TITLE NEWS

Official Publication

THE AMERICAN TITLE ASSOCIATION

★

VOLUME XXVII DECEMBER, 1948 NUMBER 4

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Official Publication of

THE AMERICAN TITLE ASSOCIATION

3608 Guardian Building — Detroit 26, Michigan

VOLUME XXVII DECEMBER, 1948 NUMBER 4

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Title Officer, Lawyers Title Company of Missouri

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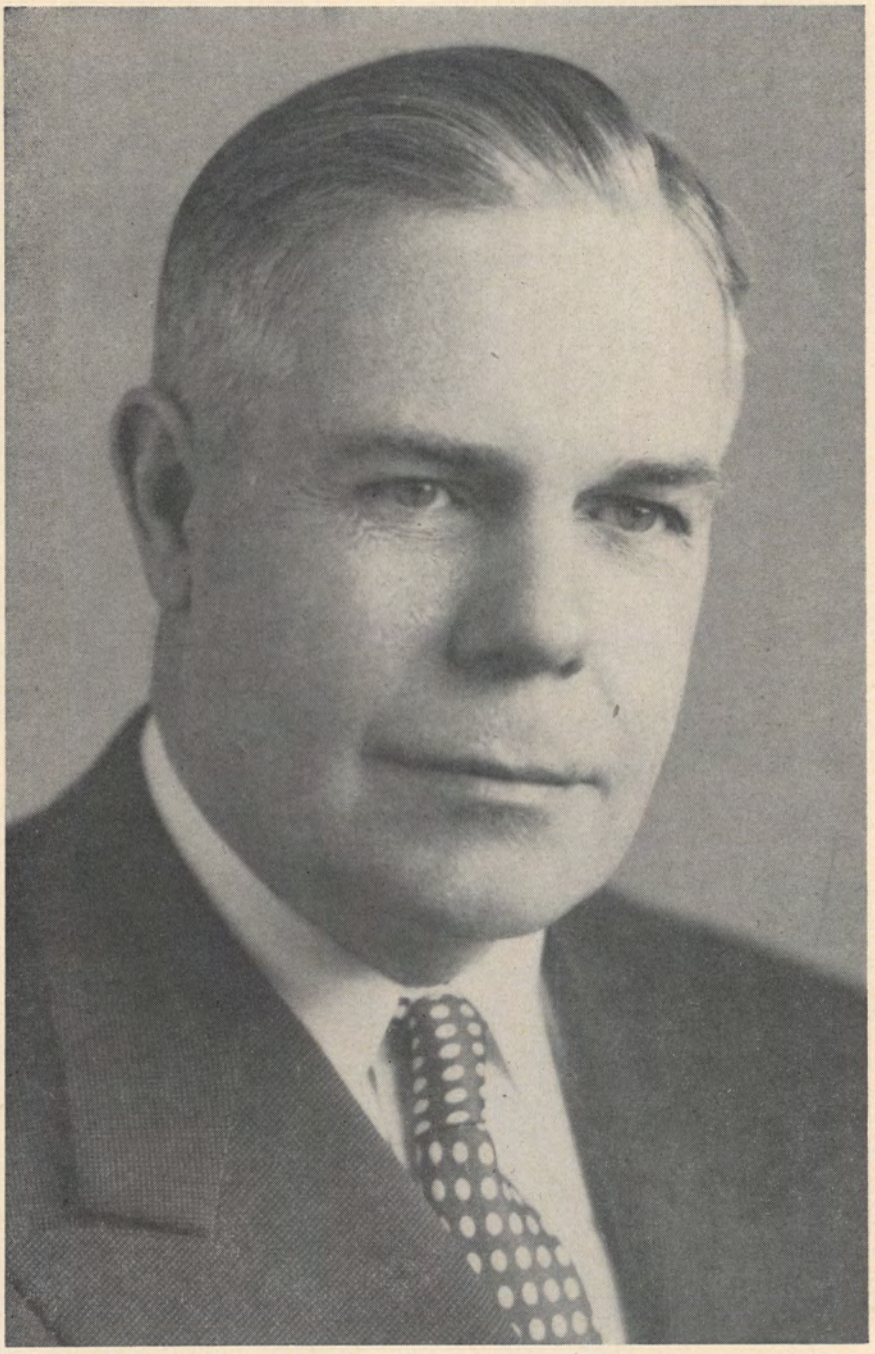
Past Presidents of the American Title Association

1.	1907-08	W. W. Skinner	Santa Ana, Calif.
2.	1908-09	A. T. Hastings	Spokane, Wash.
3.	1909-10	W. R. Taylor	Kalamazoo, Mich.
4.	1910-11	Lee C. Gates	Los Angeles, Calif.
5.	1911-12	George Vaughan	Fayetteville, Ark.
6.	1912-13	John T. Kenney	Elkhorn, Wis.
7.	1913-14	M. P. Bouslog	Jerseyville, Ill.
8.	1914-15	H. L. Burgoyne	Cincinnati, Ohio
9.	1915-16	L. S. Booth	Seattle, Wash.
10.	1916-17	R. W. Boddinghouse	Chicago, Ill.
11.	1917-18	T. M. Scott	Paris, Texas
12.	1918-19	James W. Mason	Atlanta, Ga.
13.	1919-20	E. J. Carroll	Davenport, Ia.
14.	1920-21	Worrall Wilson	Seattle, Wash.
15.	1921-22	Will H. Pryor	Duluth, Minn.
16.	1922-23	Mark B. Brewer	Oklahoma City, Okla.
17.	1923-24	George E. Wedthoff	Bay City, Mich.
18.	1924-25	Frederick P. Condit	New York, N. Y.
19.	1925-26	Henry J. Fehrman	New York, N. Y.
20.	1926-27	J. W. Woodford	Seattle, Wash.
21.	1927-28	Walter M. Daly	Portland, Ore.
22.	1928-29	Edward C. Wyckoff	Newark, N. J.
23.	1929-30	Donzel Stoney	San Francisco, Calif.
24.	1930-31	Edwin H. Lindow	Detroit, Mich.
25.	1931-32	James S. Johns	Pendleton, Ore.
26.	1932-33	Stuart O'Melveny	Los Angeles, Calif.
27.	1933-34	Arthur C. Marriott	Chicago, Ill.
28.	1934-35	Benjamin J. Henley	San Francisco, Calif.
29.	1935-36	Henry R. Robins	Philadelphia, Pa.
30.	1936-37	McCune Gill	St. Louis, Mo.
31.	1937-38	William Gill	Oklahoma City, Okla.
32.	1938-39	Porter Bruck	Los Angeles, Calif.
33.	1939-40	Jack Rattikin	Fort Worth, Texas
34.	1940-41	Charlton L. Hall	Seattle, Wash.
35.	1941-42	Charles H. Buck	Baltimore, Maryland.
36.	1942-43	E. B. Southworth	Crown Point, Ind.
37.	1943-44	Thos. G. Morton	San Francisco, Calif.
38.	1944-45	H. Laurie Smith	Richmond, Va.
39.	1945-46	A. W. Suelzer	Fort Wayne, Ind.
40.	1946-47	J. J. O'Dowd	Tucson, Ariz.
41.	1947-48	Kenneth E. Rice	Chicago. Ill.



FRANK I. KENNEDY

National President, The American Title Association; President, Abstract & Title Guaranty Company, Detroit, Michigan

Report of President

KENNETH E. RICE

Senior Vice President
Chicago Title & Trust Company
Chicago, Illinois

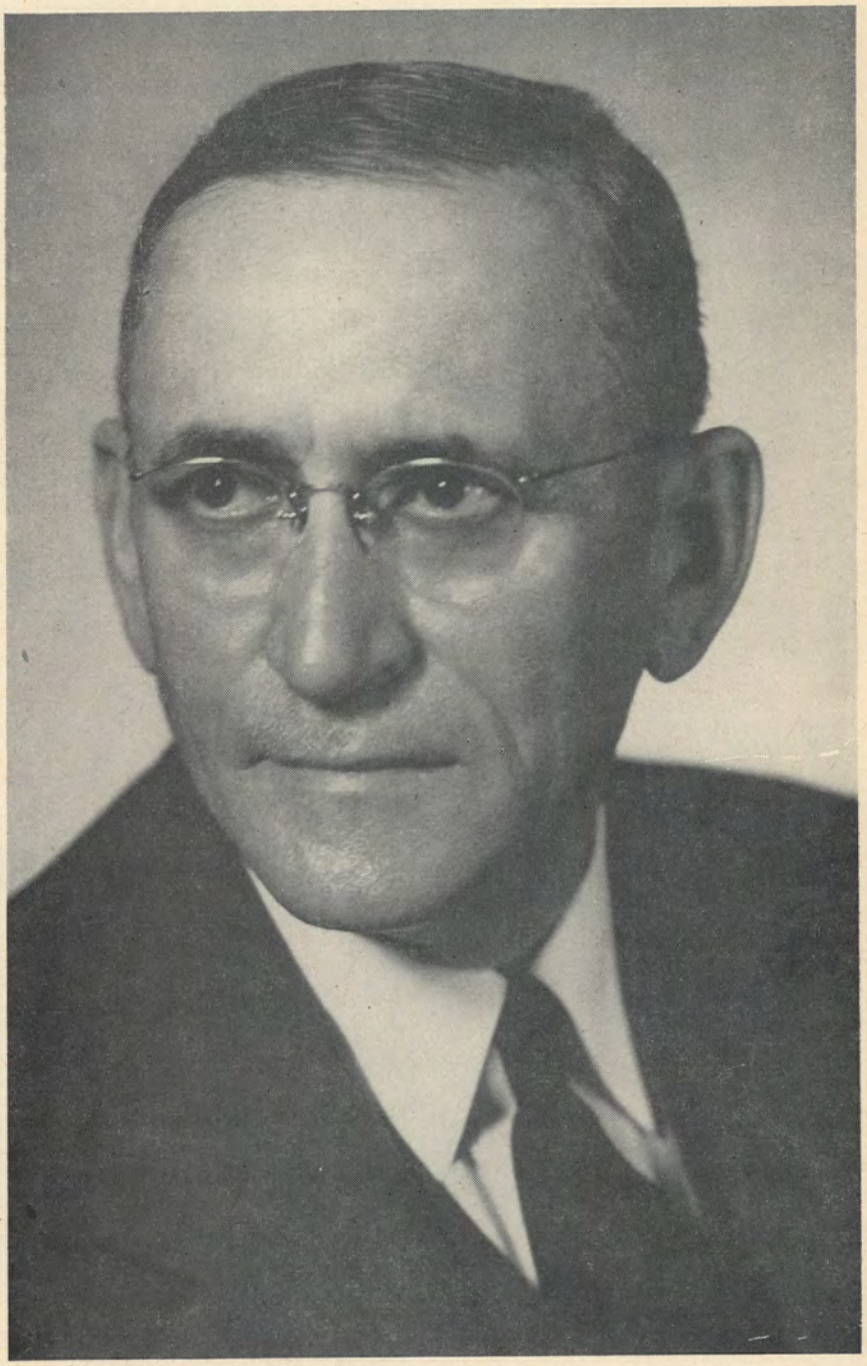
The affairs of the American Title Association are in good order. Business has continued high with our members although a little smaller than in 1946. It is pleasing to know that the service being rendered in practically every area has improved with the result that there are comparatively few complaints. Costs have risen rapidly the same as in practically every other business, necessitating adjustments in prices. These generally have been moderate and have caused little criticism.

The financial condition of the Association is excellent. Our membership continues high and there are practically no delinquencies in the payment of dues.

Our books of account are supervised and audited by Arthur Andersen & Co., nationally known auditors. They approve of our accounting practices and certify that our books reflect the financial condition of the Association.

I am pleased to pay my compliments to the Executive Secretary, Jim Sheridan. He has worked hard and to my entire satisfaction. He has a small, capable staff and as a result of their handling of the affairs in the Secretary's office, I believe our relations generally speaking are as good or better than they have ever been in my experience in the Association.

I also wish to pay my respects, and express my thanks, to the officers, the chairmen and members of the several committees who in practically all cases have performed their duties exceptionally well. It is only by this large cooperative ecort that our Association maintains itself as a strong organization.



KENNETH E. RICE

Reports of Committees

Constitution and By-Laws Committee

SEDGWICK A. CLARK, *Chairman*
Solicitor
Title Guarantee & Trust Co.
New York

Mr. Sedgwick A. Clark: Your Board has referred to the Committee on Constitution and By-Laws certain amendments to the Constitution hereinafter set forth. These amendments were proposed and recommended by the Planning Committee in its report under date of December 12, 1947, and were approved by the Board of Trustees at its mid-winter conference at Memphis, Tenn., in February 1948, who in turn, recommended that said amendments be submitted to this annual convention in accordance with the provisions of the constitution. This committee recommends that these amendments be adopted at this meeting.

Amend section1, article VII—Officers. Omit said present section 1 and substitute in place thereof the following:

Section 1. The active members in attendance at such annual convention meeting shall by ballot elect a President, Vice-President, Treasurer, and Chairman of the Finance Committee to serve three years. That the elective members of the Board of Governors be fifteen, five of whom shall be elected at each annual convention meeting for a term of three years commencing with the last day of the convention meeting during which they are elected, and continuing until their successors are elected and assume office. No member of the Board who shall have served a full term of three years shall be eligible to re-election or appointment to membership on this Board for a time or service commencing less than one year after expiration of his former term.

That for the purpose of bringing about the consummation of said amendment at the next convention meeting there shall be elected nine additional members of the Board who, with the six members of the Board whose term of office will not have terminated at the time of said convention, shall constitute the fifteen members of the Board. Three of the newly elected nine members shall serve for one year, three for two years and three for three years. At the convention meeting next following the convention at which said amendment is adopted, there shall be elected five members who shall serve for three years and each and every year thereafter five members who shall each serve for three years.

