ago the General Land Office received a scrawled letter to this effect:

"General Land Office, Dear General: I has been told that you is selling patents for 160 acres of land for 40 cents. Please sir send me one of them patents.

I enclose 40 cents in stamps." The dejection of this individual when he found that he could not buy 160 acres of land for 40 cents must have been profound.

Still, perhaps he was not so far wrong at that. There was a time, many years ago, when Government land in one of the Southern States sold for as little as two cents an acre. The office was so outraged at this microscopic consideration that it failed to issue patents on many of the entries made at this price, and some of them remain unpatented even today. The office takes them up individually, on receipt of requests for patent.

It is likely that in the last several years the interest of title companies, abstracters, financial institutions and others has increased in the patent or other evidence of title by which the Federal Government disposes of its real estate. For public domain lands the basic title is in the United States. But with regard to lands purchased by the Government other factors enter.

You will be interested to know that in many quarters in the capital thought is being given to the necessity for centralizing in one agency the record of all Federal real property holdings so that title can be more accurately known, and in addition comprehensive information will be available to all branches of the Government and the public.

Such a centralization, no doubt, would be of benefit to agencies such as yours.

The General Land Office is not only a disposal agency, and by virtue of that a planning agency. It is maintained primarily to serve the people. The data which it has and gathers is for your information and use.

We are glad to make any reasonable search of our records at the request of those having a legitimate interest. We try to respond expeditiously, but with thousands of tract books, millions of entries, many made more than a century ago, it sometimes requires days of patient search to get what is sought. Limitations of staff and volume of work likewise play their part.

But there is every desire to cooperate with the public at large and particularly those engaged in this important work relating to titles.

## A Title Man's Dream

EDWARD T. DWYER

*Vice-President, Title and Trust Co.,  
Portland, Oregon*

A few nights before the joint meeting of the Washington and Oregon Title Associations a short time back, I had a dream. This dream I foolishly revealed to that gathering. Our President, Porter Bruck, being so wide-awake at all times that he never finds time to enjoy a dream, heard of this nightmare of mine, and has asked me to repeat it here. For Porter's sake I will do this.

This dream is one of very few which

I have been able to remember long enough to reduce to paper—much of it has been forgotten or so hazily remembered that I give you but a part of it.

Now there is nothing unusual about my dreaming, as I am addicted to the habit both sleeping and while awake,

but this particular dream left me with a singular feeling. I enjoyed, momentarily, a sense of completeness that I had never before experienced.

There are some psychologists who would tell us that dreams are nothing more than an expression of man's suppressed desires. Maybe they are right.

#### At First

My earliest recollection of this dream is of finding myself in the presi-



dent's chair. I can't remember that I had to account for my actions to anyone. No board of directors was present in this dream and a free hand was mine to do the things I saw fit to do.

In my zeal to build a title business that paid a fair return on my investment and at the same time to enable me to enjoy the utmost good will of my clients, I began to cast about for ways and means to bring this to pass.

The first question I asked myself was this: What have I to sell? And the answer came back strong and without a question of doubt: SERVICE.

Service, then, I resolved I would sell, and if it were necessary to give some of that rare article away, I would do that, too. I tried to place myself in the position of the man on the outside of the counter and honestly tried to get his viewpoint.

In thinking of my experiences, I had to admit to myself that most people are fundamentally honest and upright. Once in a great while we come in contact with customers who are anything you feel like calling them, but just as often we find men in the title business who answer the same description.

#### As a Customer

As a customer for title service, I decided there was one and only one thing I wanted from a title company—complete title protection. I was, while in the customer's shoes, a title illiterate, as most customers are. I believed what you told me, and believed you implicitly. I couldn't think of your telling me a falsehood or keeping silent when it was your duty to speak.

I resolved then and there to give this service to John Public, and if the cost was more than I bargained for, to increase the cost to the consumer; but come what may, I would never let it be said that I sold a service that was only a partial one. I firmly resolved that although I didn't care for the abstract business, and didn't believe in it, there are some who still do, and if I were called upon to compile an abstract, I would hand back to my customer in return for my service charge, the best article I could produce—accurate, intelligently compiled, and a thing of physical beauty. I am not one who believes that one article is best marketed by reducing the quality of a competing product.

#### Workmanship

A point came to me that I could not down. Good workmanship cannot be produced by poor workmen. A silk purse can't be manufactured from a sow's ear, even in the great chemical laboratories of DuPont. We might kid ourselves that cheap equipment and cheap help are conducive to dividends. The cart is before the horse. They are, have been, and always will be nothing but harbingers of trouble and loss.

Good title men are as rare as the eggs of the roc. One good one can't be replaced by a dozen incompetents.

To be a leader in my field, I decided, was as desirable in the title business as in the field of law, finance or medi-

cine. I saw my men who came in contact with my public as salesmen and gentlemen. I would, I decided, take the responsibility of choosing my subordinates, but they, in turn, would be answerable to me for good, honest and intelligent stewardship. I told myself with emphasis that I didn't want a man around me who treats Mr. "A" as a tramp and Mr. "B" as a prince. Mr. "A", I have found by actual experience, often changes places with Mr. "B" in a few short months, and once you lose his business it never comes back to you voluntarily. I concluded I



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wanted no opinionated, narrow-minded asses on my payroll, and I intended to see to it through constant contact with my customers that my men measured up to my standard. Too often the chief executive of a company takes it for granted that his men are just the right men for positions they occupy—because they kid him into believing they are "big shots." Instead of listening to this line of trash, I would determine if my customers have the same high regard for them as they have for themselves.

#### Shirkers

I began to so arrange the work of the office that I would have no soldiers on the job, nor would I tolerate overworking a few of the willing ones, one finds in every office. I had found from sad experience that good men by being overworked became in time, gruff, surly and sour. There is no better way of spoiling a blooded race horse than by making a truck horse of him. Truck horses cannot be substituted for race horses, but the reverse is unfortunately true.

#### Know Your Customer

I made another resolution. I would encourage my contact men to become

personally acquainted with my clientele. I would see to it that they had time to make calls, take a good customer to lunch occasionally, and on occasion take an afternoon off for golf. This might sound foolish to you, but unless you have tried the experiment and it has failed, don't be too quick in passing judgment. I have seen it tried and it works. Let me deal with a man whom I can call by his first name, and I will take a chance on doing business with him.

#### The Use of Reason

I would think twice, lest I be on occasion penny wise and pound foolish. I would make use of courts of law for payment of title fees only as a last resort, and then only in those rare cases where I knew that the fee was earned and an action wouldn't jeopardize a future relationship that might prove valuable. I never could see the sense in spending good money for cold type advertising and then deliberately making an enemy of a man and his friends for a few paltry dollars that represent, for the most part, a bookkeeping entry only.

Say what you will, people appreciate being treated as white people. They know and remember where they have been given good courteous service, and don't hesitate to say a word in your praise when the occasion arises. The populace of cities the size of San Francisco, Los Angeles, Seattle and Portland can turn against an institution in a remarkable short time by the simple process of John Jones expressing an opinion, before a few friends, of your unfair treatment of him. These friends take this as a personal affront and oft times the complaint which is trivial at the outset becomes by constant repetition the most calumnious of accusations.

#### My Losses

I took the stand without protest to myself, to meet my losses as a man. As far as practicable, my motto would be, "The customer is always right." To wrangle and attempt to wriggle out of a loss one knows one is legally or morally bound to pay is an attitude unbecoming an institution such as I determined to make mine. I swore a solemn oath to make up my mind on the spot whether or not I was liable, and if I felt that I was, to pay the loss cheerfully and quickly. Nor would I be bulldozed into paying losses which I was neither legally nor morally bound to pay. Having taken my stand, I would fight to the last ditch to maintain my principle.

#### My Competition

My dream pictured my competitors in a new light in which I had theretofore failed to see them. I found them for the most part well meaning, intelligent, hard-working men and women trying to make an honest dollar in a legitimate way. True, because of lack of cooperation and oft times association that was more or less spasmodic, we too frequently found ourselves defeat-



ing our own purpose, we seemed to have no common goal. Our greed for business frequently lead us into bad business practices and sometimes knowingly these competitors seemed to do things that were contrary to previous understandings and practice; but on the whole, I found them as good as and better than competitors in other lines.

One thing that left me with a feeling of shame was the opinion our profession has permitted to gain ground concerning our aims and purpose. That we have missed a bet somewhere along the line seemed evident, for, I argued with myself, we have as much right to evaluate ourselves at our true worth as other professions. Individuals or professions must first begin to think well of themselves before expecting others to do so I reasoned. Generally speaking, no one is going to have a higher regard for you than you have for yourself. We freely admit that it takes intelligence, training, equipment, capital, and integrity to make a worthwhile title company, I argued. What more is required of a doctor, lawyer, or merchant prince, I asked?

I came close to awakening when I found myself in argument over a change in the appearance of the office. The Doctors Mayo might still have been great surgeons, was my contention, if they had officed in a loft building, but their clientele, I offered to wager, wouldn't have come from all parts of the country for the services these excellent doctors could have performed as well in a dark smelly office as in one befitting their station.

#### Modernization

I grew hot and began to stutter when my other self answered my demand for more up-to-date equipment with the stock phrase that "offices doing a larger volume of business than ours were housed in offices no more elaborate." Nice up-to-date offices, furniture and fixtures, according to my opponent, "were just the thing for chiropractors, dentists, grocery stores, tin shops, drug stores and beauty parlors" doing a fraction of our business; but title companies—never!

I looked at the oracle who thus spoke and lo! Instead of a patriarch arisen from the distant past, before me stood a man in the prime of life. A discussion of current events showed me at once that his antiquated ideas, for some unaccountable reason, were confined strictly to his business.

Remembering that "Tis a waste of soap to lather an ass," (a man convinced against his will is of the same opinion still), I passed on to new faces. I saw a group of eager, intelligent young men and women just entering our profession, and for the first time I felt a pang of remorse. Other industries and professions had made it possible for young people to train themselves under the guidance of national or local associations; but not ours. These youngsters must be left to themselves to get the information and

training the Title companies so badly need.

The great leaders of the title fraternity of the West Coast appeared in joint meeting. The spokesman in an eloquent statement, told us that we on the coast had unanimously agreed to form an association that would better serve us for the present than any other. He pointed out, and we nodded assent, that the title men of California, Washington and Oregon can, if they so desire, reach the goal before some of our friends in the middle west and southern states make up their minds that they are in the race. "The torch has been thrown in our hands; let us carry it forward," he urged.

#### From the Dim Past

Ghosts of ancient title men walked in our midst. Though their voices were inaudible, it was plain to see that they were urging us to do the things that through ignorance and lack of cooperation they were unable to do.

As dreams have a tendency to reach an anti-climax shortly before they vanish, I chuckled to myself when this truth came suddenly upon me. Because a man owns a business is no proof that he is best qualified to run it, if by so doing, he must meet the public. There are men in this business, as in other lines, who could go away and enjoy the things they want to do; employ some competent man to run their business, pension themselves and make a profit out of the deal. The only people who will question this statement are the very ones who should put it to the test.

My dreaming mind flowed onward. I pictured myself as a man of substance in the community. I had more than one coin in my pocket for I can still hear the clink of metal against metal. One of my neighbors passing by said, "Good morning, Judge," in a tone that showed respect.

#### And All Was Confusion

My dream at this point turned into a true nightmare. The room filled with people, none of whom I recognized. All were talking at once. The scene reminded me of a flock of magpies swooping down on a single kernel of corn. I listened closely, trying to learn the cause of the confusion. Suddenly it dawned upon me that the group before me was an association of title men, some advocating an additional charge of one dollar for some extraordinary service, others were strenuously opposing the raise. I turned sick and walked away for I suddenly remembered that this same group, in an earlier period of my dream, had rejected, without discussion, an additional 25 per cent fee for writing ATA policies. Like Alice in Wonderland, I kept repeating to myself, "they can't see the forest for the trees."

I entered another door. A meeting was in session. I stood inside until I could be seated without disturbing the speaker. Some young squirt with a tin badge of authority was vehemently telling us how to run our business. Coming into the room late, I did not

catch the drift immediately. I expected momentarily to hear loud guffaws of laughter, but all were serious. Surely, thought I, this must be a comedian, whose jokes are either too subtle or too old to cause merriment.

The man on the platform suddenly took on the countenance of one of my classmates at law school. He had won no prizes for his brilliance either while at school or after graduation. His batting average, as far as our experience with him was concerned, was exactly zero, for he had submitted three titles to us during his period of practice and all had been rejected because of faulty procedure. But here, in the role of a departmental head, he was telling us how to run our business. But don't laugh yet. We were listening to him. There is the laugh.

As dreaming minds turn rapidly from one point to another, I saw a woman of huge proportions telling a group of young ladies just what to do to retain their sylph-like figures. It took time and effort for me to figure out how this human mountain of flesh had crept into the picture, but the analogy finally flashed upon me.

At this point, I found myself back in the hot office. The day had been terrifically warm and since early morning I had anticipated an evening with my family on the shore of a lake just outside the city limits. A glance at the clock showed me I was 35 minutes late for my engagement—35 minutes of precious time taken from an evening that, in itself, was too short after a hard grind at the office. An acquaintance of mine, a Doctor, had just left. I had been checking the ownership of a complicated tract of land lying partly in two donation land claims that he and his wife had fancied while driving around the city the day before. His practice was a lucrative one, despite his 43 years, and as is natural in those cases, he wanted to build a new home on Silk-Stocking Hill. He didn't have any definite idea as to the location of this tract, nor its size, nor the ownership. I had spent more than one and a quarter hours trying to help him. It took my experience and a top-notch title plant to give him the information he needed. Our remuneration for this service was, "thank-you." "It must take a heap of money to assemble data such as you have here."

I began to feel small and insignificant—ashamed to mingle with people of accomplishment—for in my fit of melancholy my mind carried me back to an evening not yet two weeks past when I had taken my wife to his home for the purpose of having him remove a small fish-bone from her throat. His working time was 7 seconds—the tool he used to remove the bone hadn't cost a penny over 50c—and other than a cheap flashlight, it was the only equipment he used. His bill was \$5.00. God of Justice—Can this be right?

#### Woes

I found myself at this point in a room dark and dingy. The air was



dead. A feeble light showed me I was in a vault. The records before me, upon investigation, proved of no interest—records of tax payments—Federal Income Tax, State Income Tax, Social Security Tax, Unemployment Tax, Corporation License Tax and many others, which, as a boy, when I entered the employ of the Company were unheard of. I stooped to pick up a leaflet, faded with age, which had fallen to the floor. It was our original title insurance schedule. I examined this ancient document with care and found to my great surprise that this was the same rating schedule under which we are now operating.—After 31 years, despite new taxes, higher salaries, added cost of doing business, we were still operating under our original schedule which was in truth too low at the outset. I threw the leaflet on the floor with disgust and pondered. The feeble light grew dimmer and the Edison Mazda, in use since 1908, gave up the ghost.

I reached nervously in my pocket for a cigarette and fumbled with the cellophane wrapper. My thoughts went back a few short years ago when cellophane was unknown. I thought how rapidly a product gained national recognition if it had merit.

A shout that nearly awakened me filled the small room. I realized that it was I who shouted. My ear drums buzzed with the echo. My own words came back to me. Cellophane was sold. The people responsible for its existence, realized that they had an article of great worth, and proceeded to sell it on its worth, while we in the title fraternity expect our product to be bought by the buying public. There is just as much reason to expect the grocery man to Timbuctoo or Goshen Center to stock articles without cellophane as to expect the title people in those centers to continue to evidence titles by the antiquated abstract of title method, I proclaimed loudly.

#### And More

My next recollection is of opening my bank statement—such as it was. Inserted neatly with the cancelled checks I found slips showing my account had been charged with service charges ranging from \$1.00 for being below the required \$100.00 average deposit, to 18c for cashing three HOLC coupons. I immediately made a mental note to remind my banker that numerous check-ups he demanded daily covering ownerships, mortgage encumbrances and size and location of lots was a far greater service rendered willingly and gratuitously than he was rendering.

My subconscious mind was being overtaxed. This part of my dream became even more disjointed. Too many happenings and past problems rushed to my mind to torture and perplex me. I relate here only those things that I distinctly remember. I found myself comparing our profession with that of real estate and realized what great progress that profession has made in

the past twenty years. There we have a group of men with no expensive tools necessary to render their service—their requirements for success cannot be compared with ours. Fundamentally our business should be monopolistic, while with them in the very nature of things, individual endeavor is and must be the method of operation. No capital. No reserves. No minute inspection by state officials—Yet, they have built a national organization to which I pay my respects.

They have done this—not by sitting on their hands and wishing, but by intelligent thought and the will to make the selling of real estate a profession.

If I remember correctly the late Will Rogers once remarked that the only difference between a Realtor and an old fashioned real estate man was that the Realtor had learned to wear a necktie. For the first time in my life, I take issue with Mr. Rogers.

I remember hurriedly locking the door, glad to have a few hours I could call my own, and while so engaged, I was confronted by an unfortunate who begged for a dime. I handed him the coin without looking up, and as he turned away, I glanced at him and couldn't help remarking to myself how close a resemblance he bore to a former title man in the Eastern part of our State. This man of whom I speak had eked out an existence for years from a title plant that had cost him in excess of \$10,000. His county, it is true, was large, but so were the individual holdings. The result was that he was seldom called upon to furnish title work. His family increased and by dint of hard work in selling fire insurance and running a feed store, he managed to get by.

#### And the Heavens Smiled

But Hear Ye! A miracle happened. You doubting Thomases that scoff at such things—listen to this. One fine morning, the mail brought him a letter from Uncle Sam asking him to bid on abstract work covering several thousand acres, which acreage was to be reclaimed. After several weeks of checking, he arrived at a figure of \$2,500.00 for this work. His was the only plant in the county. His price was figured as closely as his experience and nicely assembled data could estimate it, and he sent his bid in rejoicing. After eleven years, he was going to get a job that might yield enough money at one time to buy the butcher's second hand Ford.

