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A LOOK AT A TITLE AND ABSTRACT PLANT

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(Text of an address to Chapter No. 8 of the American Right of Way Association at Houston, December 6, 1957, by F. A. Stamper. Large scale maps used during the discussion have been reproduced on a reduced scale and appear at the end of the text.)

Since the beginning of man's activities on this earth, of which there is any written narrative preserved, he has been vitally interested in land, has claimed rights of one sort or another in it, and in some dim beginning which existed prior to recorded history, bought, sold, traded or trafficked in it. Doubtless the very earliest event which concerns man and his relationship to the land is related in the Second Chapter of Genesis, the 9th through 15th verses which involved a tract located in the area which has since been determined to be the very cradle of civilization. It is there stated:

> "And the Lord God planted a garden eastward in Eden; and there he put the man whom He had formed . . . and the Lord God took the man and put him into the Garden of Eden to dress it and keep it."

The rest of the story, of course, is that the terms of the grant to Adam were that his rights in the land should continue only so long as he kept certain covenants. A lawyer skilled in examination of title who examined this particular transaction and its consequences would no doubt conclude that Adam was placed in possession either under a lease, or was granted a defeasible or conditional fee, and that in any event the lease or grant was subsequently terminated for breach of the covenant not to eat of the fruit of the tree of knowledge of good and evil. For this breach, he was summarily evicted, lost completely all title and right of possession, and was denied re-entry by the means of armed guards placed upon the gate.

A little farther on in the same Book of Genesis is related a sale and purchase of real estate between man and man which occurred nearly four thousand years ago. In this account, it appears that an old patriarch by the name of Abraham purchased from Ephron, the Hittite, a field containing a cave suitable for the burial of his wife, Sarah, who had just died in the village of Hebron. Abraham, being a man of wealth and consequence, refused to take the land as a gift, paid 400 shekels of silver in cash to the seller, and in the language of the Scripture:

> "The field and the cave that is therein were made sure unto Abraham for a possession of a burying place by the Sons of Heth."

A further reading of the Text indicates that as evidence of the passage of title, Abraham was led about the boundaries of the land and a public proclamation of the change of ownership was made at the City gates to all who entered that day.

If this practice seems strange, compare it with recitals in Mexican grants of only a century and a third ago, specifically, a grant of two leagues on which the City of Houston is principally situated, in which it is narrated that the colonist, John Austin, was taken by the hand and led around the boundaries of his land, and to evidence his new dominance over the land described in the grant, pulled grass, broke twigs and upturned and threw stones, announcing in a loud, clear voice that he was seized of the land. A copy of the grant was delivered to this colonist and the original was lodged with the alcalde, or local judge.

Again adverting to ancient times,

in Waltari's excellent novel, "The Egyptian", there is related the story of the legendary character, Sinuhe, who in the course of becoming enmeshed with a woman of unsavory reputation and habits, conveyed to her the proposed burial place of his father and mother. To evidence the transaction an inscription was made on clay tile, which, for purposes of recording was deposited with the Priests of the Temple.

Today, in our paper civilization, the seller signs a document typed or printed on paper declaring the delivery of title to the purchaser, and in the certificate of acknowledgment makes a ceremonious declaration to a Notary Public of the act of sale. The Notary signs, affixes his seal and the document is delivered to the purchaser who then files it in the office of the County Clerk of the County in which the land is situated in order that a record of the transaction may be preserved and made evident to the public.

Regardless of the ceremony attendant upon these transactions or the physical manifestations of the act, the purpose is to pass the title or specific interest in the land from one to another, and to create tangible evidence of the transaction, both for the benefit of the purchaser and the enlightenment of others who may thereafter deal with the same property.