Amend section 2 of said article VII. Omit said present section 2 and substitute in place thereof the following:

Section 2. The Board of Governors shall consist of the President, Vice-President, Treasurer, Chairman of the Finance Committee, the retiring President for a term of one year, the Chairman of each Section and fifteen elective members. The Board shall appoint an Executive Secretary and prescribe his duties, compensation and term of employment.

S. A. CLARK

Further amend said article VII by adding thereto a new section to be section 6.

Section 6. There shall be an Executive Committee of this association composed of the President, Vice-President, Treasurer and Chairman of the Finance Committee. The President shall act as the Chairman.

Moved, supported and adopted unanimously.

Judiciary Committee

RUSSELL A. CLARK, *Chairman*
Vice President, Title Guaranty Company of Wisconsin, Milwaukee, Wisconsin

Brevity will be a characteristic of this report, not for the reason that the Committee has not functioned, but because the fruit of its efforts has been presented previously in printed form. Reference is made particularly to the Publication of the Judiciary Committee by the American Title Association No. 270-8, May, 1948.

At the commencement of the year, Headquarters American Title Association made the suggestion that monthly reports to Headquarters covering new legal decisions and legislation of general interest would be appreciated. It would enable them to keep the members abreast with current changes. The Committee strove to attain this objective. Material was assembled and monthly reports were made to Headquarters by the Chairman, but some of the reports were very meager.

Thanks to the contributing committee members and other members of the Association, including the officers of the Association, a small part of the objective was attained.

Through the efforts of Mr. Jim Sheridan, the decision of the U. S. Supreme Court, pertaining to restrictive covenants was published in full, digests of other important decisions of various state courts were included in the publications. Since publication has been made, you will be spared the time and discomfort of a repetition of any part of such items.

As a parting statement, let it be understood that the idea of monthly reports covering current appellate court decisions and new legislation is favored strongly and it is hoped that the Committee for the next administration will carry the plan forward to a greater degree of success.

Public Relations Committee

C. E. VAN NESS, *Chairman*
President
Arizona Title Guarantee & Trust Co.
Phoenix, Arizona

It is observed that the Association has a Committee on Advertising and Publicity under the able and adequate leadership of Harvey Humphrey of the Public Relations Division of the Title Insurance and Trust Company of Los Angeles, California. The functions of that Committee and the Committee on Public Relations, to a degree, parallel one another. This companion Committee is sponsoring the annual National Advertising Contest for the announced purpose of stimulating "advertising and publicity by the membership which will (a) attract and increase business, (b) sell our profession to the public, and (c) make our members more conscious of the value of advertising." This is broad enough in its scope to cover generally the field of Public Relations

in its practical application to the every day conduct of the title business.

Our Committee has had no matter referred to it for specific attention. We assume, therefore, that any matter requiring particular consideration has been attended to by the executive staff under the guidance of the President and the Board of Governors.

It remains merely, for the Committee to report on the relationship existing between Title companies in the areas of the respective committeemen and associations of Title users, such as Real Estate Boards, Bar Associations, Mortgage Bankers Associations, Fiduciary Associations, etc. Appended are such reports.

Expansion of Activity

It has been suggested that the Committee might outline, for the common good, a sound and comprehensive program for Public Relations by the American Title Association, flexible in its nature to meet changing conditions. We think this extends beyond the functions of our Committee. The difficulty of distinquishing between matters which definitely fall within the province of individual companies and those which might be more effectively accomplished by concerted action, renders this suggestion impracticable, accompanied by the fact that the larger companies naturally prefer to steer their course in conformity with their own desires and needs.

Report on the Relationship Existing Between Title Companies of the State of Arizona and Its Vicinity and the Respective Trade Associations

The relationship existing between the title companies of this State and vicinity and the respective trade associations of title users, such as Real Estate Boards, Bar Associations, Mortgage Bankers Associations, Fiduciary Associations, etc., continue harmonious with one exception.

The Bar Association of the State of Arizona at its annual meeting in April, 1948, took exception to what it regarded as the unauthorized practice of law by real estate brokers, banks, trust companies and title companies, in drawing legal instruments, whether or not such instruments were a concomitant part of transactions in which they were

C. E. VAN NESS

interested, and directed its committee to resolve the question by appropriate action. At this date, nothing has been done. This, notwithstanding the adoption of a Declaration of Principles in 1934 by the Corporate Fidiciaries Association of Phoenix and the State Bar Association and later reaffirmed in 1940, which provides:

"Nothing herein contained shall prevent title insurance companies and trust companies conducting a title department from preparing papers necessary or incidental to the conduct of their title business."

No reference is made, of course, to those inevitable criticisms against title companies which originate with individual brokers from time to time, and which after full investigation, are found to be without merit.

The title companies in this vicinity have been in the fore in giving material and substantial assistance, most particularly to Real Estate Boards in the many problems that confront their members, such as license laws, legislative matters, taxation and similar matters. Their contribution has proven invaluable. It is hoped that, should occasion require, that the conduct of the title insurance companies is such as to merit reciprocal assistance. In my capacity as President of the Phoenix Chamber of Commerce, I have been afforded the opportunity of supporting the Chamber's sponsorship of a law under the provisions of which Insurance Companies would be permitted to invest a limited portion of their funds in real property as an investment, thus enabling them to finance the construction of new or the improvement of old buildings of large values, by the ownership of the land subject to a long term lease, to the mutual advantage of the Life Insurance Companies and borrowers.

Report of Planning Committee

WM. GILL, *Chairman*

Executive Vice-President
American-First Trust Company
Oklahoma City, Okla.

In December, 1945, President Al Suelzer appointed a Planning Committee to conduct a study with reference to our activities and possible additional ones. The committee was instructed to submit its suggestions, observations and recommendations to the Board of Governors.

Such a report was submitted, after considerable work and study by the committee. It was later submitted to the membership and unanimously adopted by the Board of Governors and the American Title Association members.

At the Kansas City Convention President Ken E. Rice asked that the Planning Committee continue its work and thereafter myself as Chairman, Charles H. Buck of Maryland, George C. Rawlings, Virginia; E. B. Southworth, Indiana; Earl C. Glasson, Iowa; Lawrence R. Zerfing, Pennsylvania; John W. Dozier, Kansas, and Joseph T. Meredith of Indiana, were appointed as members. Kenneth E. Rice, Frank I. Kennedy, Briant H. Wells and J. E. Sheridan being ex-officio members of such committee.

The committee met in Chicago at a special meeting, for further consideration and study. At the mid-winter conference at Memphis, in February of this year, a report was submitted and approved by the Board of Governors and the convention. The principal "high spots" of this report recommended:

"(1) That the provision for a four-year term on the Board of Governors be stricken from the Constitution.

(2) That. annually, five members of the association be elected to the Board of Governors instead of two as presently is the case; that these five elected Governors shall serve for a term of three years; that the immediate past

presidents shall continue to serve on the board for at least a one-year term.

(3) That there be created an Executive Committee of this association to consist of the President, Vice President, Treasurer and Chairman of the Finance Committee.

(4) The Planning Committee recommends to the board its present approval of the creation of an Interim Executive Committee which shall serve in that capacity until action upon the changes proposed in the constitution shall have been accomplished; said Interim Executive Committee to consist of the President, Vice President, Treasurer and Chairman of the Finance Committee."

This report was likewise approved by the Board of Governors and those attending the mid-winter conference.

The amendments suggested will be submitted for your consideration at this convention.

Progress

As Chairman of the Planning Committee, I have watched with interest progress of the National Association with reference to recommendations of the committee. There has been and will be additional delay in putting a portion of such recommendations in effect. A program of its magnitude requires a vast amount of time, work and expense. Personally, I feel we have made much progress and that today the members are getting more for their membership dollar than previously. Until the Revised Dues Schedule was adopted the association was without adequate finances. The program outlined by the Planning Committee is, and was intended to be, a long range one. The official family of your association, including the Board of Governors and the Interim Executive Committee, has been extremely cautious in not over expanding our activities. I congratulate them, and I know that you do also, on the sane and sensible manner in which they have handled our affairs.

I do not want to be over optimistic—if you will continue to be patient, you will see still a greater improvement in our activities and benefits received. Time permits only a brief reference to a few, but important accomplishments.

The 14 Point Program

The Abstracters' Section complied with the request of the Planning Committee, and has submitted a "Fourteen Point" program for the abstracters. If the state associations will realize the importance of this program and aggressively endeavor to put it into effect each state association and the members thereof will be greatly benefited. If only 10 per cent of our members in each state will devote as much effort toward fulfilling that program as Chairman Glasson and others did in the preparation of such program we will witness a marked improvement in the abstract business. Incidentally, as far as I know the first state to adopt such program was not the beautiful State of Michigan nor was it that vast Empire of Texas—it was a little spot called "Oklahoma."

It means nothing to merely accept any program—it means much, plus a lot of hard work, to actually put it into effect. In other words, the members of the American Title Association, abstracters and others wanted an expanded program. Now that you have it, what are you going to do about it?

Regional Conferences

The Planning Committee recommended to the Title Insurance Section that it "Determine the possible advantages of state, regional or district meetings of Title Insurance and Title Guaranty Company executives annually for discussion and consideration of common problems arising within a particular state or area."

There was created by Title Insurance and Title Guaranty Company executive officers the Atlantic Seaboard and the Southwestern Regional Districts—the first meets at Atlantic City and the second one at Oklahoma City. Ask

WM. GILL, SR.

anyone who has attended these regional meetings if they think they are worthwhile. There are other areas in the United States in which I believe similar Title Insurance Regional meetings could well be held, and the same thing can be done by our abstracters. Some years ago an eight state regional meeting for abstracters was held in Oklahoma City which proved quite successful. What happened in Oklahoma City can be duplicated in other sections of the United States—unless you are willing to admit, and I know that you will and should not, that Oklahoma leads the title world in new ideas.

Yes, ladies and gentlemen, the title industry (and I mean abstracters, title insurance, title guaranty companies and attorneys) has found that it is profitable to work together.

Advertising

The Planning Committee recommended that more emphasis be placed upon advertising of our members. Under the very able leadership of Mr. Harvey Humphrey of Los Angeles, and his committee much has been done in this respect. Please do not fail to view and study a most extensive and excellent advertising exhibit on display at this convention. Likewise the Planning Committee suggested: "Invite business concerns who have equipment and merchandise for sale to our members to exhibit such items at our national and mid-winter meetings." You know that has and is being done with reference to this.

Your association officers, sections and numerous individual members are working hand in hand with our most efficient Executive Secretary Jim Sheridan to give you a more valuable association. I sincerely believe that this is being done.

Use National Headquarters

Please feel free to use the office of the Executive Secretary—it is a clearing house for your problems—it is a statistical bureau. If Mr. Sheridan does not have the information you need—in his typical congenial Scotch-Irish manner, he will get it for you.

President Ken Rice has worked hard for the association for many years—that statement is true of your official family and various committees. Pardon me if I remind you that we are prone to take too much for granted. It requires but small effort on our part to speak a word of appreciation to those of our members who sincerely endeavor to place the title industry on a still higher plane.

Ladies and gentlemen, I know that you appreciate these efforts, but it's a comfortable feeling indeed to let the boys and girls who do a lot for us know how we feel about it.

To some extent at least, I feel the Planning Committee has justified its existence and that such committee should be continued. The present committee has explored the field of improvement quite thoroughly, therefore, a change in the personnel of the committee—including the Chairman—would doubtless prove beneficial.

Our Thanks

At this opportune time, may I express my appreciation for the work and cooperation of the members of the committee, the official family and the entire membership as well. It is fun to work with a group so cooperative and at whose hands I have received so many courtesies.

Report of Legislative Committee

ARTHUR A. ANDERSON,
Chairman

President
Snohomish County Abstract Co.
Everett, Washington

As a general rule, the legislatures of the several United States do not meet during the even numbered years, and consequently there are but few states to report upon. Inquiries directed to the members of this legislative committee brought thirty responses and we have assumed that no legislative session occurred in those states where members of the committee did not respond.

The only states where legislatures met in regular session, we are advised, were Kentucky, Mississippi, Missouri, New Jersey and Virginia. Several special sessions were held in some states, but nothing of interest to the title industry came out of these special sessions, largely because matters coming before those legislatures meeting in special sessions were limited to matters specified by the governors calling such special sessions.

Two primary problems confronted legislatures. In Missouri and New Jersey, new constitutions have been adopted, and the sound implementation of these new state constitutions have been of primary concern to these legislatures. The need of conforming legislation with the new constitutional requirements is before these legislatures and much legislation can be expected, which will keep them in session a large part of the year.

Community Property Law

The other problem faced by some common law states in the east has been the threat of a community property law. This threat was brought about largely because of the desire to share the benefits community property law states enjoy with respect to federal income tax. Action on the part of the Federal government through the 80th Congress permitted husbands and wives to split their income for tax purposes, thereby lightening the family tax burden, and eliminating discrimination against citizens in states without community property laws. This action eliminated one of the main causes for the advocacy of a community property law in some of the common law states.

It is noted that the Supreme Court of Pennsylvania declared the Community Property Law adopted in that state unconstitutional, in the case of Willcox vs Penn Mutual Life Insurance Company. Michigan repealed its community property law after eight months of operation. In states such as Washington, California, Texas, Arizona and others having Community Property Laws since statehood, an altogether different situation exists. To enact such laws in common law states would naturally cause a great deal of confusion and the perfection of such laws in common law states would require many years. We understand that the community property laws introduced in the Kentucky and Missouri legislatures this year failed to pass.

Laws directly affecting the abstract and title business appear to have been passed in Missouri, New Jersey and Virgina.

ARTHUR A. ANDERSON

KENTUCKY

Senate Bill 219 provides that mortgages taken by banks, trust companies, and building and loan associations shall, if so stated in the mortgage, secure all renewals and extensions of the original note and also additional notes evidencing additional loans up to $2,000.00.

Laws relating to birds and bees and chiropody received a good deal of attention from the Kentucky Colonels.