#### Or Did They?

Weeks passed—no acceptance from Washington. Months—still no acceptance. One morning, while engaged in his daily routine at the Court House, he noticed two strangers checking the records. After a little while, curiosity got the better of him and he asked the county clerk who these gentlemen were. He was informed, to his sorrow, that these men were sent out from Washington to compile some records. A few days later, a stenographer was

added to the crew of experts from our national capitol. Still another came to make up the force and after a little while, one of the younger intellectuals from the promised land came out to this wild and woolly part of the globe to make up a complete and infallible unit. After months of messing around, the crew departed—taking with them sheaves and sheaves of data.

Our friend from the plains, in telling this story to the town barber was led to think—for said the barber, "Even if these men worked as cheaply as you do, Uncle Sam still paid too much for his whistle." This led our good friend from Eastern Oregon to check with his representative in Congress.—The good Senator after duly investigating the costs, advised him that the job had only cost the tax-payers slightly over \$6800.00.

Thus we see that everybody was happy. Uncle Sam got an inferior product which cost only \$3700.00 more—(not quite three times as much) as the bid of the abstracter in that county, who had to live in that desolate spot, pay taxes, maintain a family and keep off the relief rolls.

My inclination was to run after this poor fellow and induce him to run for some political job for sheer spite. But time was wasting.

I found myself in another room filled with rows and rows of musty law books. Men were evidently making preparations for a meeting such as ours. I walked to the window and gazed out upon the landscape. The street filled with automobiles—all nice shiny big cars. Even the younger men, fresh from law school, rolled up in Buicks, Packards and LaSalles. I uttered an oath under my breath, for I remembered that I had been in this business for twenty-seven years, had always worked as diligently as I knew how, had saved and skimped, and while I have driven a Chevrolet for the past five years, I never had felt that I could afford even that.

These men were not of my type. They felt and showed that they had no such misgivings. In the period preceding the calling of the meeting to order, I heard men speaking of their sons and daughters in college, their club affiliations, their golf scores, their proposed pleasure trips to the East Coast and to foreign lands, of their beach homes, and of the people they lavishly entertained in their palatial town homes.

All these things cost money and plenty of it, I realized, and I wondered how these things passed us by. I left the room and sat alone in a darkened alcove. I felt weak and dejected. I realized for the first time how a man mush feel when the things for which he has labored so diligently falls at his feet. Twenty-seven years, I heard myself saying. The best part of my life. Whose fault is it? Is our product at fault? Are our leaders asleep?—Or are we, you and I, So stupid that we content ourselves with getting what others see fit to give us?



I became angry. I'll be damned, said I, if this thing is logical. The basis of the nation's wealth is real estate. We have a service that all who deal with that commodity should have; our fees are reasonable, and our reputation for integrity and fair dealing is far above most other trades and professions.

A slight sense of shame was mine when I realized my eyes were filled with tears—Through my tears I could see a man walking toward me—Despite his great age, he was the picture of dignity and intelligence. His clear eyes sparkled and a slight smile played upon his lips.

He put his strong hand upon my shoulder, and with a voice of great sympathy, said "Son, this thing is not as bad as it seems. Remember it is always darkest before the dawn. Just causes are won," he continued, "not by

chance and drastic action, but by intelligent planning and close co-operation—'United we stand—divided we fall,' was a truth well known even before George Pope Morris committed it to parchment. Thought has always preceded action. Your task lies in getting your people to think—succeeding in that, the result you desire is bound to follow."

Somehow I felt an immediate love for this man—His was the voice of experience and authority.

I relaxed and became most attentive, for I sensed that he was about to unfold the secret of our success, any word—even a hint would be welcome; but alas, he vanished as quickly as he had appeared.

All my thoughts centered upon this man and our secret buried in his heart—Try as I might I could not get in

further contact with him—I called aloud, but no answer—Again I yelled, but this time I was rudely awakened by my wife informing me that I was disturbing the household.

I sat up in bed, every nerve in my body on edge. I thought how closely I had come to obtaining the "open sesame" to the door of knowledge.

#### And Came the Dawn

Out of the darkness came a realization that the Kindly Mr. Experience had given me the formula we needed for success. His words, which burned in my memory, came back to me—"Just causes are won by intelligent planning and close co-operation." Unity of purpose and will to sacrifice for the good of a common cause, I concluded, was the thing, and only thing needed by us to gain our rightful place in the sun.

## Reflections

JOHN A. AMERMAN

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A day came toward the end of May of this year when I received a lengthy telegram from our Executive Secretary, Mr. Sheridan. He extended an invitation to address this meeting, and more or less demanded an immediate answer, which I did not give him. However, that has led to my presence at the convention, because frankly I did not at first expect that it would be possible to attend, and it has led to my appearance before you this morning, may I say with much trepidation, because of the presence here of wiser and more experienced title men.

Our good friend Sheridan would have been a little kinder to me had he set a topic for this discussion. About the only cue he afforded in his telegram was, that I should give the benefit of my observations and experiences in real estate law problems of mutual concern. But we all have multifarious observations and experiences, and we all have many matters of mutual concern, so that the cue did not lead me very far. My problem in a word was two-fold—what to talk about and what to say about it. I do not know which task is the harder; but addressing myself to the first one, I yield to the temptation which must present itself to every man with some experience along definite lines of work, to speculate upon the future.

#### No Prophet Am I

I ask you to bear in mind that I stop short of the temerity of attempting to prophesy. It would seem that there is a reasonable ground of distinction between speculation about the future, based upon trends and developments as we have observed them, and prophecy. The prophet as to human affairs, unless it be considered that he is guided by divine inspiration, is almost invariably wrong. He attempts, Let us say,

to predict at long range, social and economic developments in the future. It is obvious that a man who, say in 1880, tried to predict what the urban community of today would be like, would have been wide of the mark, mainly because he would not have had at his command the knowledge of mechanical developments, let alone social and economic trends. If that is true over a sixty year range, how much more must it be true over the longer term. I heard a distinguished man make a remarkable address some three or four years ago, an address which held the fascinated attention of everyone who heard it. This man was discussing the possibilities and limitations of human foresight as applied to business. He spoke at considerable length, and as I say, with the tribute of close and respectful attention of every person present. As I thought it over the next day, I realized that all that he really said was, that no one can predict the future in business, elaborating, of course, upon the reasons for that statement. So I repeat that I shall certainly not have the audacity to attempt to predict, but shall only make some observations regarding trends which have already developed, and speculate as to where they will lead us. Even so, it must be recognized that anyone, and certainly the present speaker, may be misled both as to the trend and as to its ultimate development.

#### Changes Wrought by Time

But before we talk about the World of Tomorrow, let us think about this changing world of yesterday and today.

I have already mentioned the disadvantage which the prophet of 1880 would have been under in predicting the world sixty years in the future. While true, it is all so trite that I shall no more than barely mention the changes which even the man in middle years has seen. The telephone, of course, was in operation, but hardly in extensive commercial or personal use fifty years ago. That is true also of the electric light. The aeroplane, the automobile, the radio, and now television, were far in the future. The present speaker can almost recall the beginning of the trolley car, and has seen its passing, at least in his own locality. The automobile alone has been a most potent force in speeding up and opening up the world, and its influence upon our social life and upon urban and rural communities has been tremendous. This bare recital, of course, does not include those very impressive developments in the world of physics and chemistry, developments with which we are perhaps only vaguely acquainted but which have profoundly affected our everyday lives. But let us pass on from this recognition of physical and mechanical changes and improvements, to consideration of the changes which have taken place within the last twenty years or so (to bring it within my own personal experience) in our own fields. First, we have seen several real estate cycles. Going back a little more than twenty years, we had a period of comparative inactivity and of low prices for real estate, terminating approximately with the year 1918. Then came an era of higher prices and of almost feverish activity, which began to taper off about the end of the year 1925. Next we find a fairly level plateau, which ended when the bottom dropped out of things



in 1929, although the immediate effect upon real estate was not marked for a year or so. Finally came the great depression, which, as far as real estate was concerned, was marked by an era of defaults and foreclosures and acquisitions. That period has not entirely terminated, although fortunately the peak has long since passed and the upgrade has been reached. Then let us think of the developments of long term mortgage lending, as compared with short term loans, generally not exceeding five years, which were the rule twenty years ago and even since that time. Let us reflect upon the development of monthly payment loans. (Here I pause to pay tribute to the humble building and loan association, which, for the better part of a century, has made available to the lower third and to the middle class all the advantages of long term and fairly high percentage lending and of monthly payments which are so widely publicized today.) Another development has been, that with the decision of the United States Supreme Court in the *Blaisdell* case<sup>1</sup>, the moratorium principle has been established in a period of crisis or emergency. I shall speak of this at more length later on. As the result of economic conditions, we have the present borrower's market for mortgage money, which includes as a necessary corollary a decline in interest rates and an assumption of a degree of expense by the lender. For the first time, in my own experience at least, we now find mortgage loans selling in the market at better than par. I have personally been interested and occupied in the entry of life insurance companies into the urban lending field on a large nation-wide scale, which has developed since about 1920, as compared with the former preponderance of farm loan investment. It is in part a realization of these changes, and of others not mentioned, taking place in my own time, which has impelled me to speculate to a degree upon the future.

#### Our Common Interest

Now we here gathered together are all interested in title to real estate and in evidence of and assurance of title to real estate. We are abstracters, or title insurance men, or attorneys specializing in real estate practice, or representatives of institutional lenders. We need not necessarily confine our thoughts, however, to abstracts of title and title policies, because these are, after all, by-products of real estate activity generally. On the other hand, this speaker for one will refuse to enter into the realm of prophecy with regard to such things as prices for real estate and interest rates. I leave those matters to the economist and to the trained real estate expert, if they care to prophesy. It shall be my endeavor to strike a balance between the too restrictive consideration of purely title matters on the one hand and consideration of purely economic problems on the other.

First, the basic question from our standpoint is with regard to evidence of title generally. Perhaps the best introduction to this subject would be to read my rough notes as I jotted them down when thinking over this whole subject. Those notes are as follows:

"Question as to what will happen with regard to evidence of title generally. Will there be some new system? What about abstracts? What about title insurance? Will the Torrens System grow?"

#### Systems

It will be conceded that the basis of the various systems of evidence of title is the American Recording System it-



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self. I see absolutely no indication that there will be any substantial change in the recording system. It has worked very well down the years, and I believe it to be a source of comfortable assurance, to lawyer and laymen alike, that the deed or other instrument of title is copied as a part of a permanent public record, and that at the instant of filing, constructive notice is given to the world. There are no doubt possibilities for improvement. For example, the general adoption of a photographic or photostatic method of reproduction would be of value from both the practical and legal standpoints, and a wide spread use of tract indices, instead of the grantor-grantee indexing, would be of great benefit. The fundamental system, however, will no doubt remain with us. That leads us into definition of the various kinds of evidences and assurances of title which grow out of the recording system. I believe that we may analyze these as follows: (1) The abstract of title, supplemented by ex-

amination and opinion by an attorney. (2) Certificate of title, representing an opinion regarding the title, prepared and certified to by one skilled in conveyancing, being a system much used in the New England states. (3) Title insurance. (4) Torrens or registered title. I hasten to forestall criticism by acknowledging that the registered title is not based upon the American Recording System, but upon an entirely different theory.

#### The Abstract

What, then, of the abstract of title? As I see it, there are two developments in prospect, or perhaps I should say there is one desirability which is not opment which I am reasonably sure particularly in prospect, and one development that there should be some standardization of abstract work, at least on a statewide basis if not nation-wide. There is no standard form of abstract even within counties, except as local associations may have developed one here and there, and there is certainly no state-wide standardization. I suppose that historically this may be accounted for by the fact that real estate activity, including buying, selling and mortgaging, began, and to a considerable extent has continued, as between persons in a particular locality. Buying and selling obviously is mainly confined to neighborhoods. There is comparatively little activity along the line of wide-spread acquisition of equities or of unencumbered ownership. The life insurance companies, to take one example, are prohibited by law from investing in real estate, except for purposes of their own business, and of course except for involuntary acquisitions in satisfaction of indebtedness. As to lending activities, individuals, local banks, building loan associations and other local institutions were the original mortgage lenders and have continued to occupy the market in a substantial percentage. It is true that life insurance companies have been lending on a large national scale, particularly in farm loans, for many years, and as to urban loans, markedly so within the last twenty years. During the depression, we have seen HOLC and FHA entering into the field. The fact remains, however, that real estate activity began between parties in the locality, and to a considerable extent has so continued. This may, and I think does, account for the lack of uniformity in preparation of abstracts. I am in a position to see a wide variance. In certain states, abstracts are very little more than mere chains of title. In the majority of jurisdictions, however, an honest attempt is made to abstract the portions of recorded instruments which should be noticed by an examining attorney; there being, nevertheless, no uniformity of method in these attempts. I submit to this Convention the need for vast improvement in the standardization of abstract preparation and in the certificates to abstracts.

<sup>1</sup>*Home B & L Association vs. Blaisdell*, 290 U. S. 398 54 Supreme Court Reporter 231



It may not be, and probably is not, practicable that there should be a nation-wide standard, but at least there may be a standard within a state. I believe that it should be an important function of the American Title Association, through its abstracters' section, to work upon this problem in cooperation with local associations.

#### Development in Abstract Work

I mentioned as my second point a development in abstract work which I was reasonably sure would come. It seems clear to me that in middle western parts of the country, the day is not far distant when the abstract of title will not be expected nor required to cover the entire period of the title. In Ohio, Indiana and Illinois, for example, abstracts now go back one hundred or more years in some instances. There is no compelling reason, in my opinion, why an abstract of title need cover a period of more than seventy-five years, provided the title is shown out of sovereignty. Of course, we in the eastern seaboard states never attempt to trace title back to the original source. In fact, it would be impossible to do so. May I give you a concrete example, that of Essex County, New Jersey, in which the City of Newark is located, as well as many important suburban communities. Newark was settled in 1666 by people from Connecticut. Just prior to that time, what is now New Jersey had been granted by the King of England to the Duke of York, and by him to Berkeley and Carteret. The Newark settlers from New England, failing to make immediate effective contact with the agents of Berkeley and Carteret, purchased from the Hackensack Indians for the typical consideration of powder, lead, axes, guns, pistols, troopers' coats, kettles, beer, liquor and wampum, a tract of land beginning at the mouth of Bound Creek on the Passaic, running thence "westwardly into the country" to the gap in the mountain at Short Hills, thence northwardly along the crest of the first ridge of the Watchungs to a point about opposite the present Nutley, thence in an easterly line until it struck the River Yantacaw or Third River, thence along it to the Passaic River, thence southwardly along the Passaic to the point of beginning. This large tract comprises the greater part in area of Essex County, and very much more than the City of Newark of today. Thus the Indian possessory title was extinguished. Later on there was, as might naturally be expected, trouble with the Lords Proprietors, and confirmatory grants or patents were secured from them for most, if not all, of this land. I do not actually know, and I question if anyone knows, whether all of the land covered by this Indian deed was actually patented by the Lords Proprietors. Now strangely enough the Lords Proprietors, their successors and assigns, constitute a body still in existence, known as the Board or Council of Proprietors. They meet every and for West Jersey at Burlington.

They still give deeds, particularly for certain riparian lands which have never been granted by the Proprietors. No attempt is made, however, to follow any Essex County title back into either the Indian deed or into a patent from the Lords Proprietors, nor is any effort made to secure a deed from the Proprietors. The main reason, of course, is that security is given by state sixty year statutes<sup>1</sup>, as well as by state statutes of shorter duration; so that abstracts of title beginning with a valid deed or will at least sixty years old, and in many instances less, are accepted in New Jersey. The same general statement is true with regard to title to the lands in the thirteen original states, in so far as my own experience and observation go, although naturally the periods differ. I say that the day is bound to come in that vast and major part of this country which was originally Government land, when abstracts of title will show title out of the Government, by patent or otherwise, and then will eliminate title showing prior to a date which is within the range of security afforded by state statutes and decisions. In fact, my own company has already acted upon that basis. In July of 1938, we sent to our mortgage loan field a general letter in which it was stated that examination of abstracts might be confined to an examination of title out of the Government and of course out of the state in certain cases such as school and swamp lands, and then might skip to instruments of conveyance covering the entire security, dated in 1875 or prior thereto. We did not and do not attempt to dictate the preparation of abstracts of title. Most of them are already in existence and are supplemented from time to time, and cover the entire period from the Government down. Our letter related only to the examination. Nevertheless, I see as a coming development a time when, by general acceptance, in the older Government land states, even the abstract showing will not cover the entire period.

In talking about abstracts, I do want to take this occasion to pay public tribute to the honesty and substantial accuracy of abstract work. This tribute is a sincere one and comes as a result of observations during a period of over twenty years.

#### Certificates

Following the analysis in logical order, I have no comments to make regarding certificates of title. To many of us in sections of the country where either abstract of title or title insurance is used, it seems strange that there should be general acceptance in other sections of what is, after all, only an opinion, not a concrete showing of title, and backed up only by the work and responsibility of the man or the firm which makes it. Nevertheless, having said that, I am bound to say that my company has accepted certificates of title in the New England territory for

many years (reserving the right, of course, to require complete abstracts in the larger cases) and without any trouble that I can recall. Confining myself to my general theme, I can foresee no developments under the certificate of title plan, unless, of course, there should be a change in public acceptance in the territories where it is now prevalent.