Every individual and corporate member of this Association can be numbered in the group of people for whose benefit and enlightenment the records in the office of the County Clerk are maintained. Daily, each of you, or somebody in your Company needs to obtain information contained in the records of the County Clerk. The County Clerk of every County in this State has a lot of records. In Harris County, for example, you will find an aggregate of more than eight thousand four hundred forty-five completed volumes of Deeds, Contracts and Mortgages, representing over five and one half million pages. This will not include hundreds of volumes of probate records and minutes, records of abstracts of judgment, federal liens, attachments, lis pendens and Statutory Material-man's Liens. Neither will it take into account some four hundred ninety thousand suits which have been filed in the District Courts of such County, any of which may have a bearing on the title to land. These books of necessity record land transactions with continuity back to the sovereignty of the soil which in our case are the State, the Republic of Texas, or the State of Coahuila and Texas, a Province of Mexico. Thus, at the County Court House in this County may be found one hundred thirty-three years of records. In this one County the rate of filing this year has averaged over twelve thousand documents a month in the County Clerk's office and over one thousand seven hundred suits a month in the District Clerk's office. These filings affect tracts of land in 1,510 original grants or surveys, 5,072 subdivisions, ranging from ten to a thousand lots each, and 91 cemeteries. Basing my estimate on the fact that the County Tax Collector sends out over a half a million tax bills a year, it may be conservatively stated that there are at least three-quarters of a million tracts by separate property description held under individual, partnership or corporate ownership in this County. I am telling you all this to give you some idea of the scope and volume of records affecting Real Estate in a populous County.

While the records in the office of the County Clerk and District Clerk are indexed under the names of the parties to the transaction, or to the litigation, it is plain from the figures given that if you are seeking to determine the status of title to an individual tract of land by means of the Court House records, you are entering a labyrinth through which passage will be interminable, uncertain, and frequently fruitless. The key to your dilemma may be found not at the Court House, but in the office of the Abstract Company or the Title Insurance Company which has built and maintained a modern, workable Abstract Plant.

The key which unlocks the door to the information which you require with reference to a specific tract and parcel of land, and does so with ease and facility, is the Abstract Plant. The Abstract Plant is simply an aggregation of indexes to the contents of the office of the County Clerk and District Clerk of the County in which the land is situated, but compiled from an entirely different approach from that used by the two Clerks. While these County officials do index what is recorded in their office, they do so by means of name indexes. The County Clerk prepares Grantor and Grantee indexes, sometimes called "Direct" and "Reverse." The District Clerk compiles Plaintiff-Defendant and Defendant-Plaintiff indexes, alphabetically arranged, but uses no property descriptions at all. The County Clerk uses property descriptions almost as a mere incident to name indexing. Therefore, to find out anything at all about the specific property under search in the County Clerk's office, in the County which I will use for illustration, you must have at least one named owner to start with. In order to have any hope at all of finding what you are looking for, you should know about what time the owner acquired the property. Depending upon the extent of your search, you will have to search indexes to all of the documents filed on three quarters of a million properties in this County for a period of one hundred thirty-three years. You will be faced with the fact that the description of the same property or the larger tract which embraces it may c h a n g e from time to time through the years. To complicate matters, you will find that so many documents have been filed that all cannot be indexed in a single volume, even though only a small segment of the alphabet be treated in that book. You will thus have to run through at least eight volumes of indexes to find a given deed, unless you can pinpoint the time of the filing of the deed. To aid you the Clerk has conveniently broken down the whole period into these segments of time:

1824 to 1903
1904 to 1910
1911 to 1916
1917 to 1924
1924 to 1937
1937 to 1945
1945 to 1954
1955 to date

To further aid you in your search, the County Clerk carries a separate index for Deeds, one for Mortgages and another for Contracts; also numerous separate miscellaneous indexes for Abstracts of Judgment, Federal Liens, Attachments, Statutory Materialman's Liens, Lis Pendens, etc. Having found a single deed and its recording reference, you go examine it and then work backward or forward in point of time, depending upon what you are looking for. If you are after both lien information, as well as the chain of deeds, you will need to run the Mortgage, Contract, and miscellaneous indexes under each name in the deed chain of title. When you finish you will not be certain you have found everything and you will be particularly vulnerable for the reason that you will not have been able to find such matters as affidavits of heirship, affidavits of limitation, or deeds from persons not appearing in your regular chain of title, such as heirs, devisees, or squatters.