MISSOURI

In Missouri an article to be known as Title Insurance Law was passed to conform with similar legislation in other states arising out of the Southeastern Underwriter's Case. Washington in its 1947 Session passed the Insurance Code as did several other states, which included regulatory matters affecting title insurance companies.

NEW JERSEY

In New Jersey Chapter 67 of the Laws of 1948 which became effective September 16, 1948, provided in part as follows:

A. Every bank which at the time this act takes effect, lawfully possesses and exercises the power to examine and guarantee titles to land, shall continue to possess and may continue to exercise such power, but no other bank shall hereafter have or exercise such power.

B. No bank which, after the effective date of this act, exercises the power to examine and guarantee titles to land as authorized by Subsection A of this section, shall have or exercise powers specified—(relate to common bank practices.)

C. The disabilities and limitations imposed by B shall remain in effect so long as any such bank shall exercise the power to examine and guarantee titles to land.

Any bank giving proof to the commissioner that it has discontinued examining titles, made reasonable provision against claims, may with written approval of the commissioner, assume and exercise the powers conferred on banks by this act.

Such bank cannot later assume the exercise of such power to examine and guarantee titles to land.

It is a surprise to us to learn that banks in the title business are looking for a way out.

Chapter 63 authorizes the use of photography in recording. California take heed.

Chapter 64 validates deeds where corporate seal was omitted.

VIRGINIA

Of the 884 bills introduced in the house and senate of the 1948 session, 552 became law.

Of interest to the title industry is Chapter 227 which provides a method for the removal of property from the Uniform Land Registration Act and validates certain orders heretofore made removing property from the operation of the act. On application in person or by counsel of the registered owner, the judge of the Court of Land Registration may by order entered therein, remove such property completely from operation of said act.

This procedure differs somewhat from that in other states where the application of the registered owner with the surrender of his certificate of title is filed with the County Auditor and the County Auditor then issues his certificate of withdrawal which is recorded and the land thereafter may be dealt with as though it had never been registered.

Chapter 138 raises the recording fee or tax from 12 cents to 15 cents per $100.00 in value of property in deed, deed of trust, mortgage, lease, contract and agreements.

This must be the result of inflation.

Chapter 173 validates acknowledgments to deeds of trust, taken by per-

sons named as trustees therein and who were also officers authorized by law to take acknowledgments.

Chapter 137 requires plaintiffs to furnish the full name and last known address of each defendant or other identification upon institution of any proceeding, whether in a court of record or not of record, at law or in equity. If a judgment be entered against any defendant as to whom the requirements of this act have not been complied with, it shall nevertheless be valid for all purposes as far as the failure to comply with the requirements hereof are concerned.

This law would appear to lighten the task of the sheriff.

Chapter 339 is interesting in that it limits the quantity of land which may be held by an association at any one time to two acres, which is to be for a meeting place for such association, and for the education and maintenance of children charitably provided for by them. A school league may have in addition to the two acres, ten acres as a home for the principal of the school. Veteran groups such as the Vets of Foreign Wars, American Legion may hold up to 75 acres.

Chapter 350 relates to land sold by any heir or devisee and makes them liable to those entitled to be paid out of the assets of the estate; in such case the estate conveyed shall not be liable if the conveyance was bona fide, and at the time of such conveyance no suit had been commenced; no sale made within one year after death by such heir or devisee shall be valid as against creditors of the estate. This act sets forth the various circumstances under which a purchaser from the heir or devisee is protected against debts of the testator or intestate even though he purchased within one year of the death.

Chapter 21 authorizes the governing bodies of the counties to make gifts of money and real property in aid of construction or operation of charitable or non-profit making hospitals.

Chapter 24 contains a provision which prevents the issuance of a license to a real estate broken or salesman who is unable to read, write and understand the English language.

Chapter 37 authorizes the City of Norfolk to set up a card system record and index to real estate returned delinquent for the non-payment of city taxes thereon.

Chapter 232 authorizes governing bodies of cities and towns to permit certain encroachments on streets and alleys.

Onus of Additional Laws

A wide variety of laws are passed in the various states, session after session, adding burdens to those who must consider the effect of such laws on land titles. Each state appears to have its individual problems, many of which differ very little from the problems other states encounter. At least some knowledge of the methods used by other states in solving their problems can always be helpful to others who have opportunity to learn of the methods used in such solution by others. We all borrow from the experience of others and by so doing learn to have an appreciation of their problems.

It is hoped that this report has added something of value to this convention meeting.

Report of Federal Legislative Committee

JAMES J. McCARTHY, *Chairman*

Vice-President, Secretary
New Jersey Realty Title Insurance Co.
Newark, New Jersey

During the sessions of the 80th Congress the Federal Legislative Committee has followed the introduction of legislation and its course in the Senate and the House of Representatives in order to report to the Association matters relating to real property titles or to the title industry, for appropriate action by the American Title Association and its members.

At the end of the Second Session a total of 9,927 bills and 1,914 resolutions had been introduced in the 80th Congress. Of these, 900 had become public laws.

There were many bills, such as those relating to Fair Labor Standards, Labor-Management Relations, Housing, Trade, Taxes and Public Welfare of general interest to the Title Association and its members, but the Committee endeavored to sift the tremendous volume of legislation as it was introduced and give particular attention to the legislation having a more direct effect upon real estate and real estate titles.

A list of the Senate bills and the House bills that were examined by the Committee appears in the report of this Committee that was made at the Mid-Winter Conference of the Association at Memphis, February 19-21, 1948, and copies of the bills were attached to the report. Among the bills examined by the Committee since the Mid-Winter Conference and during the balance of the Congressional Session were the following:

S. 2222. Mr. Barkley—One of the bills having to do with the release to the States of title to lands beneath inland navigable waters. (No committee action.)

H.R. 5507. Mr. Snyder, February 23, 1948—Giving priority in disposal of surplus residential real property to veterans, organizations of veterans and municipalities. (No committee action.)

H.R. 5555. Mr. Welch—Having to do with the sale or lease of public lands. (Passed House on June 16, 1948. No action in Senate.)

H.R. 5693. Mr. Reed of Illinois—Having to do with the Bankruptcy Act. (Passed House on June 8, 1948. No action in Senate.)

H.R. 5710. Mr. McGregor—Authorizing disposal of temporary housing to public agencies upon certain conditions. (Passed and became P. L. 796. A copy is attached to this report.

H.R. 5818. Mr. Ploiser—Having to do with corporation tax. (No action.)

H.R. 5834. Mr. Hobbs—Relates to the Bankruptcy Act. (No action.)

H.R. 6288. Mr. Albert—Providing for local taxation of real estate owned by the United States. (No action.)

H.R. 6649. Mr. Barrett—Relating to interest in mineral rights and homesteads. (No action.)

HJ Res. 395. Mr. Reed of New York—Having to do with estate and gift taxes. (Passed and became P. L. 635. A copy is atached to this report.)

Foreign Divorces

Senate Bill 1960 was of particular interest. This was a bill introduced in the Senate on January 9, 1948 by Senator McCarran. It had to do with the full faith and credit clause of the Constitution in connection with final divorce decrees. The bill provided that where a State has exercised through its courts jurisdiction to dissolve the marriage of spouses, the decree of divorce thus rendered must be given full faith and credit in every other State as a dissolution of such marriage, provided (1) the decree is final; (2) the decree is valid in the State where rendered; (3) the decree contains recitals setting forth that the jurisdictional prerequisites of the State to the granting of the divorce have been met; and (4) the State wherein the decree was rendered was the last State the wherein the spouses were domiciled together as husband and wife, or the defendant in the proceeding for divorce was personally subject to the jurisdiction of the State wherein the decree was rendered or appeared generally in the proceedings therefor. In all such cases except cases involving intrinsic fraud the recitals of the decree of divorce shall constitute a conclusive determination of the jurisdictional facts necessary to the decree.

On January 12, 1948 this bill was referred to a subcommittee of Senators

Donnell, Chairman; Revercomb and McCarran. On May 15th the subcommittee was reorganized as follows: Senators Moore, Chairman, Revercomb and McCarran.

The subcommittee held one informal discussion of the bill, and no formal action was taken.

In this connection, however, it is of interest to note that the United States Supreme Court has agreed to hear another case involving so-called "quickie" divorces. The Court accepted for review an appeal that contends that a Connecticut Court was in error when it invalidated a Nevada divorce.

It is contended that the Connecticut Court erred when it allowed to stand as unreviewable fact a statement that the petitioner went to Reno for the sole purpose of getting a divorce.

It is to be hoped that the decision of the United States Supreme Court in that case will remove some of the difficulty and uncertainty that now exists with regard to foreign divorce decrees and their effect upon real estate titles.

Tidelands

The most important legislation introduced in the Congress from the point of view of its relation to real property titles was the remedial legislation affecting tidelands. There were numerous bills introduced in the House and in the Senate—many similar in context—some differing in context—but all substantially similar in purpose—the purpose being to confirm and establish in the several States title to lands and resources beneath navigable waters. The need for the legislation resulted from the decision of the United States Supreme Court in the case of the United States of America, complainant, vs. State of California, decided June 23, 1947. In that case the Court decided that California is not the owner of the three-mile marginal belt along its coast.

The decision of the United States Supreme Court came as a startling surprise to title men and lawyers because since July 4, 1776, or since their formation and admission to the Union, the several States have exercised full powers of ownership of all lands beneath navigable waters within their respective boundaries.

Of the bills and resolutions introduced in the Congress having for their purpose the establishment of titles in the State, Senate Bill 1988 was the one that seemed to the Committee and to the Association to be the most desirable for the purpose. This bill was introduced in the Senate on January 16, 1948 by Senator Moore, and was referred to the Committee on the Judiciary. The adoption of remedial legislation such as was contemplated by this bill was favored by the Association of Attorneys General of the several States, the American Bar Association and others.

At the Mid-Winter Conference of the American Title Association in February, Senate 1988 was discussed, and the Chairman of the Federal Legislative Committee was directed to appear in Washington for the American Title Association before the Joint Congressional Committee at its public hearing upon the bill in behalf of the adoption of Senate Bill 1988. Public hearings on the bill commenced on February 23, 1948, and on March 1st the Chairman of the Federal Legislative Committee appeared for the Association.

Our Only Concern

It was pointed out to the Congressional Committee that the American Title Association as such has no interest in the controversy between the States and the Federal Government, that as a political question it is of no concern to the Association who owns or administers any particular area of land, that the sole interest of the Association is in the sound establishment, the stability and the accuracy of real property titles, but in this we have a very vital interest. Membership of our Association is expected by the public to be in a position to certify or insure titles and our certification and our policies of insurance are relied upon by property owners throughout the nation. Anything which undermines the security and stability of real property titles affects not only the entire title industry but weakens the faith of property owners everywhere in the integrity of the derivation of titles.

JAMES J. McCARTHY

It was pointed out that prior to the decision in the California case it had been the belief of title companies and title attorneys in the Association throughout the United States that title to lands under navigable waters along our coastlines within State boundaries and also lands under inland navigable waters was vested in the several States; that our members have insured and certified titles upon that assumption, and the asuumption was based upon many decisions of the United States Supreme Court commencing with the two leading cases of Martin vs. Waddell and Pollard vs. Hagan.

Inland Waters

It was emphasized that it is not only land under coastal waters that is affected by the decision, but that title to lands beneath inland waters as well, because in its decision the United States Supreme Court makes reference to a qualified title in the States to lands beneath inland navigable waters, and furthermore leaves wholly unsettled the question of what constitutes inland waters and where the inland waters are.

It was urged upon the Congressional Committee that the proper way to remove the cloud cast upon titles by the Supreme Court decision would be to enact legislation contemplated by Senate Bill 1988.

At the conclusion of his statements to the Congressional Committee the Chairman of the Federal Legislative Committee was cross examined at length by Senator Donnell on various phases of title, ownership and dominion. A transcript of the statement on behalf of the American Title Association and a transcript of the cross examination accompanies this report.

The proposed remedial legislation failed of passage in the Congress, and in the closing hours of the session was still in Committee. All bills pending before the Committee expired at the end of the 80th Congress. If this legislation is to be considered, a new bill must be introduced. Considering the importance of the matter and the tremendous interest in it, there can be little doubt that similar legislation will be introduced at the next session of the Congress.

It is obvious that this is something of deep concern to every member of the American Title Association, and this Committee urges that all members give vigorous and continued support to the introduction and adoption of legislation that was contemplated by Senate Bill 1988, which would stabilize title in the several States, where we always believed it to be.

(Public Law 635—80th Congress)
(Chapter 459—2d Session)
(H. J. Res. 395)

JOINT RESOLUTION

To extend the time for the release, free of estate and gift tax, of powers of appointment, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 403 (d) (3) of the Revenue Act of 1942 (relating to the release of certain powers of appointment) is hereby amended by striking out "July 1, 1948" wherever it appears and inserting in lieu thereof "July 1, 1949"; and section 452 (c) of the Revenue Act

of 1942 is hereby amended to read as follows:

"(c) Release Before July 1, 1949.—

"(1) A release of a power to appoint before July 1, 1949, shall not be deemed a transfer of property by the individual possessing such power.

"(2) This subsection shall apply to all calendar years prior to 1949 and to that part of the calendar year 1949 prior to July 1, 1949."

Sec. 2. For the purposes of sections 403 and 452 of the Revenue Act of 1942, a power to appoint created by a will executed on or before October 21, 1942, shall be considered a power created on or before such date if the person executing such will dies before July 1, 1949, without having republished such will, by codicil or otherwise, after October 21, 1942.

Extension of time for Assessment of Deferred Excess Profits Tax

Sec. 3. (a) Section 710 (a) (5) of the Internal Revenue Code is hereby amended by adding at the end thereof the following: "Notwithstanding any other provision of law or rule of law, to the extent that any amount of tax remaining unpaid pursuant to this paragraph is in excess of the reduction in tax finally determined under section 722, such excess may be assessed at any time before the expiration of one year after such final determination."