#### Title Insurance

When I come to title insurance, I hardly know what to say. The general subject of "Title Insurance from the Standpoint of the Mortgagee" has been adequately and ably covered by addresses before other meetings of this Association, and in any event, that phase does not come within the scope of my theme this morning. It is evident that title insurance as an institution has not escaped the trials of recent years, and that, not only because of general economic conditions, but also because of the fact that some companies which insured title also engaged in other lines of business, the difficulties in which had a specially adverse effect not only upon their well being, but upon their very existence. There are, of course, certain territories, in which I may include the home state of our very courteous hosts, in which title insurance is soundly established and widely accepted. In most places, however, it has to make its own way. It should make its own way, because it is a very desirable public facility. Note that I do not say "necessity"; and when we eliminate necessity, we admit at once many other factors into the considerations, including among them costs, responsibility, publicity, salesmanship and public relations generally. I confess my inability to forecast the future of title insurance throughout the nation, because so much depends upon the title companies themselves. About all I can do is to mention very briefly certain things which I believe will benefit the business; and I do this with every good wish for the success of title insurance. Among them are: adequate financial responsibility, reasonable rates, liberality in re-issue rates, the payment of losses, the matter of uniformity in policy forms, the point of full protection, the avoidance of undue technicalities, and the very important matters of publicity, advertisement and public relations. A review of the above headings will show that, with the possible exception of re-issue rates, they constitute the very requirements that insurance companies in other fields strive constantly to meet and to improve. Other insurance institutions accept the desirability of these points without argument, and about some of them maxims have grown up which are given far more than lip service. To go into them briefly, but in a little more detail, there is in my opinion particular reason why in the title insurance business the matter of financial responsibility should be stressed not only internally, but also the public. One of

<sup>1</sup>See *Yard vs. The Ocean Beach Assoc.* 49 N. J. Eq. 306



your disadvantages is, that you never know exactly what liability you are under. The life insurance risk may be calculated rather exactly, and the fire insurance company knows at least when its policies expire. Your coverage continues indefinitely under many forms of fee policies, and it is hard for you to know how long your protection continues under mortgagee policies. That, however, is one reason why your financial responsibility should be adequate. Another and more important reason lies in the need to allay in the minds of the public any concern arising out of the knowledge of the casualties of the depression. When I come to rates, there is nothing much to be said. It would be foolish to advocate the cheapening of rates below the profit point. Nevertheless, the question of rates is very important in this highly competitive title world of today. So many matters of risk and of management enter into the matter of rates that it would be impertinent for me to say anything more. As to re-issue rates, I have long had the feeling that it would be good business for the companies to be more liberal. It will be an important factor in promoting widespread usage and in public acceptance if the second and subsequent dealings with the title are at markedly cheaper rates. As to loss payments, one of the best advertisements that any insurance company can have is a reasonably prompt and cheerful payment of claims. I continually resist those in the practical side of our business who think that a title company check should be forthcoming as soon as some claim or contest is instituted. In other forms of insurance, if there has been a death or a fire, those physical facts are readily established, although even so, there may be a contest about other phases. But in your business the determination of whether or not there is a defect in title may and often does involve litigation, and you have the right to appeal an adverse result. Nevertheless I still say that the reasonably prompt and cheerful payment of losses is your best advertisement. The founder of our business advised his associates and subordinates to seek to find an excuse to pay a claim rather than to seek to find an excuse to avoid payment. That did not mean that he advised against contest of fraudulent or suspicious claims. He did, however, recognize the mental attitude which should be involved, and he recognized the business value of that attitude. The payment of losses is particularly good business in that type of case where title insurance affords unique protection against the "unknown and unknowable" type of defect. As to uniformity and full coverage, there is no reason why title policies should not read briefly, clearly and uniformly. The more protection you give and the less exceptions you insert, the better for business. Do not misunderstand me. I am not like that legislator in New York, who, I understand, recently introduced a bill providing that

no title policy should contain a Schedule B, or in other words, that every policy should afford full and unqualified protection. A Schedule B is necessary in every case, but it should be confined to the real qualifications upon that particular title, and should not contain general exceptions as to which the title company can either ascertain whether or not it is under any real liability, or else assume a reasonable risk. Again I would not wish to be misunderstood. About the worst recommendation which could be given me about a title company is, that it covers up and insures against real title defects. There is, however, a line of reasonable discretion to be drawn, and I do make the point that full coverage and protection will make for acceptance and success. The Association did a good job with the American Title Association form. Unfortunately we life insurance men learned afterward that, in some cases, at least, there was to be an extra charge for the use of this form as compared with the so-called standard form. If I were an executive in your business, gentlemen—undoubtedly you will say, fortunately I am not—I would advocate the adoption of the ATA form or its equivalent as a standard form, and remove all extra premium upon the use of that form. I am not talking from the self-interest standpoint of the mortgagee, but I am thinking in terms of a business which in most cases has its way to make. With regard to publicity, advertisement and public relations, I can only say that every day these become more important. The handling of such matters is for the expert and not for the novice. I have only one observation to make, and that is, that a friendly, cheerful and courteous attitude toward the public on the part of everyone from the highest executive to the lowest subordinate, and the same attitude in correspondence is of the utmost importance.

I hope I may be absolved of the charge of impertinence or audacity in making the above observations. I repeat that I have every good wish for the success of title insurance. From a selfish standpoint, it is obvious that it makes for better protection and easier handling for the mortgagee. Over and above that, I say again that title insurance is a desirable public instrumentality which deserves to grow and to succeed, because it facilitates real estate transactions and benefits and protects the bona fide purchaser and mortgagee.

#### Torrens

When I come to the Torrens system, I realize that many of you here, perhaps most of you, will not agree with what I say. You must, nevertheless, concede that Sir Robert Torrens had an original and meritorious idea. He has properly achieved immortality by having his name pass into the language as an adjective and as a verb. Perhaps I may shock you by saying that the Torrens system constitutes the only true insurance of title. What we com-

monly call a title insurance policy does not insure title. It insures against losses by reason of defects in title. A title may be lost notwithstanding all the title insurance in the world, and what will be gained is money compensation. There is a finality about a registration of title which no other system even purports to afford. Let us not make the somewhat common mistake of thinking that the insurance fund accumulated under the operations of the Torrens system is a fund comparable to the resources of a title insurance company. The man who has his title registered under the Torrens system does not need any insurance fund if he has acted in good faith and without fraud. It is the man who may suffer through the operation of the Torrens system (as for example, a long missing heir who is thought to be dead) who would have recourse to the insurance fund. I repeat that there is a finality about the registration. Nevertheless, for some reason the Torrens system does not seem to thrive in the American scene. I am not one of those who ascribe that fact to the opposition of lawyers, title insurance companies and abstracters. All of their efforts combined could not prevent the wide development and acceptance of the Torrens system if it fitted readily into our scheme of things. While I do not have the statistics available, it is, I think, a fact that at least a third of the American states have Torrens laws, but only in about three or four of them is it being used to any great extent. What the reason is, I do not know. Perhaps the first cost has a great deal to do with it. As with all causes, the Torrens system has suffered because of the zeal of its advocates. In one state, laws have been introduced along the following lines: to compel the registration of every tax title; to compel the registration of every foreclosure title at the expense of the mortgagee, to provide that no recorded deed shall be constructive notice for more than three months unless within that period petition is filed for registration of the title. This sort of thing does not lead either to popularity or to success. Compulsory registration may succeed in a new country, as in the western Canadian provinces, but it can hardly succeed here. Besides there is, thank Heaven, something in the American air which resents compulsion and dictation. My belief, based upon present trends, is that the Torrens system will grow slowly in use and acceptance, but that it will hardly be a prominent factor in title work generally throughout the country for a long time, if ever. Again exception must be made for certain places where it is already well established. I do want to say that my company has accepted registered titles for many years in two localities and always with satisfactory results to us as mortgagee, and as owner following acquisition.

#### The Blaisdell Case

But let us leave this brief speculation regarding developments in the evi-



dence of title, and pass on to two or three other things. I wonder if the significance of the consequences flowing out of the moratorium decision in the Blaisdell case has been fully appreciated. It is a well known fact that the Constitution itself had as the reason for its very existence the disordered conditions preceding it, following the Revolution. It is not for the mere love of rhetoric that the preamble to the Constitution mentions the insurance of domestic tranquillity. For all of the period since the Constitution and down to the Great Depression, it has been considered that the rights of contract could not be interfered with or suspended by state legislation, except, of course, in intangible ways involved in the exercise of the police power. It is now decided that the latent power of state sovereignty is sufficient to suspend contract rights, that power, however, only to be exercised in a period of crisis or emergency. To repeat the noted phrase, the emergency does not create power, but merely occasions the right to exercise it. It is not for me to say, and I do not say, that this decision is incorrect from a judicial standpoint, or unwise from a social, political or economic standpoint. Again I leave those discussions to the constitutional lawyer, to the statesman and to the economist. I merely point out that the moratoria created in 1933-34 and since then largely remain with us. It is perhaps too much to expect of purely political bodies that they will repeal such legislation while a degree of depression remains. The crisis has passed, but the depression has not. The high courts of three states, Nebraska<sup>1</sup>, Iowa<sup>2</sup>, and Mississippi<sup>3</sup>, have recognized that there is no longer an emergency, and have declared invalid the extension of previously existing moratorium laws. The point is, however, that it seems to be left to the courts to recognize the situation and to correct it. Further than that, if, following a wave of prosperity, all existing moratorium laws should be repealed, we may expect that with the first onset of another depression, such laws would be re-enacted. That is certainly the indication if we may judge from present day experience. No one need necessarily be disturbed about this, even if he personally feels that the principle is unwise. In the words (spoken about another subject) of a man who knows more about the practical side of real estate and mortgages than anyone else with whom I am acquainted, "We can live with it." I merely say that we should fully recognize this new factor and make allowance for it. The same statement goes for the other measures which have been designed to alleviate the miseries of depression; the Frazier-Lemke Act, the corporate reorganizations and the individual adjustments.

### Real Property Taxation

Another field in which I think there must perforce be some change, al-

though no great indication of change can be seen at the present time, is in the matter of real estate taxation. That real estate has borne more than its fair share of the tax burden is, I think, generally admitted by thinking men. The reasons are not far to seek. We do not need to go back to the dawn of history to find the time when real property was the only form of property. The cattle were the original "chattels" or personal property, and personal property until even comparatively recent times consisted only of tangibles. Today the personal property of at least the well to do classes consists mainly of intangibles. Real estate, however, still maintains its historic place as the primary and fundamental form of property, as it should. Perhaps that accounts for some of the undue burden of taxation upon real estate. A more practical and substantial reason, however, is the fact that real property cannot be hidden or the consequences of its ownership as far as taxation is concerned. It is always there for the tax assessor to see and to appraise and to tax. The attempts to impose a general tax on personality, however, are not successful. In fact, it seems to me, and I know it has been stated by many others, that the general personal property tax might well be abandoned. Many instances could be given in which it would be unfair and confiscatory. If, for example, an attempt were made to tax savings bank deposits now yielding 2%, and even 1% in my own state, at a general rate of 3% per year, it would be seen that it would actually cost the owner money to have money in the bank. If a man owns \$10,000 worth of corporation stocks which yield him on the whole list about 2½% per year, it again is costing him money if he pays taxes on that form of personal property at a rate higher than the average dividend rate. But if we say that the personal property tax is not a success, don't forget that we also started by saying that real property had more than its burden of taxation. One excuse for that, perhaps, lies in the fact that the owner of real property theoretically can pass along the taxes in the form of rent; but sad experience proves that this is, after all, but a theory, and that it falls down in the face of conditions. We may be sure that our social legislation is going to cost more and more money as time goes on. We must not make the mistake of assuming that any political change will stay that tide; nor, I think, will many of us assert that the tide should be stayed, but only kept within wise and reasonable limitations. Where, then, is the money to come from? It seems to this speaker, first, that there *must* be some relief for real estate, and secondly, that much of the money must come from automatic and comparatively easy methods of taxation which cannot well be evaded. The traditional system of a real property tax and a personal property tax will not suffice. The necessi-

ties of the last few years have pointed the way. Unpopular though they may be, it is from the income tax, the estate taxes, the payroll levies, the sales tax, the luxury taxes and the like that we must receive a large portion of our tax revenue funds in the future. These at least have the virtue of making everyone realize that he is paying taxes. Our traditional system has left a large portion of our population in the position of believing that it paid no taxes. Our very well being for the future depends upon the tax consciousness of the average voter. I have said nothing about our increasing burden of indebtedness, because that is in the mind of every thinking man. The entire electorate should recognize that burden and should consciously assist in meeting it. We may be assured that whether it does so consciously or not, it still will carry the burden. Let me mention one other possible source of revenue. Our special highway facilities should at least pay their own way. No one objects to paying toll on the Bay Bridge, or toll in the Holland Tunnel. Perhaps that is because we have always had to pay on the ferries. But why should we object to paying for the use of super roads? I can point to a stretch of road that cost seven million dollars a mile for a limited distance. People come and go freely on it without cost, although the state which built it, with a slight amount of Federal aid, needs money for relief and other purposes. The gas tax is no answer. I say nothing about the element of unfairness to unsubsidized transportation companies, particularly the railroads. Beyond all that, the people who use such costly avenues should pay directly for the privilege, and if the community should perchance make a profit, what is wrong about that?

### Relief?

All of the above consideration of means of additional revenue is occasioned by a belief in the need for relief of real estate from excessive taxation. That need is very real, and will have to be met, although the way is not fully apparent at this moment.

### Uniformity

There is one other trend which should be mentioned, and with that I have finished. It would be more accurate not to describe it as a trend, but as an attempt. I refer to the proposed uniform mortgage and foreclosure law. Now this is not the first time, by any means, that we have heard of such a proposal. Back about the year 1926, I believe the American Bar Association approved the report of its Committee and thereby approved a proposed uniform law. I have never heard, however, that the law was passed by even one state, and since that time the movement has been dormant. I suppose that there is a special reason why it has been revived at this time. It is always somewhat of a shock for a lawyer admitted to the bar of one or two states to step into the employ-

<sup>1</sup>First Trust Co. vs. Smith, 277 N. W. 762

<sup>2</sup>First Trust Joint Stock Land Bank of Chicago vs. Arp, 283 N. W. 441

<sup>3</sup>Jefferson Standard Life Ins. Co. vs. Noble, 188 So. 289.



ment of a large nation-wide real estate or lending institution and find the wide variance in laws, forms and customs as between the various states. Most of us who have had that experience have tolerated it, and have compensated ourselves with the feeling that we were learning something new every day. At least we knew that we could do nothing about it and, therefore, must accept it. But since the depression, a host of lawyers has entered the Federal service in the various Federal agencies, and I suspect that some of them at least are exasperated to find that there is no conformity; that there are in effect forty-eight separate countries as far as real estate law is concerned. They have determined that they are going to do something about it, and they are right in so doing. There is no reason inherent in our system of government which makes it necessary to have such variance between states in real estate law matters. I acknowledge that, for example, there is a fundamental difference between common law and civil law concepts of marital property, and realize that such differences must continue, as well as others which are grounded deep in the established law and public policy of the various states. These afford no reason, however, why we should not have a uniform mortgage

form and uniform foreclosure procedure. So we have a proposition for the "Uniform Real Estate Mortgage Act." This provides, very briefly, for a statutory short form of mortgage, with definition of the expanded meaning of short form covenants. It provides for foreclosure under power of sale after giving ninety days' notice of intention to foreclose, and after thirty days' advertisement of foreclosure sale. Any interested party who has a defense to the foreclosure may enjoin the sale and have his defense tried out upon the merits. Sale may be confirmed after thirty days. Redemption may be affected within that time. Thus there is an effective redemption period, starting with the filing of the notice of intention to foreclose, of about four months, but no other redemption right. Deficiency judgments are limited to the difference between either the market value of the mortgage premises or the amount realized at the sale, whichever is the larger, and the amount of the indebtedness. I believe that we may join in advocacy of such a law, but frankly, I have doubts about the possibilities or probabilities of its being enacted into law in many states. Those doubts arise out of a recognition of political elements. Just to mention one thing, it may well be doubted that a state which now permits

a redemption period of one year or more would, in these days particularly, reduce that effective period to four months. I try to be realistic about such matters, and when a person says that he is realistic, he generally means that he is pessimistic. As long as we have forty-eight sovereign states, I am afraid we are going to have forty-eight sets of real estate laws. That is no reason, however, why the attempt at uniformity should not be made, and why we should not wish it success and join in it.

In conclusion, let me express my thanks for the invitation to address you, and my pleasure in being able to attend this Convention in the beautiful City of San Francisco. I saw it for the first time last fall, and am delighted to be able to be here again so soon. May I say to you that views herein expressed, and the observations made, are entirely personal and in no sense official. I have not discussed these remarks with any official of my company, nor with anyone else. They would be better if I had, but such as I have I give to you. Permit me further to express my appreciation of the privilege of being a member of the American Title Association, with its opportunities for services in the title field, and to wish it every success in the future.

## Report of the Legislative Committee

C. BARTON BREWSTER  
*Chairman*

*President, Provident Title Company,  
Philadelphia, Pennsylvania*

It has been two years since you have had a formal report from your Legislative Committee. This is due not entirely to the ineptitude of the individual members of the Committee and its Chairman but in small part to the fact that last year was one of those legislative breathing spells that we hear so much of from national circles but so infrequently see. In other words, one of those closed seasons for legislators. This year the season has been practically unrestricted. Over 12,000 new laws were shot through the legislative hopper, not including such chance shots as resolutions, memorials and constitutional amendments. Undoubtedly there would have been many more had not a few of our governors exercised their right of veto. The palm for meritorious service in this connection goes to the Governor of Maryland who consigned eight-five of them to limbo.

According to the latest count, Florida passed the largest number of laws with 1,213. North Carolina had to be content with second place with 1,051 and the Empire State came in a poor third with 927. Poor Arizona, trailing in the dust and drought, brought up the rear with only 90 new statutes.

### CALIFORNIA

California, not to be outshone when it comes to major accomplishments, reported the longest session in its history.

Its length was due in part to a world-wide condition, budgetary trouble. It seems that budgets of the size they produce in California have to be approved by a two-thirds vote. The situation was eventually cured by the universal remedy, an agreement to call a special session. Your reporter looked in vain for any intimation that Southern California joined the Union but only found some obscure reports that the attendance at Hollywood is being affected by some sort of a Fair in the hinterland.

The State is happy in the fact that out of a large number of bills increasing taxes only one succeeded in passing, that imposing a gift tax. This is indicative of a swing to the right in California. To most of us, it would not be a legislative year in California unless some attention has been given to old-age pensions. We are as interested as the next in maintaining old traditions; however, we are glad to be able to report that the only legislative action on the subject was a bill to permit subordination and release of liens for these pensions. A bill was also passed providing for the recording of adjudications in bankruptcy under the Na-

tional Bankruptcy Act. There is also a bill which is now before the Governor for the recording of partnership agreements in order to protect bona fide purchasers from silent partners. The California Land Title Association introduced a bill prohibiting title insurance companies from paying rebates or commissions. One recalcitrant company, identity unknown to your reporter, saw fit to oppose this legislation and is accredited with defeating it in the Assembly.