Consider now the approach of the abstracter or the title man to this same problem. In his plant will be found tract indexes, either in card or book form, in which are keyed against each specific piece of property all of the deeds, mortgages, contracts, lawsuits and other matters which in any manner affect the title to that particular property. These indexes have usually been compiled through the years, most plants dating back to the period when one man could enter or file in the plant records extracts of all of the documents which were filed in a single day in that County, and perform other tasks besides. In this County it now takes a crew of six to eight skilled people just to incorporate the daily filings into the plant.

Since the Abstracter or the Title

Man is dealing with some three quarters of a million pieces of property, his essential problem is one of identifying each separate tract to narrow his search and eliminate what he does not want. Very simply, a good Abstract Plant should be built so that one may reject quickly everything that is not needed. Here, in perhaps oversimplified terms, is how it is done.

The good Abstract Plant in this particular County will carry a separate tract index for each of the 1510 original grants or surveys in the County, thereby immediately eliminating the necessity to search the title to remaining 1509 grants. In a well constructed plant this is only the beginning. Let's take, for example, a typical grant from the Mexican Government. I have delineated roughly the outlines of such a grant here in the illustration before you. This is a map constructed entirely from imagination, showing imaginery ownership, but is a common enough representation of a rural survey to be real. Let's call the grant the John Nash League. John immigrated to Texas as a part of Austin's colony and being a married man, under the Mexican law was entitled to and received a grant of one league or 4,428 acres. John didn't have any money to pay his surveying fees, the stamps to be placed on the grant, or expenses due the Empresario, Austin. The first document in the chain of title, following the grant is a deed from John Nash to Stephen F. Austin covering the East one-third of the League. John being without much resources, two-thirds of a League was more than he could handle by himself, so two years after the original grant he made a deed to the West one-third of the League to Alexander Cook. John and his wife lived on the middle third of this league until the Spring of 1836. Upon receiving news of the Fall of the Alamo, he joined the Texan Army of Independence, and was on duty less than thirty days when he was shot through the head by a stray Mexican bullet at the Battle of San Jacinto. Six months later John's widow, Hattie, opened guardianship on the three children of their marriage and acting individually and as guardian sold and conveyed the middle third of the league under orders of the Probate Court to Francois Bonneville, a Frenchman who had fought with John at San Jacinto. This sale brought enough to pay John's debts, the widow's attorney's fees and Court costs and transportation for herself and her children back to Tennessee whence she came.

Bonneville having no early use for the land, promptly sold it at a $100.00 loss to Elijah Harris who then sold 450 acres of it to his son, Enoch, who styled himself E. Harris. Elijah then moved to Fort Bend CCounty, died there, devising all of his estate to his wife, Abigail. Abigail remarried, was widowed a second time, and under the name of Whitcomb sold and conveyed a 225 acre tract to each of her two sons-in-law Joseph Kirk, and William Green. In time Alexander Cook conveyed the West two-thirds of the League to M. C. Miller. In time Austin died, his will was probated in Colorado County, and his sister, Emily M. Perry, conveyed the East one-third of the League to Sam Knight. On account of the changes in ownership not necessarily reflected by the record, this kind of title virtually defies unraveling by means of Court House indexes. That is the title situation as reflected by this map at that particular time. Here is how the Abstracter will approach the problem of indexing and later finding the transactions we have discussed.