(b) The amendment made by this section shall be effective as if made by section 222 (b) of the Revenue Act of 1942.

Approved June 12, 1948.

(Public Law 796—80th Congress (Chapter 688—2d Session) (H. R. 5710)

AN ACT

To amend the Act entitled "An Act to expedite the provision of housing in connection with the national defense, and for other purposes", approved October 14, 1940, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to expedite the provision of housing in connection with national defense, and for other purposes", approved October 14, 1940, as amended, is amended by adding at the end thereof the following new section 505:

"Sec. 505. (a) Upon the filing of a request therefor as herein provided, the Administrator shall relinquish and transfer, without monetary consideration, to any educational institution all contractual rights (including the right to revenues and other proceeds) and all property right, title, and interest of the United States in and with respect to any temporary housing located on land owned by such institution, or controlled by it and not held by the United States: **Provided,** That any net revenues or other proceeds from such housing to which the United States is entitled shall not cease, by virtue of this section 505, to accrue to the United States until the end of the month in which the rights, title, and interest with respect to such housing are relinquished and transferred hereunder, and the obligation of the transferee to pay such accrued amounts shall not be affected by this section: **And provided further,** That this shall not be deemed to require a transfer to an educational institution which has no contractual or other interest in the housing or the land on which it is located except that of a lessor. As used in this section, the term 'temporary housing' shall include any housing (including trailers and other mobile or portable housing) constructed, acquired, or made available under this title V, and includes any structures, appurtenances, and other property, real or personal, acquired for or held in connection therewith.

"(b) The filing of a request under this section must be made within one hundred and twenty days of the date of enactment of the section and shall be authorized by the board of trustees or other governing body of the institution making the request. Such request shall be accompanied by an opinion of the chief law officer or legal counsel of the institution making the request to the effect that it has legal authority to make the request, to accept the transfer of and operate any property involved, and to perform its obligations under this section. The provisions of section 313 of this Act (and the contractual obligations of the educational institution to the Federal Government with respect thereto) shall cease to apply to any temporary housing to which rights are relinquished or transferred under this section 505 if (and only if) the request therefor is supported by a resolution of the governing body of the municipality or county having jurisdiction in the area specifically approving the waiver of the requirements of said section 313. The Administrator shall act as promptly as practicable on any request which complies with the provisions of this section 505 and is fully supported as herein required.

"(c) In filling vacancies in any housing for which rights are relinquished or transferred under subsection (a) of this section, preference shall be given to veterans of World War II or servicemen, who are students at the educational institution, and their families: **Provided,** That the educational institution shall be deemed to comply with this subsection (c) if it makes available to veterans of World War II or servicemen and their families accommodations in any housing of the institution equal in number to the accommodations in the housing for which such rights are relinquished or transferred."

Sec. 2. (a) Any Federal agency (including any wholly owned Government corporation) administering utility installations connected to a utility system for housing under the jurisdiction of the Housing and Home Finance Administrator is authorized—

(1) to continue to provide utilities and utility services to such housing as long as it is under the jurisdiction of the Administrator;

(2) to contract with the purchasers or transferees of such housing to continue the utility connection with such installations and furnish such utilities and services as may be available and needed in connection with such housing, for such period of time (not exceeding the period of Federal administration of such installations) and subject to such terms (including the payment of the pro rata cost to the Government or the market value of the utilities and services furnished, whichever is greater) as may be determined by the head of the agency;

(3) to dispose of such installations, when excess to the needs of the agency, and where not excess to grant an option to purchase, to the purchasers or transferees of such housing, for an amount not less than the appraised value of the installations and upon such terms and conditions as the head of the agency shall establish.

(b) Any Federal agency (including any wholly owned Government corporation) having under its jurisdiction lands across which run any part of a utility system for housing under the jurisdiction of the Administrator is authorized to grant to the Administrator, or to the purchasers or transferees of such housing, easements (which may be perpetual) on such land for utility purposes.

Sec. 3. Section 4 of the Act entitled "An Act to expedite the provision of housing in connection with national defense, and for other purposes", approved October 14, 1940, as amended, is hereby amended by striking out the period at the end thereof and adding the following: **"Provided further,** That, for the purposes of this section, housing constructed or acquired under the provisions of Public Law 781, Seventy-sixth Congress, approved September 9, 1940, or Public Law 9, 73, or 353, Seventy-seventh Congress, approved, respectively, March 1, 1941, May 24, 1941, and December 17, 1941, shall be deemed to be housing constructed or acquired under this Act."

Sec. 4. Section 313 of the Act entitled "An Act to expedite the provision of housing in connection with national defense, and for other purposes", approved October 14, 1940, as amended, is hereby amended by striking out the following words in the second sentence: "two years after the President declares that the emergency declared by him on September 8, 1939, has ceased to exist" and inserting in lieu thereof "January 1, 1950".

Sec. 5. The Defense Homes Corporation is authorized to convey, without reimbursement therefor, to Howard University, a corporation organized

pursuant to an Act of Congress, all of its right, title, and interest in certain lands in the District of Columbia, together with the improvements constructed thereon and the personal property used in connection therewith, and commonly known as Lucy Diggs Slowe Hall, 1919 Third Street Northwest, and George Washington Carver Hall, 211 Elm Street Northwest: **Provided,** That no employee of the United States or of the District of Columbia who, on the date of approval of this Act, is a tenant of either Lucy Diggs Slowe Hall or George Washington Carver Hall shall, unless quarters were assigned to such tenant on a transient basis or on the sole basis that the tenant was enrolled at an educational institution, be evicted from such halls within four years after the approval of this Act, except where such tenant commits a nuisance or otherwise violates any obligation of tenancy.

The Reconstruction Finance Corporation is hereby authorized and directed to discharge the indebtedness of the Defense Homes Corporation to the Reconstruction Finance Corporation in an amount equal to the Defense Homes Corporation's net investment in these properties as of the date of transfer, as determined by the President of the Defense Homes Corporation, and the Secretary of the Treasury is authorized and directed to discharge the indebtedness of the Reconstruction Finance Corporation to the Treasury in like amount as of the same date.

Sec. 6. The right, title, and interest in any lands, togther with the improvements constructed thereon, which are conveyed pursuant to the authority granted by section 5 hereof, shall revert to the United States upon a written finding made by the President prior to July 1, 1963, that the property is needed by the United States in connection with a national defense emergency.

Approved June 28, 1948.

Report of Membership Committee

EDGAR ANDERSON, *Chairman*

Public Relations & Trust Officer
Arizona Title Guarantee & Trust Co.
Phoenix, Arizona

The previous report of the Committee, rendered at the Mid-Winter Conference held in February last, showed that invitations to membership had been tendered to ten Companies in New Jersey on the recommendation of the New Jersey Title Insurance Association, and also to Mr. Carl Sabin, assistant counsel of the Massachusetts Mutual Life Insurance Company, upon the recommendation of Mr. Henry Davenport, President of the Home Title Insurance Company of New York. I am not advised what result was achieved; our Executive Secretary will be able to advise you on this point.

In May assistance was rendered in an attempt to get all delinquent members into good standing by dispatching 41 to members through the medium of their respective State Associations; and 43 to members direct.

Also, a letter was addressed to each President and Secretary of all State Associations inviting them to canvass their respective fields to augment our roster by admitting to membership those of our fraternity who, for one reason or another, have remained aloof from our activities, provided they were eligible and come well recommended.

Appended Are Sample Copies Of the Letters Addressed

Copy of this letter sent to Rice, Kennedy, Sheridan and Mortimer Smith with notation thereon: This letter sent out to President and Secretary of each State Association.

It is the natural desire of our good President, Kenneth E. Rice, during his incumbency, with the support of the Board of Governors, and the Presidents and Secretaries of all State Title Associations, to augment the present roster of the American Title Association, by admitting to membership those of our fraternity who, for one reason or another, have remained aloof from our activities—provided they are eligible to membership, and come well recommended.

Your election to office reflects your devotion to Title Association affairs, and attests the confidence of your fellow members. What greater service can one perform than to extend to others the rewards issuing from interested participation in our conferences and associations? The presidents and secretaries of the respective state associations have within their knowledge the names of potential and eligible members, and our confidence in you is your warrant to invite them to membership.

EDGAR ANDERSON

We reflect that the pressure of the past few years may have retarded somewhat our active solicitation of new members, and it is possible that there are those who merely await our invitation.

The present sound condition of the American Title Association permits it to serve the membership diligently, and with a full measure of value—this is reflected in the salutary annual conventions, and the midwinter conferences which in recent years have brought together the leaders of the title profession in stimulating discussion of urgent current concern.

The successful regional meetings held last year in various parts of the Country spontaneously resolved themselves to repetition in 1948. Those present at such future meetings would contribute to their success and would receive a reciprocal benefit.

The ample studies by committees of the American Title Association of the present and potential use of photography in title plants; the problems of co-insurance and re-insurance; court decisions affecting title insurance and real property in general; effective advertising and public relations—to mention only a few—in themselves open up new avenues of thought and stimulate one to future achievement. And not least of all the manifold advantages of membership, I find, are the pleasant and lasting friendships from association with fellow members and with the representatives of large users of our product, notably the Life Insurance Companies.

As a Committee on Membership, of which you are a member by virtue of your office, it is our privilege to aid President Rice in attaining his goal. May we urge you to comb the field for eligible members, and to submit their applications direct to our Executive Secretary, Jim Sheridan, if your Constitution and by-laws permit this procedure.

Cordially yours,
EDGAR ANDERSON, Chairman
Committee on Membership
and Organization

New Letter

The magnitude of duties attendant to a new year is well behind us, and we now have time to pause and reflect, not only upon our past good fortune, but upon the cherished associations it has been our privilege to enjoy throughout the years, particularly those gathered from our membership

in the American Title Association.

Apart from the spiritual, however, is the practical aspect. Your affiliation with the American Title Association is a manifestation of your interest. You would want to maintain that interest, I am sure, and continue to receive the manifold benefits which membership offers. Our recent past annual conventions and mid-winter conferences are beacons of accomplishment, bringing together the leaders in the Title profession in stimulating discussion of current concern. The ample studies by committees of the American Title Association of the present and potential use of photography in Title Plants; the problems of co-insurance and reinsurance; court decisions affecting Title Insurance and Property in general; effective advertising and public relations—to mention only a few—in themselves open up new avenues of thought and stimulate one to future achievement; and, not least of all, the manifold advantages of membership, we believe, are the present and lasting friendships from association with fellow members of our fraternity and with the representatives of large users of our product, notably the Life Insurance Companies.

As Chairman of the Committee on Membership and Organization, it devolves upon me to assist our worthy President, Kenneth E. Rice, to be able to report ALL MEMBERS IN GOOD STANDING.

Information before me indicates that of March 30, 1948, your dues to the National have not yet been credited. We would like to assume that this is an oversight. It could be that they are in transit. If your dues have been remitted, grant us your indulgence and attribute our letter to the delay that necessarily ensues in dealing through distant channels, and ignore this letter. If, on the other hand, your dues have not yet been remitted, it is our hope that you will honor the enclosed invoice at your early convenience.

Cordially yours,
EDGAR ANDERSON, Chairman
Committee on Membership and Organization of the American Title Association.

Copy of this leter sent to Rice, Kennedy, Sheridan, to list appended.

New Letter

May 13, 1948

It is the desire of our good President, Kenneth E. Rice, with the assistance of the Presidents and Secretaries of the State Title Associations, to retain on the roster those members of the American Title Association whose dues, for one reason or another, have not found their way to National Headquarters.

Your records will show the dues which have not yet been collected, or, if collected, have not yet been remitted to National. The enclosed letters are addressed to those members of your Association listed by National as delinquent on March 30, 1948. Would you please check your records, destroy the letters addressed to those who since that date are now in good standing, sending me a list, and mail the remaining letters with your invoice, attaching thereto the schedule of dues of the American Title Association, advising me the time such letters were mailed?

Your cooperation will be appreciated, and your advice will enable me to make a competent report to our Chief.

Cordially yours,
EDGAR ANDERSON, Chairman
Committee on Membership and Organization of the American Title Association.

Carbon copy of this letter sent to: Kenneth E. Rice, Frank I. Kennedy, Jim Sheridan.

This letter sent to Presidents and Secretaries of State Association which collects also National Dues; Secretary's letter containing in each case requisite A.T.A. invoices. (List appended.)

Federal Estate and Gift Tax Committee Report

EARL C. GLASSON, *Chairman*
President
Black Hawk County Abstract Co.
Waterloo, Iowa

The report of this committee, made at the Memphis mid-winter conference was to the effect that little of importance had then been accomplished excepting that a liaison had been established with the Section on Taxation of the American Bar Association, with which it was proposed to work on the problem of obtaining legislation designed to require filing of notice before a Federal Estate or Gift Tax lien could attach to property.

Since the 1948 mid-winter meeting, Mr. Howard Tumilty has prepared an exhaustive brief and argument for presentation before the House Ways and Means Committee whenever hearings are begun on the expected Revision of the Revenue Laws. Messrs. Buck and Stine have these briefs and will make our statement before the committee at the proper time.

A Difficult Chore

That it will be a difficult task to get the provisions desired into the Revision becomes more and more certain. In spite of the testimony of Mr. W. A. Sutherland of the American Bar Association before the committee in July, 1947, the only amendments proposed in HR 6812, with respect to Estate and Gift Tax liens were those limiting to five years after the filing of the return, the period within which the tax may be assessed or a proceeding for the collection of the tax may be begun, in cases where the value of the gross estate or of the gift involved was understated by more than 25 per cent. Obviously these amendments will be of little help to our problem. The Treasury Department is sure to vigorously oppose any changes in the law which will curtail the advantage it now enjoys in being able to assess Estate and Gift Taxes without time limit, and to impress liens for those taxes upon virtually any properties involved whether or not still owned by those who should have paid the taxes. The House Ways and Means Committee does not seem to have been impressed with Mr. Sutherland's statement, and no doubt will be inclined to retain the government's advantage.