Those of you who have traveled to the Convention on burros will be glad to learn that the slaughter of these useful beasts in California has been halted by legislative fiat. You will be able to return in the same manner without having your conveyance canned for dog food. This bill was of no interest to your reporter, however, as having once ridden a burrow he now goes about from place to place by bicycle.

### OREGON

Oregon, not to be outdone by its more articulate neighbor, reports the longest session in its history and proudly points to 1,500 pages of result, not to mention 135 temporary laws on the statute books which were saved from oblivion by a declaration of the customary statewide emergency. We are happy to say nothing of direct interest to the title business was introduced. The sale of



real estate by guardians was simplified by the elimination of the appointment of guardians ad litem for next of kin who may be minors, eliminating what in other jurisdictions have proven to be a great hindrance to the alienability of real property.

Bankruptcy is a subject close to all of us; you will be glad to hear that bankrupts in Oregon can now immediately reinvest in real estate what they have saved from the wreckage under an act requiring the immediate satisfaction of judgments of record against such unfortunates. You will also be interested to hear that it is now possible to vacate part of a county road under the same identical procedure as vacating the road itself. This may seem quite a piece-meal method to the rest of us but it appears to be eminently satisfactory to our brothers in Oregon. Another act authorizes the recording and filing of assignments of chattel mortgages providing a fee of fifty cents for the county clerk so doing. We are informed that the practice, particularly that of collecting the fee, anticipated the bill by several years.

#### WASHINGTON

Washington reports show little of note. Apparently they had a dull season. Perhaps for this reason the Torrens Act was introduced in the House. The measure was forgotten in the general wrangle over public ownership of utilities.

#### NEVADA

We received an exhaustive report from Nevada. After confirming the fact that Nevada is not the capital of Reno we were very much amused to see that two of the bills of greatest interest to us dealt with joint estates. As we so often find in our researches, this bill was modeled after a California statute. It permits the creation of a joint tenancy by a single will or transfer and permits a transfer from a sole owner to himself and others, or from tenants in common to themselves as joint tenants, or from husband and wife holding as community property to themselves and others. It has been suggested that the choice of the phrase, "single will or transfer," may be an unhappy one in the case of a devise under a will and decree of distribution thereunder. The second act provides for the determination by the court of the death of a joint or life tenant. Apparently they are tough and hard to kill in Nevada. A doctor's certificate to this effect is not conclusive without an inquest. Under another act guardians are authorized to compromise claims and debts and in such connection may convey interests in real estate. A bill passed recognizing the validity of spendthrift trusts created by someone other than the beneficiary, of course. Bill or Chapter 152 appears to give priority over subsequent mortgages to chattel mortgages covering crops to be crop within two years. The unemployment compen-

sation act was amended to provide a lien on all the assets of an employer prior in lien to everything, including existing liens, in case he goes into bankruptcy or receivership.

Inasmuch as next to mining and gambling, the divorce business constitutes one of Nevada's major industries, we are in the practice of noting any change or amendment in the divorce laws. We can report nothing of significance. One more cause for divorce was added to the statutes, that of living separate and apart without cohabitation for three consecutive years. We consider this attempt on the part of the



#### C. BARTON BREWSTER

Philadelphia, Pennsylvania

*Chairman, Legislative Committee,  
American Title Association  
President, Provident Title Company*

State to add to its divorce business abortive as there is no case on record where anyone waited that long for a legal separation in Reno.

#### IDAHO

Idaho fought down after a tough battle a proposal to amend the state constitution permitting a state system of land title registration. A bill was passed, however, requiring abstractors to file a surety bond instead of the personal one which had heretofore been satisfactory, we take it, to the abstractors at least.

#### UTAH

Our brethren in Utah had their guns all primed for a Torrens bill and we note a bit of regret in the report that no such bill was introduced. This was a great loss, as nothing can boost membership in a Title Association like a good active agitation for land registration. One of the bills passed provides that executors and administrators may sell real estate without order of court but must have it confirmed afterwards. As far as we know the act is silent on

what becomes of the purchaser if the court does not confirm the sale. On the other hand, if he exchanges one property for another he needs no confirmation. Various other acts of indirect interest were passed, among others, one providing for a summary procedure to terminate life estates. It is not clear to your reporter, but we believe it is not by death. Senate Bill 178 would provide dog-houses for legislators. This was very appropriately referred to the Committee on Public Institutions, but on a wave of economy the bill was dropped. A bill all too familiar to many of us was introduced by a senator named Brewster, requiring lobbyists to register and file expense statements. Those of us who have had any experience with state legislatures recognize that the only merit this bill had was the name of the sponsor.

#### MONTANA

In Montana the law requiring abstractors to complete a set of indices at the end of two years was threatened by having its provisions extended to cover a period of five years. The bill appears to have been introduced for the benefit of one or more individuals, identity unknown to us. The Montana Title Association was able to effect a satisfactory compromise under which temporary certificates to abstractors will be eventually eliminated. With the exception of another bill affecting the same law, which was killed in committee, Montana reports nothing of interest.

#### WYOMING

Wyoming continues to refuse to find its legislature amusing, but reports the elimination of estates tail and a bill providing that an abstract of title to real property or mining claims shall be prima facie evidence of the facts stated in it if it be certified by a bonded abstractor. The abstractors of the State deny any connection with the introduction of this measure. Also, a bill providing for the official determination of the death of a life tenant and the vesting of the title in the remainderman, such decree to have the same effect as a final decree of distribution in the estate of a decedent.

#### COLORADO

The very active committee of the Colorado Title Association operates on the theory that no one, not even the proponents of the Torrens System, could devise legislation to make it effective, so it viewed with indifference the introduction by title only of a Torrens bill. It died, as promised, in the pickling vat. The committee also turned a jaundiced eye on a bill to regulate fees for making abstracts, secure in the knowledge that Mr. King, abstractor from Eads, was a member of the House sitting on the lid.

#### NORTH DAKOTA

North Dakota reports that its legislature met, passed a budget in sixty days, two millions dollars out of balance and went home. This is like



breaking into the run column to most of us.

#### SOUTH DAKOTA

South Dakota held a very satisfactory session, adopting a new code advantageous to title men and those relying upon abstracts of title to real estate. The abstracters of the State point with pride to the fact that the law now on their statute books was passed without the exertion of any influence on their part. It is perhaps unfair to add that the chairman of the commission which drafted the code owns an abstract plant in Kennebeck, South Dakota.

#### KANSAS

Kansas enacted a domestic corporation code similar to the uniform code of other states. The new Probate Code also has the virtue of uniformity with those in sister states. It repeals all the prescribed qualifications for a probate judge to the end that any qualified elector who can control the vote may have the office.

The lien provision of the Social Welfare Act was repealed and a new statute provides that no action may be brought by the state to recover taxes imposed or charged against any estate unless such action be commenced within ten years after the death of the decedent.

#### OKLAHOMA

The Oklahoma Title Association successfully repulsed an attempt to repeal the Abstracters Bill which it was instrumental in having enacted in 1937. This law requires as a prerequisite to engaging in the abstract business completion of a full set of indices and the posting of a five thousand dollar bond satisfactory to the Board of County Commissioners. A bill requiring all real estate dealers in Oklahoma City and Tulsa to be licensed and bonded was vetoed by the Governor after it passed both houses. An enabling act to permit Federal low-cost housing projects passed both houses after a factional fight. It cannot, however, become a law as the Speaker of the House in packing up to go home overlooked signing the bill. It is rumored that his sympathies were with the opposition.

A Community Property law was passed similar in many respects to the laws of Arizona, California and Louisiana. As you know, this law has its inception in French and Spanish law, it being effective in the United States in the jurisdictions of French and Spanish origin where the common law of those countries was adopted into and made a part of the statutory law of the states carved out of the territory affected. The Oklahoma act is available to husband and wife upon their filing a written election to take under it. All property acquired after the filing of the election becomes community property whether taken in the individual names or not. Perhaps the greatest difference between the Oklahoma law and that of other states is that the law does not

apply automatically upon marriage but only upon the election of husband and wife.

We take great satisfaction in the accomplishments of the Oklahoma Legislature, but note with regret that a bill to declare a closed season on bullfrogs for five years, as well as one requiring game wardens to "de-scent" skunks and polecats failed of passage, the latter, it is said, because the members of the house thought the bill might have a personal application.

#### MINNESOTA

Minnesota reports a quiet session, mostly devoted to extending the moratorium laws covering not only mortgages but contracts for the sale of real estate and leases. An abortive attempt was made to abolish tax titles by declaring the title of the State where it acquired land under forfeiture to be *prima facie* good. It has always been the impression in Minnesota that tax titles are no better than the procedure upon which they depend and necessarily, therefore, bad. The passage of the act has had, it seems, little effect upon public opinion.

#### IOWA

The hog market in Iowa continues to be satisfactory. The only act of its Legislature that has come to your Committee's notice was on appropriating two hundred fifty dollars for the expenses of a delegation to return a rebel flag to the State of Alabama. The flag disappeared from the State house in Montgomery during the Civil War. The fact that the Eighth Iowa Cavalry was stationed there at the time was thought merely a coincidence.

#### MISSOURI

Mr. McCune Gill rendered us an exhaustive report on the activities of the Legislature in Missouri. It seems that no Torrens or abstracters' license bills reared their ugly heads. On the contrary, Mr. Gill's friends slipped through a bill including abstracters' fees as part of the costs in partition. The score was almost even, however, when a bill was introduced making it a felony to use a straw-man in a real estate transfer with intention to defraud. The bill was finally defeated on the plea that it would bring real estate transfers practically to a standstill.

Another act provided that title insurance reserves should be considered a liability rather than an asset, a fact which none of the Missourians had heretofore doubted and a conviction shared in by many of us from other states. The tax laws were improved by an amendment establishing an upset price and approval of the sale by the circuit court. We gather that Mr. Gill is not insuring such titles, however. We note with indifference the introduction of a bill which would prohibit women from wearing holes in their shoes. We consider it significant that the bill did not apply to men. Another bill sought to abolish barmaids. Unlike a similar act in Pennsylvania the bill failed of

passage. The Pennsylvania act, we are glad to say, only applied to barmaids mixing drinks. It is still both legal and customary in your reporter's home state to take both our women and liquor straight.

A bill was also introduced making it a criminal offense to shoot a pigeon with a band on its leg. The measure was fatally defective because it lacked any method of determining whether the pigeon was so banded without first shooting the bird to find out. Many unsuccessful attempts were made to tax mortgages and exempt homesteads. Bills were passed curing defects in old acknowledgments and enabling a minor spouse to join with his or her adult spouse in a conveyance. A satisfactory United States housing law was passed, although one providing that farmers should not pay rent in drought years was defeated. Other interesting bills provided that trucks should not crowd pleasure vehicles off the highway on Sunday; endeavored to regulate the culture of Irish potatoes; prohibited state officers from stealing money from the State. They were all considered revolutionary and met with no support. Mr. Gill sums it all up by stating that his State is just where it started from, which is more than could have been expected.

#### ARKANSAS

The usual bill for bonding abstracters was introduced in Arkansas. It appears to have been merely a stalking horse for a registration act which did not put in its scheduled appearance. We find nothing else of interest other than an attempt to legalize bull-fighting without weapons, or causing pain, suffering or death to the bull. Whatever your sympathies for the bull are it is difficult to justify this bill as far as the matador is concerned.

#### ILLINOIS

Illinois as usual had a Torrens bill which would have extended the system in Cook County to all transfers of title. This as well as others of a similar nature the Title Association was successful in killing. One bill was introduced that strikes a responsive chord in all our breasts. It provided that all taxpayers of the State adjudged wild or who suffer from the hallucination that their taxes are too high or that the tax money is being extravagantly, wastefully or needlessly expended shall be confined in a "Wild Taxpayers' Refuge" at the expense of the employees of the State.

#### INDIANA

Indiana reports with thanksgiving that its Legislature accomplished less this year than in any regular session for many years. A Torrens bill was introduced but the Legislative Committee of the Indiana Title Association promptly went into action with the result that it was reported out unfavorably by the House committee, effectively killing it. Shares in Federal Savings and Loan Associations organized under the Home Owners' Loan Act were



made legal investments for guardians. Restrictions against officers of corporations acting as notary publics in the corporate business were lifted. Another bill authorized the state to acquire and utilize tax delinquent lands for conservation purposes where taxes have been delinquent for two or more years.

One of the more important accomplishments of the session was the creation of an "Egg Board." We understand that for reasons personal to the legislators bad eggs were not covered in the act.

#### OHIO

The Ohio Legislature met and did nothing except recognize the continuation of a state of emergency by extending the mortgage moratorium law for two more years.

#### TENNESSEE

Likewise Tennessee had a quiet session, passing the usual tax moratorium. The House of Representatives killed an attempt to repeal the State's monkey law on evolution. It was contended on the floor that the act would have a baleful effect on the minds of boys and girls. The monkeys having no vote were not heard.

#### ALABAMA

Alabama reports the passage of two bills of interest to title men. The first provided that any will which is not probated within the state within twelve months from the date of death of the testator shall be void as to bona fide purchasers and mortgagees, thus reducing the statutory period from five years to one. The second act provides that as to parties without actual notice the indebtedness secured by any recorded mortgage or vendor's lien shall be conclusively presumed paid after the lapse of twenty years unless the record shows an extension or payment on account, the twenty years' period to run from the date of such extension agreement or payment. This latter act was sponsored by the Alabama bar and supported by the Title Association.

#### GEORGIA

Georgia passed a *lis pendens* law providing for a docket for petitions and for the dismissal and cancellation of *lis pendens* on real property, and a bill providing for a year's support for widows and minor children of decedents. One bill worthy of note, imposing a liquor tax, would tax the first drink ten per cent, twenty per cent on the second, thirty per cent on the third and one hundred per cent on all over that number. The sponsor hailed it as perfect because after the third drink the taxpayer would not know what the tax was. Knowing their liquor as we do we suggest the maximum tax be moved up one drink.

#### FLORIDA

Florida reports an attempt to amend the Uniform Mechanics' Lien Act to facilitate real estate transfers of recently constructed or repaired properties failed because of opposition by the

materialmen. It is reported that the Legislative Committee of the Florida Title Association should have the credit for the passage of a Conformity Act. This has puzzled your reporter as he sees no connection between conformity and the activities of title men. It is perhaps easier to understand why the Association opposed an act "to name a system of coordinates and to establish three divisions or zones of such coordinates in the State of Florida and to legalize the use of these coordinates by the State of Florida and its political sub-divisions."

We understand that the Association had nothing to do with the introduction of an act to provide for reducing the number of lawyers in the State of Florida. Under the provisions of the act the lawyers were to be reduced twenty-five per cent over a period of five years, adopting the method used in crop control, by plowing under every third lawyer in two plowings per annum for five years. The bill was very appropriately referred to the Committee on Livestock.

#### SOUTH CAROLINA

South Carolina reports the longest session in the history of the State but no laws affecting real estate.

#### MARYLAND

Maryland reports a change in administration, strangely enough to the Democratic side, and what is more than strange, that all campaign pledges were fulfilled. Some amendments were enacted simplifying the judicial code. An interesting one of which provided for two additional jurors to be drawn as alternates in case of protracted trials. A uniform declaratory judgment act was passed. Maryland fell in line with her sister states by eliminating premarital unchastity as grounds for divorce for women. Under another act you cannot marry below the age of sixteen unless you are pregnant, putting a premium, we are afraid, on child delinquency.

Mechanics' liens are now enforced by a bill in equity instead of the old procedure by a writ of *scire facias*. The Real Estate Board of Baltimore successfully sponsored a bill creating a real estate commission with a right to regulate licensed real estate brokers and salesmen. The practice of requiring the payment of all taxes before a deed to the property can be recorded has spread to four more counties and one city in the State.

After many unsuccessful attempts, "Maryland, My Maryland" was adopted as the official State Song. A bill was passed requiring the Register of Wills to notify each devisee and legatee upon the probate of any will. The payment yearly of a trustee's commission of one-eighth of one per cent on the principal of any trust up to five hundred thousand dollars and one-sixteenth of one per cent on anything in excess of that sum was legalized. This has been a matter of some interest to trust com-

panies along the Atlantic seaboard for a year or more. Maryland is the only state to our knowledge which has adopted the practice.

#### DELAWARE

You will be interested to learn that the State of Delaware had hopes of a new official bird. The great blue heron was advanced for that distinction but was defeated because of local prejudices against summer residents.

#### NEW YORK

New York had a flurry of bills affiliated with and amending the present Torrens law. None of these bills was reported out of committee. One requiring the registration of tax titles nearly succeeded in passing. A new insurance code was passed but the provisions as to title insurance corporations remained practically the same as under the existing law. The new act requires the filing of a report of all unpaid losses and claims on title insurance policies notice of which has been received. Legislators of New York returned a Scotch verdict on the emergency and in the continuation of its Mortgage Act stated that it might reasonably be expected to continue until January 1, 1941.

Corporations or voluntary associations were prohibited from practicing law or appearing as attorney in any court in the State or before any judicial body. A comprehensive amendment to the Real Property Law was passed codifying the practice in various counties. Acknowledgments of deeds may be taken in the usual manner prescribed by the laws of the State of New York or by the laws of the place where such acknowledgment or proof is taken, including foreign countries.

Major Everts of the New York State Title Association was very active in legislative work of that State and kept your reporter fully informed as to the situation there.

#### NEW JERSEY

We have no final report on the legislative situation in New Jersey. However, you will be interested to hear that the Supreme Court of that State recently held the salary of a state legislator is not subject to garnishment because it is too small.

#### PENNSYLVANIA

Several bills of interest to us were passed and enacted into law in the last session of the Pennsylvania Legislature. One confines the liability of a trustee under all contracts and instruments executed by him to the trust estate. This, we hope, settles the question as to whether the trustee is personally liable and forced to his remedy over against the trust estate for reimbursement in case of loss. Another bill was passed, abolishing a troublesome situation, which permits foreign fiduciaries holding mortgages in Pennsylvania to foreclose, buy in and re-sell. Investments purchased for trust funds by a corporate trustee from its own



corporate account in the absence of fraud were validated. A bill permitting banks to close on Saturdays during July and August excited a great deal of interest. It was finally vetoed by the Governor. Ten recalcitrants, probably the only ones with bank accounts, voted against the bill in the House.