In the first place, he will have compiled a map about the equivalent of what you see here. Assuming he uses the card system, you will have one guide card relating to the entirety of the grant. On this he will have the name of the grantee or patentee frequently the abstract number assigned by the State. Following this guide, or in front of it, according to his peculiar taste, he will place a very abbreviated extract of the original grant and any other documents dealing with the grant as an entirety or documents with the descriptions so ob-

scure that it is impossible to locate them within the league with any certainty. He may then assign an arbitrary letter to the first tract conveyed out of the original grantee which in this case is by the deed to Stephen F. Austin of the East one-third of the league. This he will call "Tract A" and place a guide card in his files so identifying that tract, and thereafter under and behind that guide card he will carry everything dealing with the East one-third of the League. The West one-third conveyed to Alexander Cook was the next tract sold, and to this he will assign "Tract B", makes a guide card, and behind that will carry everything dealing with the West one-third of the League. The original grantee, Nash, died without ever having conveyed the middle one-third of the League. To the middle third he will assign "Tract C" with an appropriate guide card. This tract shows the promise of becoming a little more difficult to handle and will require more indexing care because of what has happened to it. The first conveyance is that made by Hattie Nash, widow or guardian, to Francois Bonneville, and it is, of course, filed behind the guide card for "Tract C." The Deed from Bonneville to Elijah Harris, covering the same tract, will get the same treatment. Tract C is then split by conveyance from Elijah Harris to his son, E. Harris of 450 acres and this tract is assigned a sub-number of "C" or "C-1"; thereafter everything pertaining to that 450 acre tract will be carried under "C-1". The next conveyance is made by the widow and devisee of Elijah Harris under her new name of Whitcomb, to Joseph Kirk, of 225 acres, and this is assigned a tract number "C-2." The William Green tract gets similar treatment and becomes "C-3." Let's assume William Green then conveys all of his 225 acre tract lying North of Big Brushy Bayou. That tract would immediately get a sub-subnumbering and become "C-3a." Should Green convey the tract South of the Bayou it would become "C-3b." If the grantee of C-3b leases the East 40 acres of it to Texana Corporation, that tract becomes "C-3b 1", and so on. Here an Abstracter might in exercise of sound judgment refuse to assign a new tract number, because only a lease and not the fee had been granted by the Owner. Similar treatment will be given the Shell Pipe Line Right of Way, the High-Line Right of Way or fee, the Houston and Great Northern R.R. Company Right of Way, the Flood Control District easement and Harris Road. In cases like this High-Line Easement and the Shell Easement, a separate card would be made and filed under each tract affected, so that it could readily be found upon searching that tract record.

The litigation which is noted at the bottom of the map represents a trespass to try title suit predicated upon claims of limitation in the plaintiff which he was successful in establishing by a judgment in the mentioned case, thereby reducing the original league to 2,700 acres which you see here. The 1728 acres severed by this judgment could logically be assigned the designation of "D", since it no longer has any logical derivation from "A", "B", or "C" tracts, and actually represents a new title.

If the Abstracter has done his work well, such details as the 50 vara conflict which you see at the North end of the E. Harris and the South end of the William Green tracts would be noted in cards filed under each tract number, as well as on the map, and documents affecting either the South end of the Green tract or the North end of the E. Harris tract will continue to be posted on each of the tracts since both are affected by the error which someone made years ago.

Between this method of plant keeping which may be considered the ideal and what you frequently find, there are several compromises. One would be simply to file under one guide card everything that concerns the East one-third of the league, under another, everything affecting the middle third, and so on. Even this primitive method of selection cuts the search down by two-thirds. If the Abstracter is operating on a shoe-

string basis or there is little activity, he may simply carry everything in the John Nash One League Grant in the same place, and sort it out, if, as and when he needs to make a search there.