EARL C. GLASSON

Regardless of these anticipated difficulties, your committee believes that this work should continue, and therefore recommends the appointment of a successor committee for that purpose, and further recommends that since the efforts of the American Bar Association have not produced results, that an independent effort be made by such committee.

Report of Chairman, Abstracters Section

EARL C. GLASSON, *Chairman*

President,
Blackhawk County Abstract Company
Waterloo, Iowa

TIME certainly does march on. It seems but yesterday that I reported to this Section assembled in Kansas City. That was almost twelve months ago, and those months have been, I assure you, filled to overflowing with the activities of the Section. If anyone ever invents a method or a gadget whereby the hours of the day can be multiplied, the then Chairman of your Section will be his first customer, for he will unquestionably need all the time he can by any means get.

The 14 Point Program

THE ABSTRACTERS SECTION FOURTEEN POINT PROGRAM was revised in the spring of 1948. Many of the points made in the original program of 1936 were retained because they were still perfectly suited to the circumstances of the day, but a few were discarded as obsolete or outmoded and new points substituted in their stead. The Program was distributed in April 1948, first to State Association officers and then to members. From the reaction which I have received, it appears that it was favorably received as a stimulant in State Association affairs. The Oklahoma and Iowa Title Associations have formally adopted it in total as the policy of their associations, and other associations have adopted such parts of it as were suited to the peculiarities of their situations. If your association has not given this matter serious consideration, I urge that it be done as soon as possible. Every State Association needs a basic program of activity, and the Fourteen Point Program, vigorously carried out, will provide a center of interest for the members. Furthermore, such a basic program, similar to that of other State Associations will provide a unity of effort across the nation which can have only a favorable effect on the title industry.

Business Conditions

BUSINESS CONDITIONS in our field continue spotted. The number of orders received seems to be down from ten to twenty per cent as compared with corresponding periods in 1947. However, many of those reporting decreases in orders received also report that because of upward adjustments in their fee scales, dollar volumes are not too seriously affected. There are many factors which combine to reduce the amount of business available. The stiffening of interest rates has reduced the volume of available mortgage money; changes in the GI bill and the FHA bill have made real estate loans under those provisions less desirable; the cost of home construction has placed needed housing beyond the reach of a large segment of our population; turmoil in politics, both national and international has made sellers unwilling to accept the small down payments usually acceptable in the past few years, and has made purchasers wary of commitments too large for their expected ability to meet; and finally the high level of ordinary living expenses prevents the accumulation of substantial savings which could be used in the purchase of homes. Therefore it seems that we can reasonably expect that our volume of business, measured in jobs done, will not increase materially in the near future. On the other hand, the shortage of housing is still serious, and the pressure of homes needs will force a considerable amount of activity in real estate, so that we may with confidence I believe, expect that our minimum expectancy of business will be well in excess of 1939 figures. Our costs of operations do not seem to have shrunk at all in the past year, and I see no reason why we should expect that they will. Therefore if any of you are still charging only pre-war prices, you should at once revise your fee scale to meet your current expense ratio. Tomorrow may be too late.

Collect Your Bills

Whenever business slackens, the granting of credit becomes precarious. In the past five years this was no problem at all, but from here on it will bear a different aspect. I urge you to watch your accounts closely, granting credit only where it is deserved, and insisting on the prompt payment of bills. Many of the real estate brokers who have been good customers in the past have never been real estate salesmen but merely order takers. Their chances of survival in a competitive field are not too bright, and if they forsake the business owing you money, your chances of collecting are slim.

Competent Help

The help situation is also cloudy. The peace-time draft will doubtless take some of our bright young men whom we are grooming for future responsibilities. War material manufacturers will probably entice some of our men and women with higher wages than we can afford to pay. The ERP program and the defense training program will increase activity in those institutions furnishing materials and supplies for such programs, and they will need more manpower, which we will no doubt help furnish. We must therefore keep ourselves as fully staffed as our revenues will permit, and above all must keep our training programs alive and progressive.

State Association Conventions

YOUR CHAIRMAN has had a rather active year. The general activities of the A.T.A. result in a large volume of mail which must be given constant attention, and this volume, added to the normal volume originating within the Section, helps keep the chairman out of mischief. Many state associations were kind enough to invite the chairman to attend their state conventions, and he was able to make those of Missouri, Nebraska, Oklahoma, Illinois, Iowa, Wisconsin and Colorado. At each of these gatherings every courtesy was extended, and he enjoyed every minute of the time. In respect of his office no doubt, he was given a place on the program at each convention, and he hopes he may have been of some small service and have left a thought or two worth remembering.

Publicise Your Membership

MEMBERSHIP in an organization such as The American Title Association is a thing of value. Generally one must have met standards of ability, financial standing, ethics and reputable dealing to attain that membership. That being true; we should be proud to belong, and should exhibit evidence of our pride in prominently displaying the Association emblem in our places of business and on our stationery. Some of us apparently do not recognize the prestige attached to ATA membership, and make little or no effort to tell the world of it. I suggest that the more times the emblem meets the eye of the customer, the more he will realize that the ATA member is the man with whom he should do business. If we will each do a small part in this, the results will be large.

Thanks

AS THE YEAR CLOSES, your chairman would be ungrateful if he did not acknowledge the wonderful cooperation he has received in the work of the Section. Every national officer from Ken Rice on down has been more than generous in his advice and counsel, and the Executive Secretary has been, as always, ready and willing to do everything requested, thus assuming a large part of the burden of work inherent in the office. Each and every committeeman or member who has been asked to do anything has responded with an enthusiasm and a vigor which was inspiring. To everyone of those kind people I extend my hearty thanks. And to every member of the Section I express my appreciation for the unwavering support given to me and the kind comments made as to my activities in your behalf. And lastly, I am very grateful to you for having given me the opportunity of serving as your chairman. I know that I have profited from the experience far more than you.

What My State Association Stands For

CLAUDE W. BALDWIN

President

Iowa Title Association

Secretary, Clay County Abstract Co.

Spencer, Iowa

I have been asked by our President to make a brief report on the progress and conditions in general in Iowa so far as Iowa abstracters and the Iowa Title Association are concerned.

We have had a very good working organization in the form of the Iowa Title Association. None of us are in title insurance business but are chiefly concerned with the making of abstracts.

At the present we have 133 paid up members in good standing in our association from the 99 counties of the state. We do not have all of the abstract companies operating in the state in our association but we have a large majority of those companies who can properly qualify according to our By-Laws and I believe I can safely say we do have most of all of the really substantial companies as members.

Our finances are in good shape with about $7,500.00 surplus at this time. Much of this can be attributed to the sliding scale dues provision of our By-Laws, which I will mention later.

Our 1948 Convention

The Convention last June in Waterloo was one of the largest in history. The President, Secretary, and Chairman of the Abstracters' Section of the American Title Association honored us by their presence and took part on our program. Of course, Jim Sheridan is a "Must" and if he did not appear at such convention our members would think that the convention was not a success. Much was gained and gleaned from our round table and panel discussions. These were the best parts of our meetings. Our convention will be held next year at Sioux City.

Monthly Bulletin

We publish a monthly bulletin called the Iowa Title News. This bulletin takes much time on the part of our Secretary, John May, of Waterloo, but is invaluable in keeping our association together and well informed. I receive the Titlegram from the Oklahoma association and get much out of it. Those of you who do not have such a bulletin are missing something.

Regional Meetings

We have planned nine regional meetings in the state. Our Constitution was amended a year ago so that there is a President, a Vice President, and three regional Vice Presidents. It is one of the duties of the Vice President to see that each regional Vice President has regional meetings in his district. For several years we have not had these regional meetings but under the new set-up we plan to carry this program out because we think it will prove very beneficial for the abstracters of Iowa as well as our association. All abstracters are invited to these regional meetings. In this respect I might say we are attempting to carry out William Gill's and Earl C. Glasson's "Fourteen Point" program, which provides for this and many other things.

Committee Work

We have an active committee on Co-operation, whose duties are to plan and work out a program of co-operation with the attorneys, the real estate brokers association, mortgage company associations and other kindred organizations that work with the abstracters and upon whom the abstracters depend for much of their business. This committee plans to meet with the Title Standards committee of the Bar Association each year and to be in close contact with the real estate brokers association.

Next year is the legislative year and our committee on legislation is actively planning its work.

The 14 Point Program

Our association strongly recommends the adoption of William Gill's and Earl C. Glasson's "Fourteen Point" program which our Board of Directors has done. Most of you know, of course, that Mr. Glasson is Chairman of the Abstracters' Section of the association. He has issued a revised bulletin on the fourteen points and the association officers of each of the states should have received this bulletin sometime ago. If you do not have it we urge you to secure it and follow the matters suggested therein. I am sure you will all receive great benefit from it.

I should like briefly to stress the "Fourteen Point" program here again.

1. Adopt an adequate dues schedule, preferably on a sliding scale, based on the amount of abstract and title business done. We have adopted such a schedule and have no trouble raising our revenue with which to operate. It is based on the gross revenue the individual company does during the previous year. (Mention Iowa schedule briefly.)

2. Make membership in the American Title Association compulsory by including the national association dues with the state association dues. This has worked out very well for us and we have no difficulty in raising both dues, which are paid at the same time.

3. Attempt to attain more uniform and more stringent qualifications for membership. We adopted our new Articles of Incorporation and By-Laws as I mentioned before and outlined therein strict qualifications for membership. Briefly they provide that applicants must have either actively engaged in the abstracting business in Iowa for not less than five years or admitted to the practice of law for not less than five years, shall all have established reputation for honesty, fair practice, competency and ethical conduct, and own or lease and currently maintain abstract plants including tract indices adequate for the business in their respective counties. There are, of course, provisions for honorary memberships and associate memberships.

4. Have a Planning Committee. We have not as yet appointed such a committee, but I intend to provide for this before long. It helps form a course of procedure and provides for a goal to which the association can work and best accomplish something.

5. Have at least one association officer at each American Title Association mid-winter meeting and each American Title Association national convention, preferably at state association expense. Our Past President, Mel Josephson, went to Memphis last year and we plan to continue this procedure if it is at all possible to carry it out in the state.

6. Have at least one national officer at the state convention. Last year, as I have said, we had the President, Kenneth Rice, Secretary, Jim Sheridan, and Earl C. Glasson, Chairman of the Abstracters' Section of the American Title Association, in attendance at our state convention.

7. Adopt a uniform certificate. We have had such a uniform certificate for the last several years. One of the members has called our attention to a small defect in this certificate and we expect at our next convention to discuss this matter and probably will

amend it. The Secretary has these certificates printed and all abstracters in the state who desire them can order them from him for a very nominal sum. It tends to uniformity and less objections on the part of the examining attorney. It has on it the stamp of the American Title Association and the stamp of the state association. A hand book on uniform provisions used by one of our abstract companies has been furnished all members who desire the same at a very nominal sum. This also proves of great benefit to the members and also tends to uniformity in the method of abstracting.

8. Organize Past Presidents of the association into a group to counsel with and serve the association.

We have not as yet done this, but I plan, if possible, to inaugurate this at our next state convention and set up and organize such an organization of our Past Presidents.

9. Divide the state into districts or regions and hold at least one regional meeting therein each year. I have already mentioned this in this report. We expect to hold regional meetings before the end of this calendar year in every district and on account of the distance and for convenience purposes we plan about three such meetings in each district to insure better attendance. These will be mostly round table affairs to which all abstracters are invited.

10. Issue a monthly bulletin. We have followed this program for some years and it has proven of great benefit to all who receive the bulletin. It provides for an exchange of ideas and keeps all members well informed as to what is happening in the abstract and title business in the state. It also serves to keep our association together and makes for better attendance at our state meetings.

11. Invite constructive criticism of our customs and programs by the creation of a public relations committee. I have also mentioned this before. Our chairman of this committee generally meets with the Bar Association committee on title standards. This year one of the members attended the real estate brokers' association convention.

12. Sponsor an educational program in each county to interest various civic and professional groups in the title business or some phase thereof. We have not done much along this line, but it is an active field to make the public more conscious of the abstracter's work and position in the community, and, of course, undoubtedly brings some advertising to our business. We plan to follow this up in the future and we believe it is a real good-will builder.

13. Make available to state association membership, leaflets or other information for distribution explanatory of the abstract business, state association membership requirements and qualifications. We have prepared a booklet entitled "What You Should Know When You Buy, Own, Sell or Mortgage Real Estate" which has the imprint of our association and also the local abstracter's name. It is in question and answer form, contains valuable information and is very instructive and educational so far as the young couple is concerned who are purchasing real estate for the first time and don't understand any of the procedure. It is also backed up by the lawyers because it calls the attention of the individuals buying property in what to do to insure good title and shows them they should consult their lawyer and have their abstract examined.

14. Make available to all employees of the members of the association a title course covering all phases of abstracting. We have not done too much along this line, but have discussed it on many occasions. We think with the inauguration of the regional meetings perhaps some of this can be done at such meetings by inviting not only

BRIANT H. WELLS, JR.

National Treasurer, The American Title Association
Vice President, Title Insurance & Trust Company,
Los Angeles, California

heads of the abstract companies in the various localities, but also the employees to such meetings and either have some instructions given by a qualified abstracter or have round table discussions as to the mutual problems arising.

Title Insurance

Our association has discussed the question of title insurance on many occasions but we have not as yet adopted any definite course to be taken in regard to it. It is possible in the future some organizations in the state may seek to amend our laws so that title insurance will come in. So far we have adopted the attitude we do not want to incur the ill will of our Bar Association members and have not been instrumental in seeking any immediate change from our present procedure.

Organization Minded

The members of our association are becoming each year more actively interested in the problems of the abstracter and title insurance companies in other states and the progress made by the American Title Association Each year have found more of our members attending the national convention and each year we as members of our local association and the American Title Association are becoming more conscious of our place in the community. We are, in a measure, each year realizing more and more the importance of the service rendered and to be rendered by an abstracter in his community.