Under the guise of police power a bill was introduced to assure pure food for cats and dogs. Speaking of them, reminds us that a bill passed both Houses barring lawyers' runners from open solicitation. We thought we detected an unfair implication against the fair sex in another bill which, if passed, would have required all places of public

entertainment to summon the police when any woman became so ill that she required assistance to leave.

This, in a very brief way, summarizes the activities of the various Legislatures throughout the country in the last year insofar as those activities affected the business of insuring and abstracting titles to real estate. Your reporter wishes to express his gratitude for the splendid cooperation he received from all the members of your Legislative Committee and trusts that he has upheld the tradition established by his predecessors of presenting his report in a dignified and sober manner.

## Report of Legislative Committee Report of Federal Legislation

CHARLES H. BUCK, *Chairman*  
*President, Maryland Title Guarantee*  
*Company, Baltimore, Maryland*

The first session of the Seventy-Sixth Congress, after more than one hundred and forty legislative days, finally ended on August 5, 1939.

Not only was the session distinguished for its length. It made other records, among them being that it authorized the spending of the largest total in the nation's peace-time history, upwards of \$13,000,000,000.00.

Little has been found in the enactments of the Seventy-Sixth Congress of particular application to the title industry. Of special interest, however, should be:

1. The national census on housing facilities was authorized by Senate Bill No. 2240.

2. Authority to the Home Owners' Loan Corporation to extend the period of amortization of home loans from fifteen to twenty years was authorized by Senate Bill No. 628.

3. Amendments to the Bankruptcy Act, granting certain preferences, and putting equity receiverships in the same situation as reorganizations under Section 77 of the Act were undertaken in Senate Bill No. 2654.

Although little of specific application to the title industry was added to the law of the land, the attention of title men and business men should be called to some of the enactments of the Congress.

Amendments to the Social Security Laws by House Bill No. 6535 freezes old-age insurance levies on employers and employees at the present 1 per cent rate for 1940, 1941 and 1942, rather than to permit them to graduate upward during those years. The new law taxes only the first \$3,000.00 paid to an employee annually under unemployment compensation provisions,



CHARLES H. BUCK, *Chairman*  
*Baltimore, Maryland*  
*President, Maryland Title Guarantee*  
*Company*

as well as under the old-age insurance program.

House Bill No. 6851, generally referred to as the "business appeasement" tax act, made changes in federal tax laws to the following effect:

Undistributed profits tax on corporations earning more than \$25,000 annually were permitted to expire December 31, 1939. Flat tax of 18 per cent on net income of these corporations was substituted.

Rates for corporations earning less than \$25,000 were not changed.

Corporations, partnerships and individuals were given privilege of carrying net operating losses over for two years, deducting losses of

bad years from profits of good years in computing gross income. The limitation of \$2,000 allowance of capital losses was repealed.

Capital stock and excess profits provisions were revised to permit corporations to increase—but not to reduce—their capital stock values for each of the next two years, thus to provide additional scope for protection against increase in reciprocating excess profits levies.

The special class established in the existing law, for banks, insurance companies, China trading act corporations, and corporate bodies in United States possessions, were discontinued.

Corporations in "unsound financial conditions" are to be permitted, to reduce fixed charges and scale down indebtedness, without taxation as a capital gain of the difference between par value and price paid.

Stamp taxes, manufacturers' excise taxes and miscellaneous taxes which expired June 30, 1939 were renewed for two years, as was the three cent rate on non-local first-class mail.

The executive's recommendations were disregarded in several instances, which indicate, notwithstanding Congress was willing again to appropriate more money than could be expected to be collected from taxes, and thereby increase the debt, it was beginning to think for itself. The notable instance was in the refusal of the House to consider the President's "lending-for-recovery" program.

Although the President earnestly desired a revision of the Neutrality Act, Congress was unwilling to accede to his desires.

The administration leaders blocked amendments to the Wage and Hour Act and Labor Relations Act, but were unable to defeat an investigating resolution applicable to the National Labor Relations Board, or to defeat the Hatch Bill to prohibit "pernicious political activities" by federal office holders.

House Bill No. 4425 gives the President authority until January 20, 1941, when the next presidential term begins:

- (a) To prepare plans for the transfer of agencies or their functions in whole or in part to other agencies;
- (b) To consolidate the functions of agencies and to abolish any agency, the functions of which it is proposed to transfer to another.

This Bill gives the authority to the President to reorganize the executive branch which was asked by the President in 1937, withheld by the Seventy-Fifth Congress and granted, in diluted form, in the above mentioned law. Savings in administrative costs can be accomplished by the Bill, if it is properly applied.

The judicial reform and Supreme Court reorganization program of 1937 is brought to mind by Senate Bill No. 188, which was enacted to create an



Administrative Office for the United States Courts; this office to be headed by a Director chosen by the Supreme Court. The new organization is to have charge of all administrative matters relating to Federal Courts, and is to function under the supervision of the Conference of Senior Circuit Judges. The Original Court Reorganization Plan called for the appointment by the Supreme Court of a Proctor to perform similar functions.

Senate Bill No. 1282 permits judges of Federal Courts to retire voluntarily in case of disability, on half pay if they have served less than ten years, or on full salary after ten years of service.

The National Housing Act was amended by House Bill No. 5324 to increase from \$3,000,000,000.00 to \$4,000,000,000.00 the total amount of mortgage insurance the Federal Housing Administration may have outstanding. The authorization of the Federal Housing Administration to insure modernization loans, scheduled to expire July 1, 1939, was extended to July 1, 1941, and the authorization to insure loans on small owner-occupied dwellings up to 90 per cent value and for a period of twenty-five years was extended indefinitely.

Another amendment prohibits the Federal Housing Administration from insuring mortgages on rental housing or multiple dwellings unless the contractor certifies that prevailing wages have been paid during construction. Under the amended act a refinanced mortgage cannot be insured without certification that the first mortgage holder has refused to accept a mortgage on the terms of the one offered for insurance.

Senate Bill No. 2065 sponsored by the Securities and Exchange Commission was passed for the following purposes:

1. To protect purchasers of bonds and other securities by complete disclosure, *throughout life* of the issues, of the assets by which they are backed; and
2. To assure security purchasers of the services of disinterested indenture trustees.

For the tenth successive year a budget deficit has been created. Receipts from all sources are estimated at a little in excess of \$5,500,000,000.00, and expenditures at an excess of \$9,000,000,000.00, leaving a gross deficit for the year of nearly \$3,500,000,000.00. The net deficit (omitting debt retirement) was estimated at more than \$3,300,000,000.00, and it is estimated that

the public debt at the end of the fiscal year 1940, will exceed \$44,400,000,000.00. In 1931 the public debt was approximately \$16,800,000,000.00, and the prospect is that at the end of 1940 fiscal year it will be nearly \$45,000,000,000.00.

For several years this Committee has called the attention of the Association to the mounting debt and the dangers entailed in continually spending more money than is collected in taxes. The spirit of the present Federal administration is shown in the President's last budget message, in which he said it would be "unwise either to curtail expenditures sharply or to impose drastic new taxes at this stage of recovery." We wonder.

It is a matter for speculation what will happen now in view of the public debt limit under the existing law of \$45,000,000,000.00. Does this law mean that we *must*, begin to live within our income, or will the Congress raise the debt limit at the request of the President?

The information contained in this report was acquired through the "United States News," "Legislative Bulletins of the Chamber of Commerce of the United States" and "Editorial Research Reports," to all of which grateful acknowledgement is made.

# Bonded Surveys—Romance and Reality

S. GOLDMAN

*President, Bonded Surveyors of America, Chicago, Illinois*

To trace the development and origin of "Bonded Surveys" before a group of Title men is perhaps reminiscent of the evolution of attorney's opinion and abstracts to that of the Title Insurance business. It dates back to 1917, when a couple of youngsters fresh from Eastern colleges, without a job, landed in Detroit. Detroit, the dynamic! The immense growth of the auto industry brought with it great speculation in land. Subdividers and builders were reaping a harvest. It was the Gold Rush Area of the time. There was no unemployment. Skill and labor were at a premium. Work had to be done. Regardless of reputation or experience, honest intent was recognized and given a trial. It was a great place for one to sink his teeth in a real job, and Detroit offered such opportunity.

The World War interrupted for two years the expected success, but, in turn, only enabled more mature reasoning for sounder expansion. The early 20's brought temporary setbacks caused by war inflation—but this, too, enabled one to see the true perspective of one's opportunities and job.

With the general curtailment of subdividing and building projects, the only activity left in surveying was the real estate sale or transfer of property. But why surveys? Don't we know the

property? Don't we know the principals in the transaction—what losses have been sustained? The rapid growth of the city did not permit these developers an opportunity of answering these questions which older cities have learned. Surveys in the East were generally accepted as an integral part in every real estate transaction. Here it was an unnecessary expense! Without years of experience, one could only point to advertised losses or case histories; never an effective warning to those who had not sustained loss. Not having anything much to do, we set out to prove to ourselves, as well as to the trade, that History repeats itself. Conditions that necessitated survey protection in other cities certainly should be similar in Detroit, perhaps more so due to its rapid and abnormal growth. That this theory was correct is a matter of interesting proof. Block after block of improved property was surveyed, ownership and mortgagee's interest of abutting buildings were traced through the records. Boundaries were checked with legal descriptions and hundreds of discrepancies were disclosed. Shortages, surpluses, encroachments and mortgages on vacant property were dis-

covered. To graphically illustrate these conditions, photographs were taken of the improvements and presented with plats to show interested parties the nature of their security. The lending agencies were impressed—the demand for surveys grew—and with it a new idea.

The photographic evidence supporting plat of survey was not only visual, it was a legal check identifying the security on which the loan was made. The form created was a definite tie up between improvements photographed and property covered by the mortgage. Thus National Survey Service was born, by demand of the large lending institutions, principally life insurance companies in the East who were making loans throughout the country. By now perhaps all of you have had some experience in the use of that type of survey report, prepared by your own surveyors in your own community.

The building boom that followed the after-the-war recession was without precedent. The demand for building money was unparalleled. The insurance companies' demand for mortgage loans brought with it greater demands for the simplification of practices, standardization of forms, leading to greater liquidity of the mortgage paper. Clearing houses for standardizing appraisal



values, eliminating unfair competition, guaranteed payments of principal and interest, making forms of survey uniform and embodying such protection in a form of uniform title policy, uniform legislation, were theorized and discussed. Perhaps a system could so be devised for the making of loans that would permit the participation of several life insurance companies in purchasing the larger issues. This is similar to what was done by the Life and Fire Companies in writing life insurance and fire insurance. Perhaps such procedure would permit of a clearing house or exchange where the values of mortgage loan issues were listed. Thus the then existent dream of "Mortgage Loans—a liquid commodity—like Stocks and Bonds—and then the crash!

What followed is again History. Some of it pleasant and most of it otherwise. We all know what happened to the theory of "Guaranteed Mortgages." Fortunately, experience teaches, and a great deal of the success of the FHA is due to Fred Babcock's Risk-Rating appraisal plan, and general adoption of the amortization principle, not new but now almost universally adopted. The demand for uniform title policies, first suggested by the L. I. C. form and now covered by the A. T. A., is, in most places, an accepted practice.

What happened to surveyors and surveys in general? The demand upon title companies to guarantee against questions of survey through use of the L. I. C. and A. T. A. policy came about after 1928. Foreclosure in ensuing years for the most part covered loans made previous to that date. Is there any question of the errors, losses and difficulties that required adjustment during the years 1930-1936, due to questions of survey? Our records indicate errors resulting in the loss of many thousands of dollars.

#### Losses

The subject of losses and errors due to questions of survey would be an interesting text for an individual treatise. We have discovered buildings on the wrong lot, legal descriptions cutting through improvements preventing foreclosure or sale, encroachments of improvements onto private and city properties, preventing the financing to distressed owners; houses being moved from one mortgaged location to another to get two loans on one parcel of property; hold-ups by adjoining owners who demanded exorbitant prices for land encroached upon. An interesting case came to our attention recently of a party who erected a six story building in one of the larger mid-western cities. Not employing a surveyor at the time of building, it was determined at the time of mortgaging that the improvements encroached two inches in the adjoining land, which was vacant. There was some ill-feeling between the builder and the owner of the adjoining land, due principally to the loss of business during building operations. When

requested to sell two inches of his vacant lot, he asked an excessive price, resulting in a decision to chip off the encroached improvements. It was more simple to remove one layer of brick, so this was done—the amount involving 3½ inches—the face of wall was painted. Sometime later the adjoining landowner decided to build an addition to his existing building and make use of the vacant lot. He erected an eight-story improvement, flush with the abutting buildings on either side. The damaged party asked removal of encroachment—would accept no reasonable figure. No financing was available and the case is still in process of litigation.

I could relate of shifting buildings due to quicksand foundations, loss of royalties in oil due to improper boundary surveys, the rescinding of a sales agreement on a \$50,000 purchase with



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damage suit apparent; of the case this month of the H. O. L. C. in Chicago where they have cut away part of a building, 8 feet by 20 feet, to permit them to foreclose and sell property obtained. Certainly each of you have experienced some similar situation. In "Title Losses," a paper read by Laurie Smith at your A. T. A. Convention at Oklahoma City, October, 1938—63 cases of loss due to survey amounting to some \$19,000 were cited. This out of some 1,100 claims, totaling \$610,000. Who pays these losses? Surveyors for the most part have inadequate resources. Lending agencies are innocent victims. The choice of surveyors is in most times beyond the control of Title company. Settlements are, therefore, usually affected by negotiation or law suit, with someone left dissatisfied, and the resulting ill will prevails.

Attempts have been made by Title companies to overcome these difficulties and avoid undue losses due to this exposure. Those who operate their own surveying departments have been criticized as "unduly practicing the profession of surveying." With registration for surveyors now required in most states, there is a movement afoot to prosecute such competition by title companies. Other title companies have abandoned their surveying departments due to adverse experiences. In some places, title companies have demanded a bond from surveyors to indemnify them generally against errors in survey. Such a bond not being available, cash deposits have been substituted. The amounts so posted are most inadequate and really constitute a restraint of trade, for they usually create a monopoly. Permit me to illustrate the situation in one of our larger cities where the foregoing guarantee requirement prevails. There exists two title companies who have entered an agreement to accept surveys from such surveyors who will post with them \$1,000 in cash. Thus the surveyor posts \$2,000 and is incidentally prevented its return, due to the length of time he is exposed to such liability. For the most part, the \$2,000 not available from surveyor is posted by some client for him. Thus the surveyor becomes an agent on a risk that serves two masters with different interests, perhaps conflicting. If the surveyor makes an average of 250 surveys per month or 3,000 cases per years (this is not an unusual number) and the average loan is \$5,000, his and the Title company's exposure is \$15,000,000 per year. (Their indemnity was \$1,000.) Of course, no such losses occur, but if any adverse experience develops, isn't it likely to cause criticism by the insurance department, with a demand for the posting of additional reserves? This is, of course, given without criticism. It simply illustrates the need for treating a problem.

Thus developed the B. S. A. plan for bonding surveys and the origin of an organization of surveyors to work in cooperation with allied interests for the greater protection to the trade, public and themselves.

It is obvious that a plan had to be conceived that would give this protection to the lending agency, its agent, title company or to the public directly. It would be impractical for any individual or group to offer such indemnity excepting upon a risk basis. Primarily there was scant evidence of concrete losses over a protracted period. The bonding of individual surveyors was a non-profitable venture, tried at different times and abandoned. Losses were in excess of premiums—rates were already too high. A new principle had to be proposed, one of making a charge on each individual transaction. We were most fortunate in enlisting the interest and support of a highly responsible and enterprising surety company in considering this new type of risk underwriting. Our work had then



only begun. Without an underwriter, our idea was chiefly a dream. Now we were entering the realm of probabilities. We had to build up a case and form acceptable to State Insurance Department, lending agencies, and title fraternity, acceptable throughout the country.

The assistance we received from the legal departments of the major life insurance companies and your own body have been of inestimable value. Fortunately or otherwise, we do not yet know, the economic conditions did not immediately permit our selling the preferred service as originally conceived. Every change on our part to meet the highly competitive conditions in the mortgage lending field was subjected to "something new" on the tomorrow. With interest rates dropping, commissions eliminated and service charges absorbed in this "Borrower's Market," we have been reluctant to initiate the service in isolated areas or upon individual request. We have felt rather the

necessity of formulating a plan so fundamentally sound that will permit of its adoption now—and show course of its value by experience, justifying its existence for more profitable life in the future, as a result of its then proven history. The plan is a simple one and occasions no delay. Qualified surveyors, recommended by Title companies, are eligible to become representatives of Bonded Surveyors of America. Once approved, they are authorized to attach individual bonds to their survey reports which holds harmless the client or title company, against any survey loss sustained through error up to amount of guaranty requested. The cost of a \$1,000 bond is \$1.00. That is the minimum requirement. The purchase of additional protection is optional and follows at \$1.00 per \$1,000 of the amount of the loan. Thus we feel that as conditions improve and experience justifies, the protection purchased will seek its own level. In the meantime, enabling a vehicle to be put into action

which will assume this responsibility now beyond the control of the Title men; and which indemnity is now requested by the lending agency.

As time passes, the project of Bonded Surveys will come into its own.

Surveys will be looked upon with respect, their errors, if any, paid for, without blemish against them personally. They will be enabled to create standards in keeping with other professions and assist materially in developing practices that will contribute to the general benefits of the real estate fraternity.

Perhaps the Title fraternity will assist in the materialization of such advance in quality and responsibility of survey and surveyor; and in such co-operation transfer millions of dollars of unsolicited survey exposure to proper channels, at no expense to themselves.

Thank you for permitting me this opportunity of bringing the problem of the surveyor to you as a friend and associate.