There is still another theory of tract indexing which may be applied when either the Abstracter has decided that the ideal key number system is too expensive, or he wishes to improve his plant after he has been carrying it under either of the two systems I have mentioned. This we call an arbitrary geographical tract or block system. It usually is used when an area has become more populous than indicated on this map, and some more roads have been cut through and ownerships have been broken down into smaller tracts. This would then become the typical suburban area such as you find, say, in the Memorial Drive area here in Harris County where City dwellers have moved to the county to escape noise, traffic and taxes. The geographical arbitrary tract system is a pure process of elimination and is created by drawing arbitrary lines on an ownership map of the original grant thus constructing arbitrary blocks which have no particular relationship to the base title. By bounding these blocks with roads, streams, railroad, and other well monumented boundaries, which rarely change their location, we can reduce the area of search to five per cent of the entire grant by creating on the map only twenty arbitrary geographical blocks and preparing our Tract Indexes accordingly. The search area can be shrunk even more by increasing the number of blocks, but as this is done the time consumed in indexing and the probability of erroneous indexing proportionately increases. You will find in many plants a combination of this arbitrary block system with one or more of the systems which I have earlier discussed. In fact, they work quite well in combination.

This brings us to the unrecorded and recorded subdivisions, and the cemeteries. There are hundreds of unrecorded subdivisions. They exist principally to circumvent unreasonable Planning Board Requirements. By the exchange with other Title Companies within the County, a local Abstracter may be able to assemble a fairly complete set of these unrecorded maps. Actually, they are the bane of the title man's existence. Since Blue Sky Laws forbid conveyances describing property solely by reference to unrecorded plats, the subdivider describes each lot by metes and bounds usually with reference to a given monument. Minutia of detail like this bring about much tedious and time consuming checking of field notes.

Cemeteries are not dealt with in the average plant except to post the plat in the proper place in the acreage indexes so that it may be known that a cemetery does exist there. No title company attempts to deal with cemetery lots, either by abstracting or by title insurance.

This brings us to by far the most active segment of the abstract plant, and that is the recorded subdivisions of which there are over 5,000 in this particular County. Here again the real process of elmination takes place with a vengeance. At the outset, each subdivision plat as filed is noted in the Abstract Plant, keyed against the tract or tracts which are subdivided. Thereafter, those acreage tracts are carried as blocks in the particular subdivision. While the most crude and primitive method of keying a subdivision is to carry all of it under one subdivision guide card or on one page in the Abstracter's tract book, this soon becomes so unwieldy that it is necessary to break the subdivision up into blocks, and thereafter key to that particular block everything affecting any lot in the block. Thus, if there are a hundred blocks in the subdivision, the search is immediately reduced to one per cent of the subdivision area. Some companies, including my own, even go farther than this and break the individual blocks into the respective lots in that block. Thus, if there are ten lots in a block and a hundred blocks in the subdivision, you have by this system reduced the search to 1/10th of one per cent of the documents

which affect the aggregate of the lots in the subdivision.

By utilizing the methods I have described, the modern Title Man has made it possible to walk into a modern, well organized and well maintained abstract plant, and in less than ten minutes, find an extract of every document that has been filed against a particular lot in any given subdivision, since the plat was filed. Even in plants that do not maintain the highly refined system which has been mentioned, it is feasible within a matter of minutes to obtain this same information.

Admittedly, acreage involves a more difficult search of title than subdivisions. More time, care, examination and thought must go into the creation of the system and its maintenance, and more highly skilled and higher priced personnel must deal with that branch of the plant, both in placing the material in the plant, and in taking it out.