The Modern Abstract Plant

JOHN W. MAY

Treasurer, Black Hawk County Abstract Co., Waterloo, Iowa

Let us imagine our selves walking into an office of an abstract company of sixty or seventy years ago. It's dimly lighted with wooden furniture and right over here at an old desk sits the boss with whiskers this long. An old fashioned tract book is propped up on one side of him and a well used spittoon on the other side. In front of him is the abstract he is writing. You know the size of the pages of his abstract—about two and a half feet in width by about three feet in length. He uses a quill pen which he dips into his ink bottle. The darn thing is always in his way. Every now and then he will dip his whiskers accidentally into the ink bottle and then it will smear up his abstract and he'll have to tear up that page and start all over again. For years he struggles with this problem of his whiskers and the ink bottle, and finally this daring soul advances a startling idea! He shaves off his damn whiskers and his problem is solved.

Well, we have come a long way since then, and it is due to the progressiveness of our fathers that we now use electric typewriters instead of a quill pen.

Diversity

When I try to think of a modern abstract plant, I find that there are as many different ideas among us as there are different kinds of women's dresses, and from many of the plants that I have visited, I think we are trying to emulate the ladies—each of us wearing a different kind and a different color of dress. Some have the "new look," while others appear quite shabby and out of style.

A plant that would be entirely adequate for a small county could not be used in a large county. Conversely, some of the new systems and equipment that are successfully used in a larger office would turn out to be a waste of money and energy in the small office. However large or small, there are so many improvements that can be and should be made in most of our plants, and in most cases these improvements will turn out a profit quite in ratio with the size of the company.

JOHN W. MAY

A good workman keeps his tools sharp and in good condition. With a dull axe the lumberjack will work just as hard but will accomplish half the work of the man with a keen blade. The carpenter not only sharpens his tools, but is able to do many, many times more work with a modern power saw than with an old fashioned hand saw, and he does it easier. These same thoughts can be applied to us.

The Plant

Let us first consider our most expensive tool—our tract books. I find that most of us are quite satisfied with and in many cases, quite proud of their present tract books. If I would describe a model plant, I think I would junk most of the tract books that I have seen and start all over again. Of course, in most cases this would not be prudent and I am not offering that kind of advice. About ninety per cent of your business probably consists of continuations covering a period of the last ten years or less. Don't junk or rewrite your tract books, but start right now—just as soon as you can buy the books and the papers—to post your daily take-off to a new system. If you start right now, then in ten years from this date you will seldom have to refer to your old books. This change-over will cost you very little and you will be surprised at the saving in cost of operation, both in posting to it and in making your searches. Also important is the fact that your chance for making errors is greatly diminished when you turn to an up-to-date system which is easier to operate. Some seem to think that the geographic system is the best system in the world. Others think that that system is alright if you have no competitor and all the business of the county goes through your office. Well, the answer to that might be for you to shoot your competitor and get rid of him. If you don't want to do that, maybe the most expensive system isn't for you. I believe that every modern abstract plant should use some system using arbitraries. There are dozens of such systems. This would mean, in most cases, a new set of maps drawn to scale. I am entirely convinced that an adequate set of maps, drawn to scale, and at a large enough scale to be easily read, will prove to be a big money saver and will soon pay for itself. My choice would be tract books using pages 11 by 14 inches which will fit a standard size post binder and small enough that the books can easily be handled by the members of the fair sex. The maps to be drawn on pages just double that size so that the map can be folded out and be visible as you turn the pages of the tract book. Not too much detail would appear on the tract book—just the names of the grantor and grantee, character of instrument, date of filing, book and page, and space for about twenty arbitraries

posted in columns. In geographic systems combined with a complete photograph take-off, I think that only the character of the instrument and the book and page are the only matters that should be entered on the tract indices. Easements, interlopers and such matters can be posted by symbols. We use a star or an asterisk (*) to indicate easements. If a tract number 26 is subject to an easement we post in the 26 column an S*. If it is in favor of tract 26 we post an F*. If it is "together with an easement" we post a T* in the 26 column. This eliminates a lot of writing in a column for "Remarks." I hate that "Remarks" column because too often we develop the habit of posting too many words under that column. We have no such space on our tract books for "Remarks."

Maps

Maps would contain no larger area than a quarter section to a page. In many cases only forty acres. In cases of large platted areas, I would have a master map of the whole subdivision, and then smaller maps for convenient portions of the subdivision. Different colors of ink can be used to denote the different kind of lines. For instance, black lines for subdivision lines, green lines for section lines, red dotted lines for ownership lines to denote arbitraries. Some difficulty might be encountered if you use different colors and then want to have those maps photographed for use in your abstracts. In that case, different kinds of broken lines can be effectively used.

The Take-Off

The method of making your take-off seems to me the most controversial subject at any convention of abstracters. I firmly believe that the question of whether you should use micro-film, photographic prints or manual take-off depends largely on the size of your plant and the extent of your operations. Speed is always the matter of prime importance. I recently visited a plant in a small county where only thirty or forty instruments were filed each month. Obviously any photographic daily take-off system could not be profitably used in that plant. However, in most plants some photographic system can be used to advantage. My company makes photostat prints six by nine inches and we like them. The question of eye strain was presented to us before we installed this system. We found that one large company junked several months work photographed on 6 by 9 prints because their employees did not like it—chiefly on account of eye strain. But that was the only one company out of thirty-five or forty that we contacted, that had any experience of that nature. We have had no trouble with eye strain using 6 by 9 prints and I think it is largely a psychological problem to get your employees accustomed to a different procedure. Once they get used to it, they seem to like it as well or better than the manual take-off. The great advantage of photography, it seems to me, is not only accuracy but the speed by which you can get the take-off posted to your tract books. It's less expensive too.

To modernize our plants we must not forget our "Miscellaneous" or "Name" indices. In case you have separate indices for judgments, incorporations, probate, divorces and so on, that are old fashioned and out of date, I would advise you to rewrite only a part of them. In my state, judgments are a lien for only ten years. You can start right now to post all new matters to the new and up to date index, but don't rewrite that judgment index. Let it wear itself out. In ten years you need never look at it again and you can throw it away. However, the matters posted to a miscellaneous index that never outlaw are in a different class. I would rewrite those old indices to the new modern index. There are many good ones on the market. One which we installed a few years ago paid for itself in the first five years. Where it formerly took thirty or forty minutes to run a name, we can now make the same search in a matter of a very few minutes and in some cases about thirty seconds. We purchased Remington-Rand's Soundex system which is based on the legal rule of idem sonans. All names that are pronounced alike, even though they are spelled differently, are all thrown into the same section. They are posted on cards about one inch by four inches which slide on panels and can be placed upon or removed from this panel, thus keeping our index up to date. We remove all released judgments and matters which are outlawed and need never be shown again, and the searcher does not have to search through a lot of irrelevant matters. I would suggest that you install some such system and index all matters to one set of indices.

Never before have so many new systems and so much new equipment been available to the people of our trade. New tract book systems and new kinds of indices; photographic equipment and processes galore; new and faster filing equipment; electric typewriters; new office systems for your bookkeeping, time cards and pay rolls; new order blanks and order books.

Look over your entire office and see if your lighting system is adequate. If not, you are not only harming the eye sight of your employees but you are slowing them down. Your Electric Power Company usually furnishes a service to test the lighting in your office, and it's free of charge. Comfortable typists chairs lessen fatigue and increases production.

Is your map making department a losing proposition? There are contact printers and other photographic equipment that can change this into a profitable department.

Organize your operations so that your plant works smoothly and efficiently. Standardize the procedure in your office so that there is no guess work among your employees.

Dress your office up a bit so that it looks like a modern up to date establishment. It won't hurt a bit to have a few good looking girls up front to wait on the customers. You'll find the customers won't mind that at all. Dress your product up too. Use a good quality paper with an attractive cover and neat fasteners.

Labor is always the biggest item of expense, and if you can cut a few minutes from this operation and perhaps only a few seconds from another operation, it all adds up. It is a simple matter of arithmetic for you to figure your savings by installing new and up to date equipment and methods. Every dollar saved goes into the profit column. You can never find a better investment than in spending a little money to modernize your plant. The returns will amaze you.

Even the best and most modern plant as I see it, is never perfect. If we are to be progressive, we are never entirely satisfied with what we have, but we are constantly looking for new equipment and new methods that are more efficient and economical to operate.

We abstracters deal in history, but we do not need to remain prehistoric We should remember the old Roman god Janus who was said to have two faces. I don't mean that we should be two faced as the expression is commonly used, but we should keep one face looking into the old title records of the past, and the other face looking toward the future.

The Modern Abstract Plant

A. W. SUELZER

President, Kuhne & Company, Inc.
Ft. Wayne, Ind.

When we say MODERN ABSTRACT PLANT we immediately see in our mind's eye a structure specially designed for the abstract business, with an imposing front, glass partitions, soft carpets, bright as day with fluorescent lights, like my good friend A. J. Yates has at Geneva.

I doodle and dream about something like that off and on every day in the week; but it still seems farther away than the time when I will be—in Churchill's words—"put out to grass."

My building is old. Back in the early seventies and for many years before it was a saloon; and there is a tradition that a bibulous doctor once rode his horse right up to the bar.

It has many problems for me posed by lack of space, load bearing capacity

of floors, and overloaded files; and it has a fire hazard that sends me back several blocks to the office every time I work at night to make sure that I doused that last cigarette.

So you see, from that angle, I could talk to you about a MODERN ABSTRACT PLANT only in reverse.

Then there is the angle of MODERN MACHINES.

You will find them all on display in this convention and you should spend hours with them.

While I have for years kept a careful file on every new gadget, on every paper read about them at conventions, and on all the valuable information about them the inhumanly efficient Jim Sheridan sends out, I have found only a limited use for them.

We do use electric typewriters and the multilith and find them of great practical utility. While we have some photographic equipment and find a limited use for it, the fact that the three abstracters in Fort Wayne have an effiective co-operative take-off and the problems of space preclude at this time a larger use.

So there, too, I could be of very little practical help to you.

And so you see I was stymied.

Modern Thinking

In trying to find a way out it occurred to me that no abstract plant could be MODERN unless the thinking in it were modern too; and that with a little stretching of the assigned topic I could excusably talk about other things than brick and mortar and machines — things like personal attitudes, relations with competitors, and, if time permitted, something about routines and practices in the office.

My good friend May, in his fine paper, recommended that we start right now devising better tract books, and breaking off from the old. I am doing that.

The Title Plant

Like everyone of you—without exception—I have always had the most superlatively perfect set of tract books in existence. We posted straight across two pages the date of the instrument, the date of record, the names of all the grantors and all the grantees, the nature of the instrument—even the consideration—the metes and bounds description, if there was one, and, believe it or not, the exceptions from warranty. The result was tract books so complete that, if our obsolutely fireproof Court House ever burns down, we can make a serviceable abstract right from our tract books. And we posted all that information despite the fact that we have copies of all the posted instruments right in our own office.

Of course it came to our minds from time to time that it was a waste of time and money to go on posting all that information when it was right at hand in the instrument itself if we took from the tract book only the book and page of the instrument. But we kept right on through seventy-five years.

Why did we do that? Why do most of you do just about what we did? You may find the answer in what follows:

Reducing Amount of Postings

One of the ideas that came to me in planning for less posting was to omit the names of the grantors. I reasoned that, if we had the names of the grantees, we would always know who

A. W. SUELZER

the titleholder is; when we posted a transfer, or a mortgage, or any other instrument, we could always tie up the chain; a rare variance in grantors could be specially provided for; so—why post the grantors. Everyone of you will realize what a monstrous, almost sacrilegious departure that would be. I was afraid of it. So I wrote to many abstracters and asked them. And they all said the same thing: that while they could not offhand think of a sufficient reason for NOT omitting the grantors, they WOULD NOT do it.

To really prove my point I should say that I decided to continue to post the names of the grantors. But I did not, and the oldtimers in the office are almost praying for something to turn up to teach me to stay in the old ways.

I used that tract book story only as an illustration,—to show that most of us are,—let's say,—still UNMODERN enough to change our methods in any basic way, even when we know how to improve them.

Here is an old story that illustrates my point quite aptly. An agriculture school student was using the summer vacations in selling to farmers a book on improved farming methods. He came upon a farmer leaning indolently against the side of his barn, a big cud of tobacco in his cheek. The student launched into his sales talk—proved to the farmer how he could probably double his yield by changing over to the methods shown in the book. The farmer listened without a word. Then he switched his cud to the other cheek, landed a stream on a chicken about 10 feet away, and drawled: "Young feller, I ain't a farmin' more'n half as good as I know how right now."

Study Your Own Situation

It is a fact that each of us could, by a little concentrated study make changes that would reduce the number of operations, cut overhead, minimize the margin of error and get a better product to our clients in less time. You could come into my office and show me what I could do. I could come into yours and probably show you. We come to these meetings and are shown. Still we don't do it.

If we made a self analysis most of us would have to admit that we have not made a basic change in method or product since we started and for many of us that period can be counted in generations. Perhaps the answer is indolence. Perhaps it is fear that we might make a mistake. Perhaps we are trying to save the wrong kind of money. Whatever the answer, it is not a valid answer—it is probably just an excuse.

So let's go more MODERN—go more modern in our thinking. Let's re-condition it to where it is always on the prowl for better ways to do things, finds them and puts them into practice.

This is not intended to be simly inspirational preaching. It is also a warning. In the constant striving of private enterprise for better production we, generally speaking, have stood still; and, for many reasons that I need not go into now, have done so with comparative safety from new competition. But ours may be a false sense of security.

More and more frequently it is being noted that the title business is a good business by those who are not in it. Lawyers and real estate men say to me and to you: "Boy, have you ever got a swell racket. I wish I had it.