# How to Commit Suicide Gracefully

## A Discussion of Public Relations

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*Educational Director, Braun & Co.*

A friend of mine enjoys the rather unusual hobby of studying the techniques of self-destruction. He collects information about people who attempt to take their own lives, and catalogs it according to motives prompting the act, mechanical elements involved, procedures employed, and results achieved. While the subject would appear to be somewhat depressing, it must be admitted that he has gathered some interesting and colorful case histories. One of the observations he makes is that most attempts to commit suicide are ineffectual, although he has records of several elaborate schemes that were spectacularly successful. Among the more common methods employed, he reports, are: slashing the wrists, taking poison or an over-dose of sleeping powder, jumping off bridges or out of windows, and it is surprising, he claims, how many people who make these attempts actually recover. My friend claims that his studies have convinced him that the only safe and sure method of suicide is to put a twelve-gauge loaded shotgun in the mouth and pull the trigger. It is a scientifically established fact, he says, that no one has ever recovered from such an attempt. As a graceful way of committing suicide, he suggests the reading of a philosophic treatise on the subject, putting one's belongings in order, lying down on the Chesterfield and holding one's breath.

I am inclined to think that is the method attempted by too many businesses, wittingly or unwittingly.

Of course, self-destruction may be

the product of action or inaction; it may be the result of what you do or what you fail to do. If a person had no way of knowing any better, his failure to save himself would be described as an accident. Failure to do that which you have reason to believe may save your life, however, is known as suicide. What I have to say today concerns the type of behavior by which business tends to destroy its own life, passively but none the less knowingly.

### Public Relations as the No. 1 Problem of Business

As a text for this talk, let us consider the statement made a few months ago by Fortune magazine: "*Business can avoid committing suicide only by practicing some sound public relations.*" It can be taken for granted that business is interested in self-preservation if the issue of life and death is clear-cut and immediate. When the situation, however, calls for long-range precautions against the threat of destruction, business unfortunately does not always act in its own behalf. Sometimes it becomes the victim of slow death by its own hands.

Consideration of those practices and policies by which business approaches a refined form of suicide may suggest to us some of the things that business should do in order to keep alive.

At the outset, I want to say in all frankness that unless there is a vital

difference between your business and most other businesses, this discussion will probably be a waste of time, for the record shows that the majority of businesses are unwilling to do anything to save themselves until it is too late.

On the other hand, a number of progressive companies have taken a realistic view of today's business problem and have proceeded to do something about it. They are giving increasing recognition to the importance of public relations. They have referred to public relations as "Industry's No. 1 Job," as "The First Order of Business," as "the most urgent sales problem of business today." One national business magazine reflected this new emphasis when it reported: "No two words have blazed their importance over the business horizon in the last few years, bringing greater conviction than public relations." The same publication prophesized that "for the next five years and perhaps for the next ten, large corporations will have no more important function than the wise handling of their public relations problems."

### The Attitude of Progressive Business Leaders

If there is any doubt in your own mind about the practical importance of this problem, consider the testimony of representative business leaders throughout the country. Here are a few of their public statements:

1. "Business must clean house or lose its own economic freedom."
2. "We've got to be open minded and



quick on our feet to meet the changes that are impending."

3. "The trend of the times is unmistakably toward greater social and political control."
4. "The activities of business are now controlled, not only by government, but by even a more powerful force known as 'the public interest' which in turn rests upon another invisible influence—that of an omnipotent 'public opinion'."
5. "No man in touch with the times can doubt that there is in this country a fundamental misunderstanding of business."
6. "Our franchise to do business is up for renewal. We cannot restrict its terms to the old contract."
7. "No major industry has any moral right to allow itself to be unexplained, misunderstood or publicly distrusted; for by its unpopularity it poisons the pond in which we all must fish."
8. "Without friends, without enlightened public opinion based upon self-interest, a business with a million customers can be crucified by a militant minority."

These positive opinions indicate that representative business leaders are not only aware of a critical attitude toward business on the part of the public but that they also recognize that social attitudes frequently find expression in terms of political action. Business has become aware of the fact that it functions in a society that is politically controlled; that it operates under a political as well as an economic franchise; that it is subject to influences beyond its control; that its franchise may be withdrawn at any time; that there is no real protection against discrimination and attack except favorable public opinion.

#### The Place of Business in the Social Order

In other words, enlightened business leadership recognizes the social function of business enterprise. This point of view frankly acknowledges a changed order of business conditions. It holds that business must not only render a useful, economical service but that it must also prove its worth as a good citizen in terms of society as a whole.

Consider for a moment the implications of this new philosophy of business. These are some of the premises upon which modern business is expected to base its operations:

1. Business exists primarily to serve the needs of society.
2. Purely private or personal business as such enterprise no longer exists.
3. Profit is the bi-product of a socially useful service efficiently performed.
4. The public is a partner in every modern business.
5. The people, when in full possession of the facts, adopt attitudes that are essentially fair, constructive and sound.

These fundamental premises constitute the foundation of an honest program of public relations.

#### Misinterpretation of the Public Relations Function

It is not surprising that there is much confusion about today's public relations job, in view of the fact that there is a great deal of misunderstanding of the public relations function in today's social order. The confusion and mystery surrounding the term and the tricky promotions that have been engineered in the name of public relations by so-called experts have undoubtedly held back many companies that are anxious to do something in a constructive way on a unified business front. Until we agree upon a sound and work-



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able conception of the public relations job, little progress will be made toward the solution of the common problem that faces all business.

Unfortunately the term public relations is a label that has been used to describe anything and everything attempted by anyone who calls himself a public relations counsel—and that covers a multitude of sins. We need not kid ourselves. Mistakes are being made every day in the name of public relations—mistakes born of the misconception of the public relations job. Recognized practitioners of business public relations are even suggesting the need of a new term to describe the vital functions that are now so commonly misunderstood.

Several incidents illustrating this confusion were recently reported by Business Week. These are said to be authentic cases involving well known names. They illustrate the need for constructive interpretation of the field commonly called public relations.

"The executive responsible for the public and industrial relations policies of a large manufacturing company was called on by a visitor, whom he knew as a newspaperman in his home city. 'Can you spare a few minutes to wise me on this public relations racket?' he inquired. 'I've just grabbed off a \$14,000 spot as public relations director for the Blank Co.' . . .

"Query from a top-flight industrial executive: 'What can we do about this stuff (showing a stuffy news release) that our fancy public relations counsel put out the other day? We want to keep our problems quiet until we can work 'em out; not steam the public up about them every other day. We need help to figure out how to concentrate our present efforts on educating ourselves, instead of continually peppering the public.'

"From a well qualified public relations officer with a record of accomplishment: 'I don't use the term 'Public Relations' any more. I've taken it off my stationery and cards and never mention it.'

"From still another of the same: 'Don't call me a 'public relations director.' The sooner we forget that term, the better off we'll be.'

As a matter of fact, we are not interested in public relations so-called; we are concerned with a job that needs to be done—whatever it is called—and done well. At least we know that some of the things that go by the name of public relations do not adequately describe the job. I have encountered such expressions as the following used to describe public relations: a fumigation process, putting out fires, glad-handing, a new paint job, a shot in the arm, psychological face-lifting, mass hypnotism, trouble shooting, spectacular showmanship, an emergency treatment, etc. We do not believe that public relations is a publicity stunt, a ballyhoo technique, a propaganda formula, an advertising promotion, a lobbying scheme, or a one man job. Much of our difficulty today arises from absurd shallow or false conceptions of the public relations function.

#### What Is the Public Relations Job?

What, then, can we say about the essential nature of public relations? Someone has described it as "doing the right thing, with the right people, at the right time—and the right time is before you are forced to do it." It has been called "a long range program of finding out what people like, doing more of it; finding out what people don't like, and doing less of it." Paul Garrett of General Motors calls public relations "a philosophy of management that deliberately and with enlightened selfishness places the broad interest of the public first in every decision affecting the operation of the business." Others have referred to public relations as the job of "merchandising good-will activities," and as "guidance in good citizenship."

For a specific, concise explanation of



the public relations job I like the statement of Mr. Braun:

"Public relations is essentially the function of molding public opinion. Of this function, Abraham Lincoln has written a perfect description:

"Public sentiment is everything. With public sentiment nothing can fail; without it, nothing can succeed. Consequently he who molds public sentiment goes deeper than he who enacts statutes or pronounces decisions.

"In my opinion there are three main functions in the total job. First is research. We must know how people are thinking now and what it is they want.

"Second is interpretation. If we find that our client is already in step with public opinion but is suffering from misunderstanding or lack of knowledge, then we must use all the tools available for making the correct facts known. This involves advertising, publicity, conferences, speeches, etc.

"Third is action of two kinds. Corrective action, if policies and practices are in conflict with public opinion. No amount of superficial ballyhoo will permanently convince the public that black is white. If we are wrong we must cut out the infection itself even though it involves a complete and drastic overhaul.

"In leadership action, public relations exercises its most important role. It does what Arthur Page of the American Telephone Company describes as 'guessing what practices the public is going to want to change, and changing them before the public gets around to the trial for treason' . . .

"Whatever is done in the name of public relations can be no more effective than the philosophy of the management which supports it. . . . That means that sound public relations must begin at the top where policies are made."

This statement emphasizes that the public relations job begins with what people think, deals with a problem in human relations, concerns itself not so much with selling business as with selling value in terms of the other fellow, and attempts to integrate business policy and practice with the public interest.

#### Elements of Vulnerability in the Title Business

How does a business know that it has a public relations problem? Of one thing we may be sure: No business can do anything important without generating some kind of problem in public relations. What about your own business? Would you say your problems are of such a nature as to justify a comprehensive public relations program? A practical way to answer this question is to consider the elements of vulnerability inherent in or characteristic of the title business. What are they? Certain danger zones are evident without much investigation.

First of all, your business is largely a *service agency*. That which you have

to offer is an intangible. You haven't anything to wrap up for your customer to carry home. People can't see or handle the protection you sell them, and for this reason they do not always appreciate what they get for their money. Your work deals intimately with pride of ownership yet your particular service does not satisfy the desire for physical possession.

Then, too, yours is largely a *referral business*. Very few of your customers have any personal contact with you. Between you and your customer there is usually a third party—a real estate broker, a banker, a lawyer, a building and loan association official—upon whom you are not only dependent for your business but upon whom you must also rely for an adequate interpretation of the service you render. What little direct contact customers do enjoy with the business too often leaves them with a feeling of vagueness about the nature and importance of your work.

Another aspect of vulnerability is the *technical nature of your business*. People are not interested in statistics, research, insurance clauses, legal terms, and they are generally suspicious of anything they do not understand. And the title business does not too easily lend itself to simple and credible interpretation.

Furthermore, the fact that there are *sectional differences in basic procedures, regulations and policies* and a general lack of uniform standards within your own field tends to create misunderstanding and ill will.

A particularly vulnerable aspect of the title and abstract business is the *insignificant element of competition* that characterizes the field. Monopoly is a popular target whether or not it operates in the public interest. Deep-rooted fear of bigness and power may be translated into terms of political repression at any time.

The *demand for more service* in all kinds of business that has become increasingly noticeable presents another problem. More service means greater cost to the consumer, who often fails to realize that he cannot have extensive service and low cost at the same time. Any increase in service involving greater cost to the consumer is a major risk if the consumer believes that the existing price level is too high.

A possible weakness of the title and abstract business from a public relations point of view may be found in the preponderance of legal thinking that dominates operating policies. It is exceedingly doubtful that problems of a human relations nature involving the variable factors of public opinion can be dealt with altogether successfully by the legalistic mind. By this I mean no criticism of lawyers, but I emphasize the vulnerability of a business that confuses legal opinion with public opinion and lawyer leadership with public relations guidance.

Probably the most vulnerable aspect of your business is the *indifference of your natural allies*. The self-interest of the very groups upon which you de-

pend for your business is often in conflict with your own interest. The fact that this conflict of interest is more apparent than real does not change the situation. Brokers, bankers, lawyers, and customers are pretty much alike—they think and act and vote in their own interests. If there is a conflict between your interest and theirs—or even if they think there is—you are helpless. Your only protection is to strengthen the common ties of self-interest between your business and the various publics with which it deals.

Moreover, the danger of most of these conditions of vulnerability is multiplied by the *increasing number of property owners* who are your customers. Your market reaches into all classes of people and your customers represent a substantial cross-section of community life. The voting power of these who are or who have been buyers or sellers of property is not an insignificant factor of potential danger.

Now, add to these elements of vulnerability *possible mistakes that have been made, toes that have been stepped on* in the normal expansion of business, *failure to tell your institutional story*, and *current criticism of business in general*, and you have the picture of a successful enterprise that appears to be promising game for any organized minority that has a grudge and wants to start something. Keep in mind that politicians serve as brokers of ideas and they trade in whatever ideas are in public demand. A militant pressure group under the direction of a professional promoter is frequently successful in creating a noise that the politician mistakes for public opinion. Unless you can win the active interest and support of your natural allies and get your story over to the public you are at the mercy of highly organized minorities and political opportunists.

Suppose we grant for the moment that the title and abstract business is potentially vulnerable. What about it? Perhaps you are not confronted with an immediate threat of legislative discrimination, governmental regulation or political confiscation. Can you, therefore, conclude you are safe? The vulnerability of any business is a constant source of danger. Businesses confronted with similar problems have discovered that it is easier and cheaper to *keep out of trouble than to get out of trouble*, that best defense is an offense. The lessons of experience teach us that a program of a preventive nature is safer, and more profitable than a rescue campaign, the outcome of which is always doubtful. Experience also proves that those who are closest to a business are least qualified to recognize the seriousness of their problems in terms of public reaction.

#### Three Steps Toward Business Suicide

With these considerations in mind, let us get back to the question of "how to commit suicide gracefully." There are three essential steps in the procedure. The job can be done gracefully because neither determination nor ac-



tion is involved; all you have to do is to do nothing.

Step No. 1 is easy: *Refuse to find and face the facts.* Analysis of the problem is the first move in a public relations program. No one can tell in advance what your problem is or what should be done about it. This is a matter that requires thorough investigation of all operations affecting the public interest. What do the various publics with which you deal think of your business and why: Employees, brokers, bankers, lawyers, building and loan associations, mortgage companies, government agencies, insurance companies, organized property groups, home buyers, newspapers, farmers? Investigation would probably reveal that you have a *set* of problems, each requiring special consideration of the group concerned. An honest program of public relations must square with the facts, whatever they are. There is no room for guess work, personal observation, hearsay or hunches. With the perfection of the public opinion survey technique there is no excuse for business not knowing what the people of the country think and why. Nevertheless, some businesses choose to take Step No. 1; they would rather shut their eyes and trust to luck—a sure step toward business suicide.

Step. No. 2. *Once you have the facts, refuse to act on them.* Willingness to face facts indicates a wholesome business philosophy. The facts may call for action, however, and that requires courageous leadership. If mistakes have been made, they must be corrected. A sound public relations program deals with cause, not symptom. It is a long range effort, concerned not with making a showing but with getting results. Essentially it is an industry-undertaking in which coordination and strategy play an important part. It is unquestionably true that whatever type of public relations activity is carried on must be conducted by and on behalf of the individual company, but it is also true that what one company fails to do hurts other business. Some measure of cooperative planning and action, whether national, sectional or state, is necessary, therefore, in an industry approach to the job.

Action on a unified front involves policy, authority, co-operation, and coordination, but even these elements are useless without effective operations. Rather than risk the breakdown of a major undertaking, some businesses choose to believe that their surveys are probably wrong, and so do nothing except the obvious, superficial, inconsequential things that look like public relations, and thus take the graceful way out—the second step toward business suicide.

The final step in business suicide—No. 3—is to *refuse to tell your story.* It is important to get the facts and to correct mistakes, but unless the public knows what you have done, you haven't eliminated the danger. Action is more important than talk but action alone is

not enough. As Don Francisco has pointed out:

"People may know the products you make, they may know you are successful. . . . What they do not know is who you are, what you have done to effect economies . . . to perfect your service, to save them time and money, to improve your products—in short to fill an economic need. And because the public does not know, the popular notion of the day is to soak the successful, tax the thrifty and eliminate the efficient. Business is to blame because it has not told its story to the public, for public opinion is usually fair—when it knows both sides of a question."

What is your basic institutional story? How do people know of the



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economic function you serve in modern life? The social significance of your business? How well do they understand what you do and why? To what extent do they appreciate the importance of what you're doing in terms of their own interest? How can this story be made simple, credible, interesting? What means should be employed to get it over? These questions cannot be dealt with as a side issue or assigned to one person to handle. They require organization, research, creative planning, expert execution. Furthermore, these matters cannot be settled once and for all. Conducting your business in line with public opinion, keeping the public informed, exercising leadership in the development of public opinion are phases of a continuous job of adaption, direction and education.

How to commit business suicide? The ease with which it may be accomplished is startling. Do nothing, at least nothing important. Refuse to find

and face the facts; refuse to act upon them; refuse to tell your story. It is as easy and graceful as that.

### The Lessons of an Emergency Campaign

There have been rare cases when businesses have been able to save themselves at the last minute. Such a case, however, was that of the chain stores of California, and you may be interested in it as an example of a comprehensive public relations job of an emergency nature.

Three years ago the chain store industry of this state woke up to find a noose around its neck in the form of a bill agitated by a militant minority, passed by an 8 to 1 vote of the legislature and signed by the Governor—a bill designed to drive the chains out of California or handicap them with extra expense. There was nothing to do but carry the issue to the people in the form of a referendum.

Here was an industry that thought it was serving the public interest. It provided an organized market for half of the agricultural products of California, in fact bought many more millions worth of agricultural products in this state than it sold here. It offered opportunity and gainful employment to some 50,000 California citizens, provided economical distribution of the necessities of life for the people to whom savings were important, and made contributions to the economic welfare of the state through substantial tax payments, wages, purchases, rentals and other operating expenditures. Not only had the industry believed its record of service was sound, but it had also considered its opposition unimportant.

The fact of the matter was that the chains had performed an essential service, but either the people didn't know it or they didn't care. That California chain stores were outnumbered nearly nine to one, that nine out of ten chains were locally owned, that the chains never controlled more than 23 per cent of the total retail business of the state, seemed to justify the belief of the industry that it was entitled to a place in the economic structure.