Building a new title plant is not the problem it used to be. It would not be too difficult to round up the capital required to build a modern one by the microfilm method, hire away our experienced employes, and produce a better service than we are giving, with less delay and at less cost.

So we better get MODERN in our thinking.

I think that in many ways we have made progress in our attitudes and in in our thinking as abstracters.

Changing With the Times

I recall a long period when almost every abstracter had a stock answer to every improvement suggested to him at these meetings. He said: "My competitor won't go along; or, my clients won't stand for it." And he kept right on giving discounts; kept his fee schedule static; shrugged his shoulders at sur-

charges; did not change his methods or improve his service. He quailed before the local banker. Any lawyer could subdue him into a state of abject compliance.

We have changed. We are shedding our sense of inferiority. We back up less. We have acquired an assurance born of the realization that we know as much, in a practical way, about real property law and probate law, as many of our clients do; and of the realization of the importance of our service. More and more often we decide which way our best interests lie, and say: "That's it."

I have watched the change come gradually about with great interest because I never lost an opportunity to preach it at these meetings.

It is true that some of us still will have no truck with our competitors. I used to nurse an ambition to travel around and try to get competitors together—something like a lawyer feels he owes it to his profession to write a lawbook.

Competitor Relations

I know that some competitors are unfriendly almost to the point of hate. And there are some who will take what you have to give or pretend to make common cause with you and still knife you in the back. On the other hand in some places competitors have gone so far as to agree to make their plants available to each other in case one is burned out; and to make searches and forms and abstracts available to the competitor who has not been over the ground.

If we could only keep in mind that, taken together, the abstracters in any city have an absolute monopoly of an indispensible service and, within reason, can dictate their own terms. That consummation is not only, as Shakespeare said "devoutly to be wished"; but it is worth any amount of effort and any amount of temporary humble pie. In the end an enlightened self interest will always win over the petty differences if the problem is met with tact and persistent effort.

Intelligent Competition

This is one thing I am competent to talk on after twenty-five years of making common cause with my competitors. You will not mind if I tell you something about the Fort Wayne abstracters. There are three of them—all in the same block. They rub shoulders all day long. They all have good plants. They all do a good job. They are all prosperous. They compete every inch of the way; and it is tough, persistent competition. But they save themselves money and avoid friction with the Court House personnel because they have a take-off in common at one-third the cost, each. They do not compete on price because they have schedules that are uniform, except as affected by each company's own determination of what is abstractable and the form in which it should be abstracted. Each collects one hundred per cent schedule fee on every job, and there can be no shopping for price by clients, because neither will make any advance estimate or commitment as to fee.

It Can Be Done

I have preached that no estimate business at these meetings until everybody was tired hearing it. They all say it can't be done; and they give many reasons why it can't be done. And we three have been doing it for fifteen years without encountering any opposition. And I say to you now that of all the things we have done in Fort Wayne to promote our mutual best interests that one by far outstrips all the rest in actual, practical dollars and cents results. And I doubt very much that there is one among you who makes advance estimates and commitments, and who has a competitor who also makes them, who can say that he collects full schedule fees on every job and that in his town clients do not shop for price and award their jobs on the basis of the lowest estimate.

Individually, we of the profession in Fort Wayne, along about September, initiated revised rates including a new valuation charge and several other completely new charges.

We did not think it necessary to pre-determine the reaction of our clients. We talked the proposed changes over in several meetings, decided that we needed them; that, if necessary, they could be logically and reasonably explained; and that was it. We do not print and distribute our schedules and we have, what we think is a good answer ready for anybody who might say we have a price agreement in restraint of trade.

Neither of us could have accomplished any of these things singly. So I cannot urge you too strongly to get together with your competitor in those things that touch your common and mutual interests.

Title Examiners Have a Duty Also

J. D. G. HILL

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Once, upon a Rotary Club Bulletin, there appeared: "We had Felix Firstest listed as absent last week. He was present and we're sorry" so let us begin the work in hand at this time.

It is always well to eliminate but not too much. For instance, suppose there is a great legal firm of Clagger, Clutter, Snow and Frost and it may be to a certain extent a title examiner. This firm would look over the title papers as required by the law and statutes to see if the acts, as depicted by records, of a school district, drainage or road district or other governmental part of a County or Town were such as to create a binding obligation upon such governmental division for the uses and purposes required. Such a firm also looks into corporate acts and title. The title to real estate is quite often evidenced by abstracts. Probably the big interest of such a firm, so far as land title is concerned, is confined to a tract of land for manufacture, storage or stations and rights of way for transmission lines or roads or rails. Generally the great security is in the operation of the corporation or business and the title to real estate is not of great importance and the matter is so treated. But whatever is proposed to be done must bear the approval of such firms of attorneys and such approval is as necessary as the wording, execution, seals, acknowledgment and other legal requirements of documents created for the given purpose. Such firms and their duties are eliminated from this discussion—except this—when a corporation makes a mortgage or bond issue, secured by trust deed or mortgage, and such corporation has extensive rights of way, a title examiner has to make up his mind as to what he may be required to do—read one of those mortgages of perhaps 200 pages—ask the abstractor to show it on the abstract—because such a lien is recorded in each County Recorder's office if the right of way crosses the County or a part of the same. The Duty of the abstracter, on the first occasion, is to note the existence of the right of way by grant or condemnation and then, it is believed, a very short reference to the mortgage or trust deed confined to who executed it, to whom made and recording data. The examiner must study the grant or condemnation proceedings for those surprising out of way provisions of options to increase the width, length, burden, installations, rights of entry, removal of obstructions, nuisances and the all too many what nots. As to the mortgage or trust

deed, generally a title examiner should mention it, although, in the opinion of many, such a lien on a right of way may be ignored.

It is complicated enough to give attention to the ordinary title examiner. The word "ordinary" does not mean that a title examiner should not be prepared to give an opinion upon an amazing title situation.

Title Examiners are as alike and as different as two certain bulls were. Each Bull was owned by a different farmer, living as neighbor to the other. Each farmer claimed he could not tell his bull from the bull owned by his neighbor. Each farmer began to change the appearance of his bull but at a time when one dehorned his bull the other did the same—at a time when one docked his bull's tail, the other did the same. Becoming tired of such mutilations and getting nowhere, they called in the College Graduate Farm Adviser. He suggested that the bulls be measured at the shoulder. When the measurements were completed, the black bull was 6 inches taller than the red one.

There Is a Difference

It is the duty of a title examiner to become a lawyer. There is a distinction between a lawyer and an attorney. By "lawyer" is meant a person learned in law. It is his duty to try cases, whenever the opportunity is offered, before courts of general jurisdiction, justices of the peace and courts of special or limited jurisdiction when such cases have to do with title to real estate. Human behavior in the judge, jury, witnesses and opposing lawyer is a necessary part of the examiners education and it, better than nearly anything else, will teach him what ought to be waived in his examination because the trivial and what cannot be waived, not as much upon the question of its being material or immaterial, but upon the fact the Court or others participating in the trial make much of such particular matters. Reference here is made to the hidden dangers in deeds, which may be mortgages and in conveyances by trustees or guardians with limited powers or for inadequate consideration or to a person, to whom such a conveyance cannot or should not be made in equity. By experience in trial work, a title examiner may learn to look for and recognize or just feel the suspicious nature of the document abstracted. And sometimes to become conscious of such a situation several entries in the abstract must be examined carefully and correlated. It is rather difficult to understand the method procuring service or proper notice unless the examiner has done some part of the prayer for summons and affidavits for publication of service. It is safe to say that no title derived through a court by its judgment, decree or other order is good unless the service upon the claimants or defendants is good both at law and in equity.

Knowledge

There is no question but what a title examiner should know what an abstract of title to real estate purports to be, whence the material abstracted comes, and why the firm or person making the abstract must attach its or his certificate as to what he has done, what is shown and the time or period to a date certain the search has begun, covered and ended. It is the duty of the examiner to see, feel, study and handle an abstract. He may read all the definitions of an abstract and all the books about abstracting and yet have but an indifferent knowledge of such an article of trade or how to examine it. Graduating from law school, admission to the bar, and an adequate knowledge of estates are all duties to be performed as a foundation. But a title examiner should know where deed, tax, judgment, probate, lien and court records are and this means of course that an examiner must know there may be several records, books and papers concerning any one of the foregoing subjects. It is the duty of an examiner of land titles as evidenced by the abstract of title to keep his mind elastic and imaginative.

This talkative person does not know of a definition of or for a title examiner. On the other hand the Supreme Court of Illinois, in Atteberry v. Blair, 244 Ill. 363, 91 N.E. 475, 135 Am. St. Reports 342 has defined an abstract viz:

> In a legal sense, a summary or epitome of the parts relied on as evidence of title and it must contain a note of all conveyances, transfers or other facts relied on as evidence of the claimant's title, together with all such facts appearing of record as may impair the title. It should contain a full summary of all grants, conveyances, wills and all records and judicial proceedings whereby the title is in anyway affected and all encumbrances and liens of record and show whether they have been released or not.

And Still More Knowledge

Such a definition is for those who are learned in law. It is doubtful if the definition is complete enough though very general in its terms. It is doubtful if any attorney or even a lawyer could fabricate an abstract relying only on this definition, even though he was a learned individual. It should be the duty of a title examiner to take such a definition and divide it into sections or assertions and then enlarge such sections and assertions by subheads of more and more illustrations, definitions and places or documents or entries of research. For instance, plats, taxes, special assessments, affidavits, small estates, tombstones, rights of way or other easements by user, or possession are not mentioned in particular, but of course, the dazzling generalities do refer to them and a multitude of other things. Nowhere is a certificate of abstracter mentioned nor is there a hint that an abstracter should show what he is trying to create and at what time. If a title examiner has had experience in the trial and appeal of cases dealing with land titles, he would accept an abstract as showing a merchantable title which, when seen by and explained to some title examiners as showing merchantable title would make them jump out of their chairs and rage about their offices. And no matter how certain an examiner may be as to what the law is, it is his duty to remember that, if, at the moment of his own decision, a Supreme Court decides the law and fact to the contrary, his decision is a humpty dumpty and all the king's horses and all the king's men can't put it back together again. It is his duty to remember Courts are growing more and more political.

What May Not Appear

The reason why an examiner should know the places or sources from which evidence of title may come is because it is his duty to make a decision as to the sufficiency of entries and the hour and day of the preceding certifitificate of the abstracter must show what and where he has searched and when. If he, in the opinion of the examiner, has not searched the pockets, wherein something could be, which would affect the title, the examiner should call his employer's attention to such fact or request the abstracter to make the required search. It is the duty of the examiner to maintain a courteous, helpful relationship with all abstracters. They are a harried people. They are human and make mistakes, sometimes visible on the face of the abstract and sometimes patent to the examiner but hidden away from the abstracter. Often times, abstracts which have first been made to a definite date, then on to another and another date, are continued with several certificates. Each subsequent certificate must denote a time of search as of and from the hour and day of the preceeding certificate. Abstracters do not always tie in their continuations or new certificates with the older ones. It is the duty of the examiner to check these dates first. An abstracter should be immediately notified if a correction must be made. In cases where a part of an abstract has been made by a person dead at the time of examination or by a company or corporation defunct, dissolved or out of business at examination time, it is the duty of the examiner to say the certificate of the dead person or defunct company is not to be depended upon for any recovery should there be damages arising out of poor workmanship, false or omitted entries in the abstract by either of them made. Many title examiners accept and pass abstracts or parts of abstracts with certificates of such nature. But the same examiners would not pass an abstract or part of an abstract without any certificate. There is a result to name here—a certificate executed by a person who is dead or a defunct company has some

value. It is reasonable or imaginative to assume the dead or defunct would do a good job. A check on this may be had by looking at the work and certificate of the abstracter carrying on the abstract. If he is just a little careful in showing the starting date of his work or by certifying he has begun at a definite instrument and its day of recording, then, even those who generally pass such abstracts have a duty to demand a new one. Abstracters have a laudable tendency to do better work, arrange their entries better and abstract more data without telling the examiner less or increasing the burden of examination. Then it is not too presumptive for an examiner to demand more often than is done, the new and up to date abstract.

The Abstracter's Function

Two comments should here be made. Sometimes an abstract company falls into the hands of a business manager. Not being an abstracter by apprenticeship, experience and not professionally proud of his station in life as an abstracter, he endeavors to cut out the duties of an abstracter because they happen to be the "slow downs" or the expensive part of management and fastens on the examiners an incomplete product with words of explanation substantially as follows:

"Take it or leave it. We have a monopoly in this work. What can you do about it?"

Such a person or such management should be resisted and exposed as the practice of an honorable profession in a dangerous and unsatisfactory way. Such is another duty of the title examiner. When wiley persons suggest legislation to change the procedure of acquiring or transferring title according to the present common law, statutes or code well established practice, title examiners should resist such suggestions. For, no matter how smart, wise or intelligent man or a group of men may be, he or they can not rewrite or newly write or amend existing laws to cover adequately all ways and means of acquiring or transferring title in a better way than existing. Even though some small part may or could be bettered, the betterment of such part unbalances all the rest, so dependent one part is upon the other. Between the legislature and the courts there is always somersaulting in the law when changes are accomplished. Changes too are suggestive of socialistic or totalitarian government. Of course in every change there is first the legislative and second the Court's interpretation of the act. It may be argued this means business for the lawyer who tries a case arising under such an act to test the constitutionality or other phase thereof. As surely as it means business for the lawyer, it means confusion in the examination of titles. Hence discourage these matters.

The Abstracter's Duty

It is without doubt the duty of the abstracter to show a government plat and the best and latest plat of the land to which the title is being examined. Many times plats are poor and negligent. An abstracter ought to have some ability in surveying and drawing or copying. So also it is the duty of the examiner to acquire and use the knowledge necessary to read and understand a plat. Directions, courses, land marks, monuments, rods, feet, inches, areas of squares, triangles and miscellaneously shaped bodies of land must be studied. The examiner has the duty of being adept at least in arithmetic and plane geometry and attain some degree of ability to produce some kind of map or plat from a land description given.

Written Opinion on Title

There is a duty of an examiner to give a written opinion which in most cases will be saved and probably used again. This duty to a small extent is a duty to a very limited number of the public. It goes without saying the written opinion will be depended upon by both the seller and the buyer, no matter which party has engaged the examiner. Examiners should constantly remember their opinions will be used to sell, buy or loan on the premises upon the one hand and to refuse to sell, buy or loan upon the other hand. Truth is always stranger than fiction and it is most surprising to hear statement of facts and argument among brokers, buyers, sellers and lenders based upon an examiner's opinion of title. The opinion is bent, squared, pinched or enlarged to fit the occasion. It is also well to remember that an opinion of title affects the contents, arrangements, and other attributes of an abstract. Remember the abstracter too—do not require trivial matters which at law or by the application of logic need not and ought not be shown on the abstract. The duty of the examiner is to write his opinion as nearly as possible so that the abstract, by reason thereof, will not become too bulky.

Old Copies of Opinions

As to keeping copies of opinions given, it is well said only a few should be kept. Those few would be classified as showing unusual situations in the passing of title. It is commendable in an abstracter to remodel or rewrite one of his own abstracts long ago done, when it reaches his office for continuation. Generally the appearance is much improved and the data is better set up, with perhaps new data affecting old conveyances or other matters affecting the title. When the old abstract is renewed, the first and intervening certificates are cast aside and but one certificate is attached to show the date of beginning and ending of the search. Usually entry numbers will vary from the old. There could be a deed 50 years old newly recorded and inserted as an entry in the abstract at the place immediately subsequent to where the grantor in such deed acquired the real estate. Even though there be no remodelling or rewriting, examiners must remember that abstracts do not always remain as when first examined. Consequently, except in extraordinary cases, it is a bad practice to keep old opinions. If they are depended upon, the facts set forth in them for identification purposes with the abstract are too often wrong and too much time is spent trying to fit the old opinion to the new abstract. Laws change also and, if abstracts change, one but deceives himself in believing an old opinion is of much value. Notice must be taken here that there is a rather violent presumption assumed that examiners do not change or progress. If it is admitted they do, then they must improve the contents and the words of their opinion to the better. Sometimes when an examiner pulls out an old opinion and reads his efforts, he will blush ruby red. Abstracters have the same pains viewing some of their older work.

The language used in an opinion should be as plain, as concise, grammatically correct and as nearly colloquial English as possible. Very few clients read anything but the conclusion and yet they should not be discouraged by the use of professional phrasing from reading the residue.

Here is a somewhat amusing use of words:

A reporter wrote most enthusiastically of an accidental fainting during an opera. "The contralto, in the midst of her dominant song, fainted. She is a large and handsome woman. Four stage hands rushed to assist. They carried her off stage, two abreast."

Oral Advice

There are times too that the written opinion must be explained orally. Explanations in letters and oral are required and should be given promptly when what is set out in an opinion is questioned or when the examiner omits to mention some item. Many lending firms, individuals or corporations have printed forms which are to be filled in, with a space left for pertinent remarks. If an examiner conscientiously asks himself why he is requested to fill in such forms as his opinion, he must admit that somebody has grown tired of what has been dished up as an opinion covering two, three or four pages. Most of such stuff is after all a description of what is going on in the mind of the examiner rather than his conclusion. If an opinion on such a form is to be submitted with an idea there will be a question and answer game played upon the writing, then it is considered good practice to put the examiner's notes made during the examination on the reverse side of a duplicate of such form. If the title as shown is bad, the space for remarks may be extended by attaching new sheets.

Form of Opinion

The items or paragraphs of such form may be:

Addressee Date

I have examined the title to (Blank for description of the premises) as

shown on abstract No. (identification space) by (blank for name of abstracter) submitted to me, which brings title down to the..... day of .....A.D. 19.. and I am of the opinion that title to said real estate was on said last mentioned date good in fee simple (Blank for use if other estate) in (space for owner's name) subject to the following:

Mortgages .....
Restrictions .....
Walls Easements .....
Attachments Judgments .....
Mechanic liens .....
Leases .....
Taxes .....
Federal estate tax.....
State inheritance tax.....
Special assessments .....
Remarks .....

Each blank after the item named to be used for what is found in the abstract as to such item.

When the examiner is worrying about the dower of wives whose husbands conveyed in the sixties or seventies, he should remember the story about the examiner who objected to a land patent issued by the United States Government because the wife of the President of the United States did not join in the transaction.

Dangers

The duty of an examiner to the person hiring him to examine the title has very few of the duties of an attorney to his client if the examiner resists the temptation of enlarging upon the purposes and meaning of an abstract and answering any questions or giving any opinion except the opinion as written. But when the examiner begins answering that his client will have no trouble or expense in the selling, conveying or mortgaging the real estate; that there are possibilities of special assessments, zoning, errors in survey, visible easements and encroachments, rights of persons in possession, resulting trusts, secret liens for labor or material or otherwise, taxes in all their ramifications, forgeries, and so on, he is in danger of assuming all the duties of an attorney to his client.

Sometimes lawyers say they are delighted to hear of the bankers, brokers, clerks, justices of the peace and the smart alecks of the public writing wills, deeds, mortgages and other conveyances for the reason that sooner or later the lawyers will have a law suit to straighten out what the grantor meant by estates created in the writing or what premises or part thereof he meant to convey.

Title Insurance

For the examiner who indulges in answering questions and enlarging upon the purposes, uses and meaning of an abstract and who thereby scares the living daylights out of his client, there is now an excellent out—he may recommend a title insurance company and his client will understand the service to be rendered by the company because the client knows about other lines of insurance. The relationship among the abstracter, the title examiner and the title insurance company should be courteous, frank and of mutual respect.

There are title examiners, review examiners and final examiners. Some are hired by the year and some are occasional employees. Once in a while a stenographer will conduct a portion of the examination of an abstract after the examiner, who first gets the abstract, has made his examination. It has been noticed in the meetings of title examiners sections that lending corporations are generally well represented by one or more title examiners, all of whom are of course very important.

Ethics?

There are other duties which a title examiner may undertake but, if he does, he may not cease to be a title examiner but he will certainly become an attorney for his client. Suppose the client, either a seller or broker desiring to sell real estate to which the title is merchantable but spotty with gaps and misdescriptions, nonjoinder of spouses and very old unreleased liens. He goes to a title examiner who perhaps is a little too wise and says he wants to sell the real estate to X. The title examiner says X has a title examiner A who does not pass such titles. So the seller's title examiner knows Mr. B who is an extra extra extravert and who, from experience in court trials, will pass such a title and shout down opposition to his opinion. Hence the seller hires B to examine title; submits the opinion of this examination to the buyer X who employs A to examine the abstract and opinion and B argues A out of every holding A can think of. The personalities of examiners as well as their peculiarities vary. It is certain one examiner will pass a title when another examiner would not. It is the duty of the examiner to pass the title if according to his learning, his professional opinion and his honest belief it is a good title, although not perfect. But if he is employed because he has had experience with other examiners to put over a sale or a loan, and the means of doing so lies in the choice of the title examiner to examine the abstract in question, he is probably so hired as an attorney rather than a title examiner.

Conclusion

It is the duty of the examiner to remember all titles are not perfect and most titles in fee simple are merchantable; that the general public still believes that if an abstract (especially if it is new and fresh) is made to the property, thereby the title is good; that any old abstract is not enough; that the abstract should be legible, in good condition, with no pages or entries missing and properly certified throughout; that to have a merchantable abstract is as important as to have a merchantable title; and that when an abstract is offered for examination the seller or lender is willing to sell or loan and the buyer or borrower is willing to buy or borrow.

Multiple Unit Project

Some Answers to the Problems Involved in the Sale to Individuals of Individual Units in a Multiple Unit Project

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I should like to state at the outset that in dealing with the subject, I am purposely refraining from going into its legal aspects, so as not to interfere with the Legal Forum to come later. Also, as the Chairman has asked me to limit my talk to approximately ten minutes, I cannot go into very complete detail on any of the matters, much as should like to.

I am going to approach this subject from the standpoint of a prospective purchaser of a multiple unit project. I feel that by this method, I can point out some of the problems involved and in so far as I can, give some of the answers.

When a potential purchaser of housing indicates interest in a multiple unit, he will want to know the reasons why this type of housing is more beneficial to him than individual housing. It may be pointed out that before the units are ready for sale, the builder has had various problems, such as the selection of a proper location, the compliance with zoning ordinances, the elimination of adverse neighborhood reaction and probably the necessity of complying with deed restrictions. When the units are ready for sale, these, of course, have all been settled, and the purchaser ordinarily need not concern himself with them.

It may be pointed out that multiple housing has the benefit of planning, and by virtue of the fact that it usually involves large scale production, has more advantages in the cost of the land and materials, and in architectural

design, landscaping and the like, than would be obtainable in the case of an individual home built to order. Furthermore, it is possible to make fuller use of the available space than could be done in the case of an individual house.

Maintenance

There should also be taken into consideration the fact that maintenance and other costs unavoidable in the ownership of a home, can, because of the multiple feature, be kept lower than in the case of an individual house.

There is also a distinct advantage in a multiple housing project in that the plans for most of them provide for private parks, playgrounds and other recreational facilities. Provision is also usually made for necessary and advantageous easements, such as for ingress and egress, utilities and the like.

I should also like to point out that as time passes and the mortgage on the project becomes smaller by virtue of the fact that amortization payments have been made, the monthly payments will become lesser, so that eventually, when the mortgage is completely amortized, the only payments necessary will be those for the maintenance of the project.

Types

There are three usual types of ownership of multiple housing units: trust ownership, corporate ownership and individual ownership. In the trust type of ownership, title to the entire project is in a Bank or Trust Company as trustee, and purchasers of units are given a share of beneficial interest or a participation certificate, and also a lease. The ownership of the participation certificate carries with it the automatic right to the lease. The lease itself contains provisions as to the mutual rights and liabilities of the trustee owner and the leasee. Ordinarily the participation certificate is pledged with the trustee to insure performance of the obligations of the unit holder. He has the duty of paying his pro-rata share of the expenses, including payment of the principal and interest on the mortgage on the property, maintenance, and the like. Other common provisions restrict the sale of the certificate and sub-letting of the unit. Ordinarily the certificate cannot be sold and transferred without the consent of the trustee or other body that is set up to deal with such matters. There are also usually provisions restricting the right to sub-let, and if sub-letting is permitted at all, it must be with the consent of the trustee or committee or other group set up to deal with such matters. The actual management of the project may be in managing trustees who are experienced in this field, or it may be in an individual managing agent or in a group of the unit holders.

The second type of multiple home ownership is the corporate set-up. Here the title to the entire project is in a corporation, and purchasers are given shares of stock or a membership certificate and a lease for their particular unit. Management is by the Board of Directors, who may appoint a managing agent or may select some of the unit holders to act as a management committee. In this form of membership there are also restrictions on the sale of stock or transfer of owner-

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ship and assignments of the lease or sub-letting. Ordinarily, the stock or membership certificate is pledged with the corporation for the purpose of insuring the owner's payments of his pro-rata share of the expenses, as in the case of a trustee ownership.

The third type of ownership is the individual form. In this situation, the title to each unit is in the home owner. Management of the project may be in a management corporation, experienced in the field, and with which the various owners enter into management contracts, or maybe in an individual manager or in a committee of owners organized for that purpose. Restrictions on the use of the property can be accomplished by incorporating them into the title deeds.

Things to Consider

The prospective purchaser of a unit in a multiple housing project should consider the following items:

(1) **The type of ownership,** that is, whether it is a trust form, corporate form or individual form. If a trust form, the trustee should be a responsible Bank or Trust Company qualified to accept trusts in the State where the real estate is situated.

(2) **The question of financing.** Here it should be pointed out that ordinarily the mortgage covers all of the units, as lenders are reluctant to make separate loans on each unit. This involves the danger of other unit owners defaulting, and thus endangering the investment of the purchaser in question. However, although there is danger that this may occur, its severity may be minimized by proper management and the maintenance of adequate reserves to cushion any default which may occur. Another problem that arises in connection with the question of financing is the right of the trust or the corporation to re-finance. It may become advanageous to the trust, the corporation or individual owner, with the passage of time that the mortgage on the project be re-financed. Thus, it may be well for the purchaser to learn whether the lease contains a provision subordinating it to any re-financing mortgage which might be placed on the property at a subsequent date.

(3) **The provisions of the ownership evidence.** Supposing it becomes necessary for the owner to be absent from his home for a comparatively long period of time, or supposing he is transferred by his employer and must dispose of his residential unit. Here, the purchaser should assure himself that his investment will be protected, and that he may transfer his evidence of ownership without unreasonable restraint. This also involves the question of sub-letting occasioned by the necessity of a temporary absence from his home. The lease should be flexible enough to allow sub-letting for reasonable periods.

(4) **Provisions for easements and maintenance.** The purchaser should ascertain that the project has established and will maintain parks, playgrounds, recreational facilities and the like and that adequate provision has been made for means of ingress and egress, and the creation and maintenance of necessary and desirable public utilities, such as gas, light, heat, water, communication, etc. He should also see to it that proper provision is made for landscaping, roof maintenance, exterior color scheme and masonry, and also that there will be no exterior architectural changes or additions that will detract from the value of his residential unit.

(5) **Proper management.** The purchaser should be assured that the project will have proper management. This is important, because lax and inadequate management can be extremely detrimental to the value of the entire project in general and to the unit owner's house in particular. On the other hand, sound management can add materially to the value of the project, and thus make the unit holder's investment more attractive both from a material and artistic standpoint.

In conclusion, I would say that if you want individualism and privacy, and are willing to pay the price then you should either buy a home built to your liking or have one built to order. On the other hand, if you want to get the best living quarters for your money, and with a smaller down payment, then you would probably be better off to buy a home in a multiple unit housing project.