The chains had reckoned, however, without an understanding of public reaction. They had grown rapidly in response to public demand and had done an efficient job of merchandising, but they had made mistakes, they had stepped on a lot of toes, and they had not told their story to the public.

The California problem became the focus of national interest. Some twenty states had already passed bills that placed a discriminatory tax on the chains. Other factors complicated the issue. Politicians found it easy to rush to what was apparently a defense of the underdog. The state faced a huge deficit. It was the year of the presidential election. Twenty-three issues and scores of names appeared on the ballot. No chain tax had ever been defeated. The popular battle cry was



"Down with Big Business." And there was only one year's time in which to work.

In order to secure a more objective appraisal of the situation and to have qualified guidance in dealing with this new industry problem, the chains called upon the resources of an organization experienced in the field of public relations, and they pledged approval and authority for a program of defense. Under the leadership of Don Francisco and with T. W. Braun as director of operations, the job was undertaken as an industry enterprise.

What happened? I can't take time to give you the whole story, but you may be interested in the development of public opinion during the campaign and in some of the lessons we learned. A survey revealed that 61 per cent of California voters favored a special tax on chain stores. Only 15 per cent of the newspaper stories were favorable to the chains. Here was a job that called for foundation, not fireworks. The work of ten long months was confined to studying the problem from the point of view of special groups—farmers, property owners, employees, suppliers, publishers, consumers—and to getting the facts, correcting mistakes, healing sore spots, stimulating community participation, making friends and telling the story of what chain stores mean to California. Only in the last two months of the campaign was there mention of the issue of the special tax bill itself. It was during this period that radio, publicity, advertising and speakers were directed against an *offensive* drive against the tax.

That the painstaking work of the early months bore fruit was indicated in the gradual change in sentiment. Every three months witnessed a decided improvement in newspaper opinion.

Six weeks before election the number of voters favoring the extra tax had decreased from 61 per cent to 46 per cent. Those opposed to the extra tax had increased from 39 per cent to 54 per cent.

During the month before election 79 per cent of the editorials and news items discussing the discriminatory tax

measures were favorable to the chains.

Two weeks before the election the number of voters favoring the special chain tax was 36 per cent; those opposed to the tax represented 64 per cent. The situation had changed from a handicap of 61 per cent of the voters in favor of the extra tax at the beginning of the campaign to an advantage of 64 per cent of the voters against it two weeks before election.

On election day, November 3rd, 1936, the voters of 57 out of 58 California countries went to the polls and defeated the discriminatory chain store tax with a majority of over 302,000 votes—and on the same ballot they gave Roosevelt a landslide vote.

You will be interested to know that after the battle was over a statewide survey was conducted to find out why people voted as they had. This information was particularly valuable in the continuing program of public relations which the chains adopted as a permanent policy.

Briefly, these are the major lessons of this experience:

1. People think one way as consumers and another way as citizens; customers, suppliers and even employees are only potential friends.
2. On every issue each citizen in the last analysis votes for himself. The security of business depends upon what each citizen knows about how taxes and laws affect him. Business needs friends who can defend business on the grounds of self-interest.
3. The best private relations make the best public relations.
4. In order to create favorable news, it is necessary to modify events.
5. It is not enough for policies to be right—they must also *seem* right.
6. In a public relations program, as in business, it is the operations that count—planning, strategy, timing, coordination, cooperation—and successful operations call for organization, for leadership and for authority.

Despite the fortunate outcome of this particular campaign, the fact remains,

that had the chain stores of California undertaken a sound program of public relations ten years earlier, they would have avoided an expensive operation that barely saved them from what actually would have been business suicide. In this case, the chains learned a lesson the hard way, but it is a lesson from which all business can profit.

#### Conclusion

In conclusion, I want to say I have read with a great deal of interest the proceedings of several conferences of title and abstract groups. I have been particularly interested in the sessions relating to advertising, public relations, and publicity. Frankly, I have been puzzled by the emphasis that has been given to the use of pencils, blotters, calendars, maps and exhibits in public relations activity. On the other hand, I have felt that the stimulating talk on public relations given at the convention of the California group last year in which the problem was forcefully presented and specific suggestions were made, presented a constructive challenge to the profession. Particularly interesting was the clear-cut presentation of the problem in chart form at last year's Oklahoma convention.

I have wondered about the outcome of these discussions—whether any action was taken or whether the time given to the discussion of public relations represented, as it so often does, merely lip worship of an idea. One of your speakers, Mr. Claude Adams, I believe, referred to public relations as "the one big job confronting the title fraternity." I have wondered with what success you have tackled that job.

Andrew Carnegie was once questioned about how to become a millionaire. He replied:

"You must do the things that are necessary to do in order to become a millionaire."

"What are they?" he was asked.

"Everybody knows what they are," he said, "I happened to do them."

As a representative group you may know what needs to be done to solve your public relations problem. The question is, will you do it?

## Ways to World Harmony

W. BALLENTINE HENLEY

Director of Co-ordination,  
University of Southern California

Ladies and gentlemen of the Convention. My present position on this program is not the most desirable in the world. You have been here almost a week listening to speech after speech and probably are now convinced of the wisdom of the mathematical axiom: That if all public speakers were placed end to end—it would be a good thing. (Laughter.)

My responsibility is not at all lightened by the title of the address. Ever since I have been in San Francisco I have been rushing for newspapers to find out whether or not the title of the

address is out of date. There was also some apprehension relative to the appropriateness of the subject for the occasion. Almost every issue of the paper, however, suggests that everyone in this room and out of it is vitally interested in the subject which your committee has asked me to use for this morning's meeting. It affects not only our business, it affects not only the property which we own; it affects our personal hopes, desires, ambitions, as

well as civilization in general. I have a great deal of sympathy for the Egyptian mummy because they too were pressed for time. (Laughter.) As I place my watch on the rostrum I am reminded of the little girl who saw a speaker do that and afterwards she came up and said: "Mr. Speaker, do you know what it means when the speaker put his watch on the rostrum?" He replied, "No, I don't believe I do." She said, "Not a thing." (Laughter.)

We are, however, justified in our apprehension relative to the world. It frequently happens that we forget that



the world in a sense, begins with us. A man was lost in the Kentucky hills. He approached a farmer boy and asked if he knew the road to Cincinnati. The boy said, "You go three miles to the north, then you—no, no I am wrong, you go to the left until you come to the first covered bridge then you—no, no, this is the way it is, you go down the turn-pike until you come to the farm with an old dead tree in front of it then you—no, brother, if I was going to Cincinnati I wouldn't start from here." (Laughter.)

Not only in facing the world must we start from where we are, we must start, in a measure, from where we have been.

#### The Immediate Past

It is important that we exercise our memory at a time such as this. We are told of the jungle traveler who one day came out of his tent and saw in the distance an elephant lumbering painfully toward him. The elephant was holding one foot in the air. He approached and looked at the foot and found that there was a great thorn stuck in it. With a pair of pliers he pulled out the thorn. The story goes that fifteen years later this traveler was attending a great American circus. On came the elephant act; the second round he noticed that the largest elephant of the herd stopped and looked in his general direction, then reached up and twisted his trunk around the man's waist, lifted him from the 75c seat over into a \$2.50 box. (Laughter.) We need some of the elephant's technique today. With that idea in mind, may I review one or two facts which are not entirely pleasant.

We have all been concerned with the depression through which we have travelled. It was to be expected, however, because we cannot go through a world economic disturbance such as we experienced in 1914 to 1918 and not have it followed by a period of readjustment. What did that World War cost? The figures differ. One agency estimates that it cost us four hundred billion dollars. It is impossible for a school teacher to visualize that amount of money, but congressmen feel at home with astronomical financial statements and in the Congressional Record for January 13, 1828, you will find a statement of what we could have done with that amount of money. We could have built a \$2,500 house on a \$500 five-acre lot for every family in the United States, Canada, the British Isles, France, Belgium, and Germany; we could build a \$5,000,000 library for every community with 20,000 or more inhabitants in each one of those countries; a ten million dollar university in each one of these communities; and have enough money, at five per cent, to have paid for all times a thousand dollars a year to a hundred and twenty-five thousand school teachers and a hundred and twenty-five thousand thousand nurses and have enough money left over to have purchased all the property in France and Belgium, including every church, every cathedral,

every public building, every mill, every factory, every farm house and every home.

#### The Cost of War

That is what we blew into bits in four brief years of international madness; and now it seems that there are those who are willing to do the same thing all over again. What did it cost in terms of human beings? One agency estimates that ten million men were killed on fields of battle. How much is ten million men? Visualize a portion of this wall taken out just large enough to permit a column of soldiers to pass in front of us ten abreast. If we were to have one column pass in front of us



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every two seconds you and I would have to sit in this room day and night for forty-seven weeks while the war dead passed before us. Add to this another thirty million which it is estimated died as a result of pestilence, and disease and we have a total of about forty million individuals who died as a result of the World War. And why did we so enthusiastically do all of this? We were fighting a war to end war. We were making the world safe for democracy. It is almost sacrilegious to recite those slogans today. Never has the world been as unsafe for democracy as it is at the present time. Never did the world resemble more an armed camp than it does this morning with the headlines of the newspapers screaming that ten million men are under arms. We are engaged in one of the greatest armament races in history.

We are told that one generation fights a war, the next pays for it, the next forgets it, and the next prepares to do it all over again. If that be true then your children are very poor insurance risks for they are destined to have their brains blown out and their bodies

blown into bits on some world battlefield before they die a natural death.

Time does not permit a complete recital of all the causes of war nor the facts pertaining to the last one. May we mention just two treatises? In March, 1934, *Fortune* published an article called "Arms and the Men" in which was reviewed the story of the armament program, and those who work behind the scenes sometimes in the name of patriotism. Stephen and Joan Raushenbush's book called, "War Madness," can be read in an evening. In it is a portrayal of the factors creating war and some suggestions as to what can be done about it. One author tells the story of a certain little park in England in the center of which is a German gun and on the face of it a plaque listing the British soldiers who died capturing that gun. On the muzzle is the name of the British munitions plant which manufactured the gun.

Let us not fool ourselves and think that we are immune. Safety will not lie in signing foolish pledges that we will never participate in war. In November, 1916, we elected a President on the slogan, "He kept us out of War." In March, 1917, he was inaugurated and on April 2, 1917, he delivered his war message to Congress and on April 6, 1917, that body announced to the world that we were at war with Germany. One of the most gigantic propaganda organizations the world has ever seen was then put into action. Four-minute speakers, thousands of pamphlets, booklets, cartoons and the temperament of a people was changed miraculously. A certain California citizen came back to us after the War and said that his official task was to discolor, to distort, to twist and turn the truth to the end that Americans would be whipped up emotionally so that they would be willing to cross the Atlantic and tear their fellow human beings limb from limb.

May I mention a personal experience? I was young enough to miss the World War but old enough to know what was going on. I wore a Boy Scout uniform and made little speeches, and sold Liberty Bonds at Fountain Square at Cincinnati, Ohio. We located the German families of the community and watched the packages that went in and out, estimating the number of bombs they were secretly building. We were told that they found bottles of poison at the water works and packages of bombs at the railroad station, that they found ground glass in a certain German butcher's hamburger. We smile at these stories today but it was a grim and serious business in 1917. In the classroom there was a large picture with a bloodthirsty thing in the center, half human and half animal and its mouth dripped blood. On top of it was a German helmet. Every morning it crawled through that poster at us. We were taught that it wasn't human, that we must hate and fear it. These facts indicate what war does to the moral fiber of a people. It leaves scars that sometimes never heal.

The time for us to think, to analyze



and to weigh facts is before a war is declared—not afterwards. Once war is declared people stop thinking and start feeling and hating and fearing.

### Propaganda

What was done once can be done again. Let us not feel too sophisticated by virtue of our past experience. Remember the propaganda devices today are much more effective than they were. Remember the broadcast of the "War of Mars" which sent our people into a fit of hysteria. Suppose when you return to your hotel room you turn on the radio and you hear what purports to be the voice of Hitler speaking to the German people throughout the world in which he should call Americans vile names, perhaps suggest that they are the scourge of God and that they must be exterminated from the face of the earth. One need not stretch his imagination to visualize what would happen. We would be a part of the great stampede and if twenty-five years later the historians should discover that Hitler never approached a radio station that day and that the speech was never made; that his voice was dubbed in by a clever imitator; it would be very interesting research material for any who happened to survive, but it would be too late, for millions would be dead, and millions of dollars placed upon the burning fire of hate, suspicion, greed and fear. May we remember that we are human; that we like parades; we like new experiences; we like adventure; we like action; and we like drama. I have here two morning newspapers, across the headlines are the war threats of Europe. While these events were transpiring a European king held a conference on peace. Where do you find his message or the account of it? On the front page headlines? Not at all. If one perseveres one finds it two pages over. In one paper the complete text and in the other just a few quotations. Why is this so? Not because the publishers of these papers are interested in creating a war but because they are sensitive to the street sale of their paper. They know that you and I will buy papers with screaming headlines about war and disaster. Apparently we are not so enthusiastic about buying papers relative to peace and constructive programs.

We must be realists and admit that in a measure war is an escape mechanism for young and old. I realize that it is dangerous to generalize from specific examples, but may I mention one or two that are typical? My generation of college students has been out of college long enough to have a taste of the routine of life. One young banker said, "If life means thirty years of this kind of routine, I would rather have war. I would rather have eight months of thrilling action, even though it ended in extermination." In a measure that is an indictment against society. Somewhere we have failed to equip our youth with hobbies and vocations in order that they might find self-expression and an escape from the routine of life. Not

long ago I attended a meeting of business men. One man saw a newspaper on the tabletop and said, "Well, Bill, it looks as if we will have war, but I don't suppose you automobile men would mind a little war would you?" The other looked up and said, "No, and you show men oughtn't to object to a skirmish. You know business needs a little shot in the arm." They laughed and thought it was a joke. Underneath it was a grain of truth. The butcher, the baker and the candlestick maker all hope to gain a temporary profit out of the war boom. They forget the depression which must inevitably follow the wholesale destruction of wealth. At another meeting one man pushed back his chair and said, "Well, Bob, you oughtn't to worry, you're past the age limit." They smiled and promptly forgot it. Underneath that statement is another grain of truth. The older generation past the age limit feels secure from active service. It would relieve them of the competition of the younger generation and promotion might be in store for them. They would have been ashamed of themselves had they recognized these implications. What they forgot is that modern warfare is waged against the civilian population as much as against front-line trenches. Modern warfare is dedicated to wholesale extermination of people.

### The Futility of War

The question is asked: Is war an answer to the maladjustments of the world? Napoleon once said, "War never settled anything. War unsettles everything." We must not forget that we are responsible for the conditions in Europe. We stood by while the Versailles Treaty was executed. Again we realize it is unscientific to speculate upon probability. It is like saying if you had a brother would he like cheese? Well, nobody knows. It is a fair observation that both Mussolini and Hitler road into power on the hatred of the Versailles Treaty. In the World War we were taught to hate the Kaiser because he was the cause of all the difficulties. If we could get rid of the Kaiser all would be well; at the end of the war we freed ourselves from the Kaiser but we did not end the fundamental problem involved and the result is several decades later we have a Hitler and a Mussolini. Woodrow Wilson used a phrase which was forgotten, namely, "Peace without Victory." The people were not interested in that, they were interested in victory and all its fruits and the result you and I see before us today.

### The Use of Reason

The question is asked, what can we do then? We could use common sense and logic. If we lived locally the way we live internationally, this is the way we would reason: My neighbor to my right has dynamite in his cellar, so I must protect myself; my neighbor to my left has dynamite in his cellar so I must protect myself and put dynamite in my cellar so that when we have an

explosion it will be a good one and blow up the entire neighborhood. X calls up Y and says there is a burglar in the neighborhood, you had better be ready. So Y puts nitro-glycerine in his cellar and sits at his front window with an electric switch. The first time the burglar puts his foot on the front porch Y pushes the switch and blows the house to smithereens. Granted, he won't burglar that house because there is nothing to burglar.

How many of you brought rifles to this meeting or stacked your guns in the hallway or have an armed guard to take you back to your respective offices? Why not? Eighty years or so ago you would have. The answer is that in the meantime our ancestors decided that we would all be safer if we delegated the use of arms to police agencies. Internationally we can do no less if we wish a world ruled by sanity.

In the realm of jurisprudence we define war as the extra-judicial use of force and today we are living in an era of international anarchy when national sovereignty is running rampant. Democracy is dependent upon law and order and peace. The first act of war in any democracy is to destroy democracy—at least temporarily. War is anarchy and the opposite of law and order. Law and order can not exist unless it is backed by sovereignty having physical sanctions. Sovereignty can not exist unless it is an aspect of the state. By logic and by juristic reason we have simply said that if we ever hope to have a world safe for human habitation, sooner or later the men of the world must form a world state, call it by whatever term we wish.

The time to arbitrate is before the war and not afterwards. May we pray God at this moment that the common minds of men and women around the world will be heard by the statesmen. After all, everywhere the human being is human. We have the same fears, loves, ambitions and desires. Many a World War veteran who was a member of the Army of Occupation can testify to the fact that the German people were really not the machine-like and inhuman people that they had been taught that they were. Everywhere the human heart is human and our task is to make the world safe for these divine like creatures called men and women. The world is too small for men to be little.

Of course there is the individual who says this is a dream and too theoretical, but remember the so-called practical men have made the mess that the world is in today. Is it not time to try some of these so-called dreams to ascertain whether or not they do not have some practical merit.

There was a time when thirteen separate states were engaged in open warfare one with another, but because their leaders were willing to meet at Independence Hall and draft the Constitution for these United States, today we stand as one of the great Nations of the world. We might very well have



been forty-eight separate Nations fearing, hating and distrusting each other, but because they were willing to compromise their differences in the name of a greater good, we stand as testimony to the world of the value of that technique. What we have done, the world can do if it wishes to. We are not advocating the abolition of the army and navy tomorrow morning; we are merely suggesting that perhaps the time has come to spend a portion of our income on peace-time machinery which will bring harmony within the realm of earth's realization.

#### The Desire for Peace

Machinery alone however will not solve our problem. There must be a sincere will for peace. Will you perform a little experiment with me? Will you think of a man or a woman whom you dislike more than anyone else. One whom if you learned they had just purchased a one-way ticket to Little America, you would say, "Isn't that fine!"

I'll venture to guess that that individual thinks the same thing about you. It is merely the way in which we react to each other. The psychologist calls it "defense mechanism."

There is a sequel to that—will you for the next few days think of some good quality that person has, that you would do well to incorporate into your own character and personality. We must remember that if we can't find it in the other person, the chances are that the fault is our own and not theirs. There isn't anyone from whom we can not learn something if we are big enough to try. If we do that for several weeks we shall be speaking together and after a month or so we shall be working together mutually for beneficial objectives.

You remember Seth Parker's story about the soldier standing upon the streets of New York. Beside him was a little old lady bent over with age. The soldier refused to see her. Another woman, observing the situation, ap-

proached the old lady and said: "I beg your pardon, may I help you across the street?" After she had deposited the little old lady on the other side of the street she returned to tell that young man just what she thought. She stood in front of him and said, "Young man, you ought to be ashamed." Just then the wind caught his coat and tossed it back so that for the first time she saw two empty sleeves pinned to his shoulder. Tears came into her eyes and she stopped for a moment and said, "Oh, I am so sorry; you see, I didn't understand." Seth Parker, in his very homely way, says: "Most of the time people's feelings are hurt in this world because somebody didn't understand."

The world needs understanding, and each one of us has an obligation—each one of us is the focal point of public opinion. We can pass stories on unchallenged; we can repeat rumors, or we can be constructive; we can ask questions, demand facts and attempt to cause people to think.

## Title Plant Construction Costs

CHARLTON L. HALL

Manager, Washington Title Insurance Company, Seattle, Washington

Requested by Chairman Dozier to prepare a paper relating to the cost of building a complete title plant, we consented because of our experience during the last thirty years in the State of Washington in the building of two complete plants and the rebuilding of several others, while observant of other plants in the process of building.

What is a complete title plant? The question is pertinent and should be answered lest our conception of a complete title plant be misunderstood. In our opinion, a complete title plant consists of,—

First: A *Take Off* of all instruments affecting or purporting to affect the title to real property and complete copies of all maps of record in the recording office; of all matters in relation to the establishment of roads; and all matters pertaining to the vacation of alleys, streets, roads and plats, as disclosed by the official records. Such take-off to be in "typewriter shorthand" suitable for both abstracting and title examination.

A *Take Off* of all court actions affecting or which may affect the title to real property including, however, all probate, insanity and divorce proceedings and judgments, all as disclosed by the official records.

A *Take Off* of all such actions affecting or which may affect the title to real property, including bankruptcy proceedings and all judgments, as disclosed by the records in the office of the U. S. District and Circuit Courts holding sessions in the particular district; and

A *Take Off* of all city ordinances

passed and of unpaid special assessments levied by any city or town in the particular county.

Secondly: A *Tract Index* to which is posted all the instruments above enumerated that actually contain a land description, each posting to show the names, dates and consideration.

Thirdly: A *General Index* to which all such instruments, not containing a land description, are posted to the names of the parties.

A title plant is not complete unless a complete chain of title may be prepared therefrom with respect to any particular tract in the county by simply listing from the Tract Index the instruments posted to the particular tract and listing instruments found by "running" through the General Index the names of parties then or theretofore having a record interest in such tract.

The cost of constructing a title plant depends upon a number of different factors:

#### (1) USE.

If the plant is to be used only in the preparation of title insurance policies, the take-off and posting may omit all satisfied mortgages, assignments of mortgages where the mortgage has been satisfied, satisfied liens expired leases, etc.

If the plant is to be used in the preparation of Abstracts of Title, the take-off and posting must include all instruments.

#### (2) LOCATION OF OFFICE.

If the office is or is to be located

near the court house and it is possible to examine or abstract the instruments directly from the records, the take-off need be only a skeleton for posting purposes, which, of course, will materially reduce initial plant cost.

However, our experience has proven that an office with such a skeleton take-off cannot be operated as efficiently as one with a full take-off in typewriter shorthand, the cost of which is only a fraction more in the first instance and the saving thereafter is substantial.

#### (3) LOCAL LABOR.

This item must be considered in the cost of building the plant for the reason that in the larger cities expert or semi-expert help is often available, while in the smaller communities such help must be imported or local help trained for such work.

#### (4) CHARACTER OF LAND SUBDIVISION

Whether the scheme of Government Land Subdivision is the "checkerboard" system of Section, Township and Range, or largely "Donation Claims," or other form of large land grants, such as the Spanish or Mexican Grants in California and Texas, is also a material consideration in cost figuring.

If the county is subdivided by the Government "checkerboard" system and the County Engineer has field notes and maps available, which show section corners, section line bearings, distances, etc., the drafting of the segregation or arbitrary maps is a relatively simple matter.

If the county contains many "Donation Claims" or other like forms of



grants the cost of posting to the Tract Indexes is, of course, more expensive and time-consuming than the "checker-board" system. This is necessarily so because the division of the original large tracts into arbitraries requires elaborate segregation accounts and maps for accurate and intelligent posting to the Tract Indexes. Such segregation accounts cannot be produced by unskilled help but must be accomplished by draftsmen thoroughly skilled in plant building.

(5) GENERAL OR MISCELLANEOUS INDEX.

Basically there are two major types of General Index, either of which can be compiled on cards or in loose-leaf form in binders, the latter being preferable.

(a) Those which are based on the 26 letters of the alphabet from the simple alphabetical 26 initial letter index to the ones having the alphabet broken down to three or four thousand subdivisions.

(b) Those which are based on sound or consonants and use a code to identify the name required.

Both of these types have many modifications and both have their good and bad features, so, in figuring plant costs, an analysis of the record, locality, etc., must be made to decide which type and modification thereof will be best suited for the situation at hand.

(6) TRACT INDEXES.

There are some plants which dispense with Tract Indexes, using the take-off in the form of slips distributed in chronological order in the land subdivisions.

Under this system, in order to prepare a chain sheet, examine title, furnish an ownership or what not, one must thumb through the slips, carefully reading each one to see if the property described thereon is the tract under search, an operation neither conducive to speed nor accuracy.

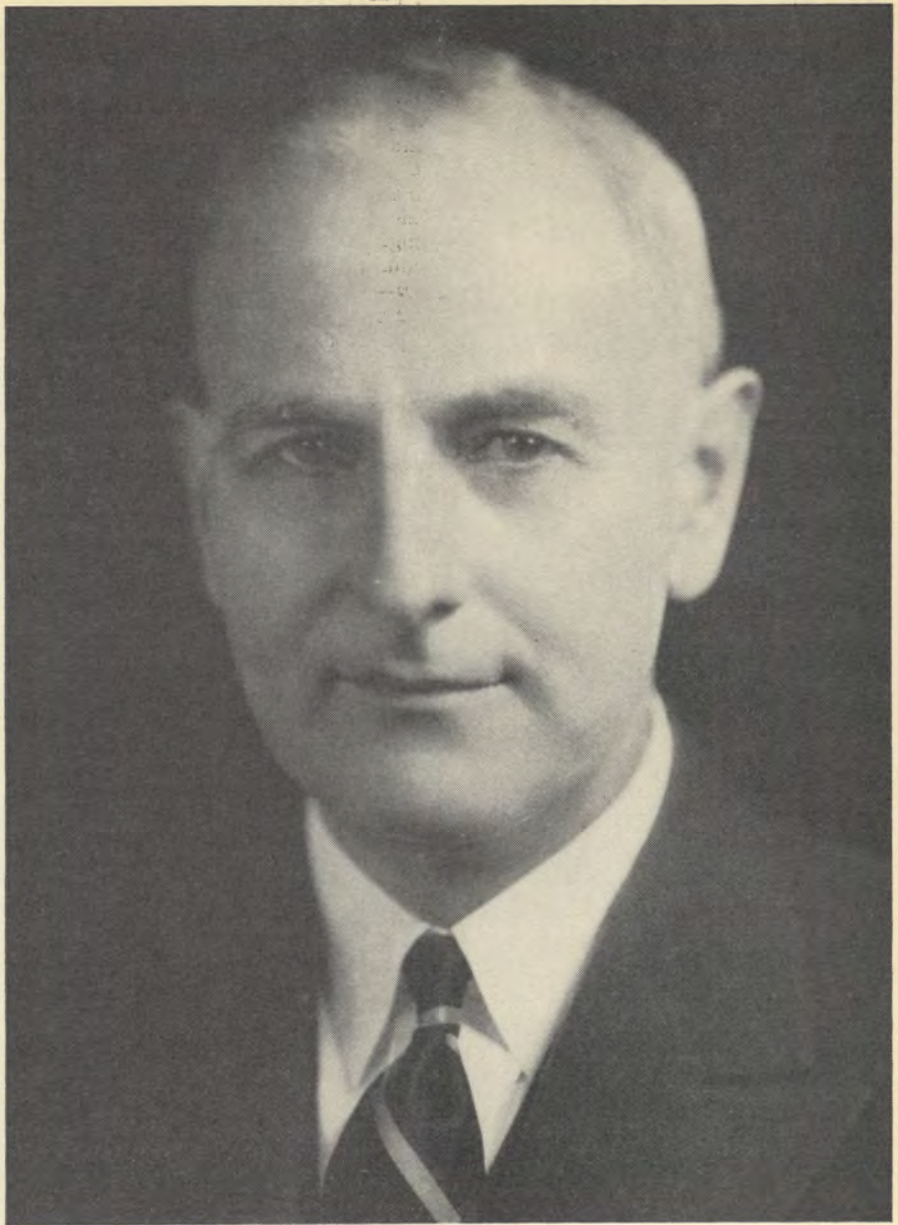
Although the cost of the tract book binders and sheets does not constitute a major item of expense, the posting does, but, properly posted tract indexes are such an important part of any plant that (over a period of years) they will save their initial cost many times.

Being of such importance, the very best ledger paper and binders should be used, so that the expense of future upkeep is minimized.

(7) SUMMARY.

There is no rule for figuring plant construction costs; it all depends on wage scales and on whether or not a modern plant is contemplated; one that will furnish the information desired with a minimum of time and effort; one that will be a pleasure to work with.

There are no "short cuts" in plant building; some of the weird ideas called "short cuts" are no more than a lazy person's idea of a temporary way to save time and in most instances these freak ideas only create future confusion and expense.



CHARLTON L. HALL  
SEATTLE, WASHINGTON

*Vice-President, American Title Association  
Manager, Washington Title Insurance Company*

We have some actual figures which may be of assistance in approximating the cost of plant building, which figures are on a basis of average cost per recorded volume in the Recorder's office. These figures cover the cost of constructing six title plants in six counties along the Pacific Coast, during the last fifteen years.

These costs range from \$102 to \$250 per recorded volume with an average of \$174 per recorded volume.

The plant above referred to which cost \$102 per recorded volume, did not have, when completed, a workable take-off while the plant which cost \$250 per recorded volume cost more than the average because of the many Spanish Grants, later cut into small tracts by

deeds containing metes and bounds descriptions, making it necessary to prepare many arbitrary maps and corresponding arbitrary accounts.

One of the plants we built cost us \$174 per recorded volume and this figure we consider to be a close estimate of the cost of building a complete plant under average conditions.

LIST OF ABBREVIATIONS

— of —

WASHINGTON TITLE INSURANCE COMPANY

ae—at the  
al—along  
aly—alley  
atrp—all that real ppty



bk—blank  
 ug—being  
 brg—bearing  
 bf—before  
 b—beginning  
 ba—beginning at  
 bet—between  
 bdd—bounded  
 bdf—bounded and described as follows  
 bndy—boundary  
 cae—commencing at the  
 ctf—certificate  
 ctfcd—certified  
 baap—beginning at a point  
 clm—claim  
 clmg—claiming  
 c—commencing  
 ca—commencing at  
 caap—commencing at a point  
 cfm—confirm  
 cont—contract  
 cy—convey  
 cynce—conveyance  
 cor—corner  
 clk—clerk  
 cc—county clerk  
 cr—county recorder  
 cro—county recorder office  
 ca—county auditor  
 cao—county auditor office  
 ctg—containing  
 cs—city of Seattle  
 d—deed  
 des—description  
 decd—described  
 dir—direction  
 distbn—distribution  
 df—described as follows  
 d/b/a—doing business as  
 ded—deceased  
 est—estate  
 exc—except  
 exg—excepting  
 extdg—extending  
 exr—executor  
 exx—executrix  
 fmly—formerly  
 fr—from  
 frt—front  
 g—grant  
 gbs—grant, bargain, sell  
 g b s cy—grant, bargain, sell, convey  
 g bs cc—grant, bargain, sell, convey and confirm  
 hby—hereby  
 ha—heirs and assigns  
 haf—heirs and assigns forever  
 hus—husband  
 hh—her husband  
 hwf—husband and wife  
 hto—heretofore  
 hinaf—hereinafter  
 ie—in the  
 inst—instrument  
 ins—insurance  
 int—interest  
 judg—judgment  
 -g—means ing  
 -d—means ed  
 kn—known  
 kc—King County  
 kcw—King County Washington  
 ld—land  
 lgth—length  
 ls—lease  
 ln—lien  
 l & a—love and affection  
 loc—location

l p—Lis Pendens  
 mpdf—more particularly described as follows  
 mid—middle  
 ml—more or less  
 mtg—mortgage  
 md—made  
 md—married  
 mon—monument  
 mesd—measured  
 mgn—margin  
 min—mineral  
 nv—null and void  
 nr ewm—north range E. W. M.  
 np—notary public  
 ng—no good  
 n—north  
 nly—northerly  
 ne—northeast  
 nw—northwest  
 nwd—northward  
 ntc—notice  
 ofcl—official  
 oe—on the  
 ofca—office of county auditor  
 obj—object  
 ord—order  
 ordn—ordinance  
 ovc—other valuable considerations  
 plw—parallel with  
 plt—parallel to  
 prt—part  
 pt—point  
 pat—patent  
 payt—payment  
 payl—payable  
 possn—possession  
 pa—power of attorney  
 pbt—probate  
 pty—property  
 pn—promissory note  
 petn—petition  
 pob—point of beginning  
 pl of beg—place of beginning  
 psnl—personal  
 plf—plaintiff  
 po—policy  
 prem—premises  
 PS—Puget Sound  
 pub—public  
 qc—quit claim  
 qpp—quiet and peaceful possession  
 qcd—quit claim deed  
 re—real estate  
 rp—real property  
 recd—record  
 relq—relinquish  
 ro—recorders office  
 rel—release  
 r/w—right of way  
 rd—road  
 rg—running  
 rti—right, title, and interest  
 rgt—right  
 rsvd—reserved  
 recd—received  
 rr—railroad  
 ry—railway  
 rr&fqc—remise, release, and forever quit claim  
 re-recd—re-record  
 res—residing  
 sd—said  
 sa—same  
 sec—section  
 shff—sheriff  
 sgl—single  
 sit—situate  
 stk—stake

subdv—subdivision  
 sv—survey  
 sa—successors and assigns  
 spnr—spinster  
 saf—successors and assigns forever  
 s-w—State of Washington  
 t—that  
 tt—tract  
 sch—search  
 sat—satisfaction  
 s—south  
 se—southeast  
 srn—southern  
 sep ppty—separate property  
 st—street  
 ti—title  
 th—thence  
 tpb—to place of beginning  
 tsp—to secure payment  
 thon—thereon  
 thin—therein  
 :-to-wit  
 thof—thereof  
 tgw—together with  
 twp—township  
 thaft—thereafter  
 treasr—treasurer  
 unmd—unmarried  
 und—under  
 undiv—undivided  
 unkn—unknown  
 unkn h—unknown heirs  
 unt—until  
 var—variation  
 vac—vacated  
 vf—vault file  
 wf—wife  
 wch—which  
 w—with  
 wh—where  
 wit—witness  
 wd—warrant and defend  
 wm—Williamette Meridian  
 wid—widow  
 widr—widower  
 wit—witness  
 win—within  
 W—west  
 yd—yard  
 yr—year  
  
 -n—means -tion, -ation, -ion  
 fdre—following described real estate  
 ned—note of even date  
 bed—bearing even date  
 fi—free from incumbrances  
 s-a—semi-annually  
 mthly—monthly  
 cont—contract  
 deft—defendant  
 iww—in witness whereof  
 itw—in testimony whereof  
 fp—first party  
 sp—second party  
 piq—property in question  
 fcl—foreclosure  
 afft—affidavit  
 agmt—agreement  
 ft—feet  
 gen—general  
 pd—paid  
 esmt—easement  
 bal—balance  
 bach—bachelor  
 abv—above  
 ac—acre  
 acq—acquire  
 amt—amount  
 art of inc—articles of incorporation



aif—attorney in fact  
ave—avenue  
dist—distance

blvd—boulevard  
blk—block  
cm—chattel mortgage

pg—page  
m—mortgage  
incum—incumbrance



## CODE OF ETHICS

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**FIRST:**—We believe that the foundation of success in business is embodied in the idea of service, and that Title Men should consider first, the needs of their customers, and second the remuneration to be considered.

**SECOND:**—Accuracy being essential in the examination of titles, Title Men should so arrange their records as to eliminate the possibility of mistakes.

**THIRD:**—Ever striving to elevate the title business to a plane of the highest standing in the business and professional world, the Title Man will always stand sponsor for his work and make good any loss, occasioned by his error, without invoking legal technicalities as a defense.

**FOURTH:**—The examination of title being to a large extent a personal undertaking, Title Men should at all times remember that fact, and endeavor to obtain and hold a reputation for honesty, promptness and accuracy.

**FIFTH:**—The principal part of business, coming from real estate dealers, lenders of money and lawyers, it is obvious that relations with these men should at all times be friendly. To further this friendship we declare ourselves willing to aid them in all ways possible in meeting and solving the problems that confront them.

**SIXTH:** We believe that every Title Man should have a lively and loyal interest in all that relates to the civic welfare of his community, and that he should join and support the local civic commercial bodies.