There is another field of the abstract plant which should be touched upon. It is the set of general indexes maintained in the abstract office for the purpose of providing access to proceedings and instruments which do not specifically mention real estate. Included in this group would be proceedings for the probate of wills, administration of estates of decedents, guardianship of minors and non compos persons, lunacy proceedings, proceedings to establish inheritance and heirship, will contests, affidavits of heirship, intestacy and incompetency and certified copies of probate and other proceedings involving decedents, minors and non compos persons from other jurisdictions or from other Counties filed for record in the office of the County Clerk where the land is situated. These are the curative matters which close gaps in titles, show authority, or even show title. Frequently, they are also red flags to show that a party making conveyance is not entitled or competent to do so. These are filed in general indexes under names of the parties concerned, for example, the decedent whose will is being probated, or decedent who died intestate. In addition, Statutory liens, such as abstracts of judgment, federal liens reflecting liens of the United States, or proceedings such as receivership and bankruptcy, involving solvency, are also indexed in the office of the Abstract or Title Company. These are placed in a name index. A satisfactory search of title involves checking all of these indexes against the name of every owner, having due regard for Statutes of Limitation which may bar liens.

To make proper use of an Abstract Plant and find everything bearing on title, one must have a fairly comprehensive knowledge of the basic principles of the laws of real estate. It is helpful to have a basic knowledge of the substantive law of the State in many fields involving probate, inheritance, domestic relations, married women, registration, eminent domain and many others. This helps you to know what to look for in the plant.

The trained Abstracter or Title Man can find what you want in his plant or tell you how to find it if you will plainly inform him of your needs. Keep in mind, however, that he is usually not a lawyer and neither he nor his company are permitted to practice law or to give legal opinions or certificates which might be construed as legal opinions. This would involve him and his Company with the grievance committee of the State Bar Association, and cause him to incur the risk of being subjected to litigation, and possibly his conduct of that particular type of operation enjoined. Be sure you ask him to certify only facts and not legal opinions or conclusions.

A discussion of this character would not be complete without going a little into the cost of making the material found in an Abstract Plant available for quick and ready reference. Every Abstract and Title Company daily makes what it terms a take-off of the filings in the office of the District and County Clerk. In Harris County this will run from 600 to 800 a day. This take-off is simply a brief summary of each document and each suit filed in those two

offices. Even by pooling this project among six companies, the cost of simply getting the information from the Court House to the Abstract office is over $600.00 a month to each Company. For the minute type of breakdown in tract indexes which I have discussed, including cost of reproduction of cards and filing or posting, labor alone for each Company may run in excess of $2,000.00 a month, so that you can readily see the cost of each major company operating in Harris County may run between $2,500.00 and $3,000.00 a month just to obtain the data from the County and District Clerk's offices and incorporate it into the plant. In effect, there is being maintained every day continuous chain of title to every tract of land in the County in order that prompt and accurate service may be rendered the public. Every time you feel constrained to object to the cost of a certification listing owners and lienholders, reflect upon the cost of just maintaining a modern, up-to-date plant and contrast the cost of the certificate with the cost of sending a man to the Court House to dig out each of these ownerships by hand from the Clerk's maze of indexes and records.

Just a few words about Plant Manners, then I will close. When you or your personnel are personally permitted to use the plant facilities of an Abstract or Title Company, here are some suggested "do's" and "don'ts":

1. Do bring with you, if available, a map or working sketch of area you plan to work.

2. Do inquire how to find what you want, as each plant is different and has pitfalls you can fall into.

3. If you have a choice, deal with a Senior Abstracter or Title Man, rather than the ones who are newer at the business. The old-timers are more at ease with you and know the plant better.

4. Do work quietly and unobtrusively and during business hours.

5. Don't fraternize or socialize with plant personnel.

6. Don't remove any cards from a lock box system.

7. Don't shuffle any cards, maps or records into your file or remove them from the plant.

8. If you are permitted to remove cards from file drawer, do ask Abstracter if he prefers to restore them to the proper place.

9. Do place a weight on file cards, if you leave them, even if just for a few minutes.

10. Don't mutilate cards or records.

11. Do inquire at the start about paying for use of the plant by the hour or the job. Chances are you'll get the facilities free or for a nominal figure because the Abstracter is usually an accommodating fellow and because he hopes to get some of your paying business.

12. Do remember to send your paying business to the Abstract Company which favored you with the use of its facilities.

I hope this presentation has been helpful to you.

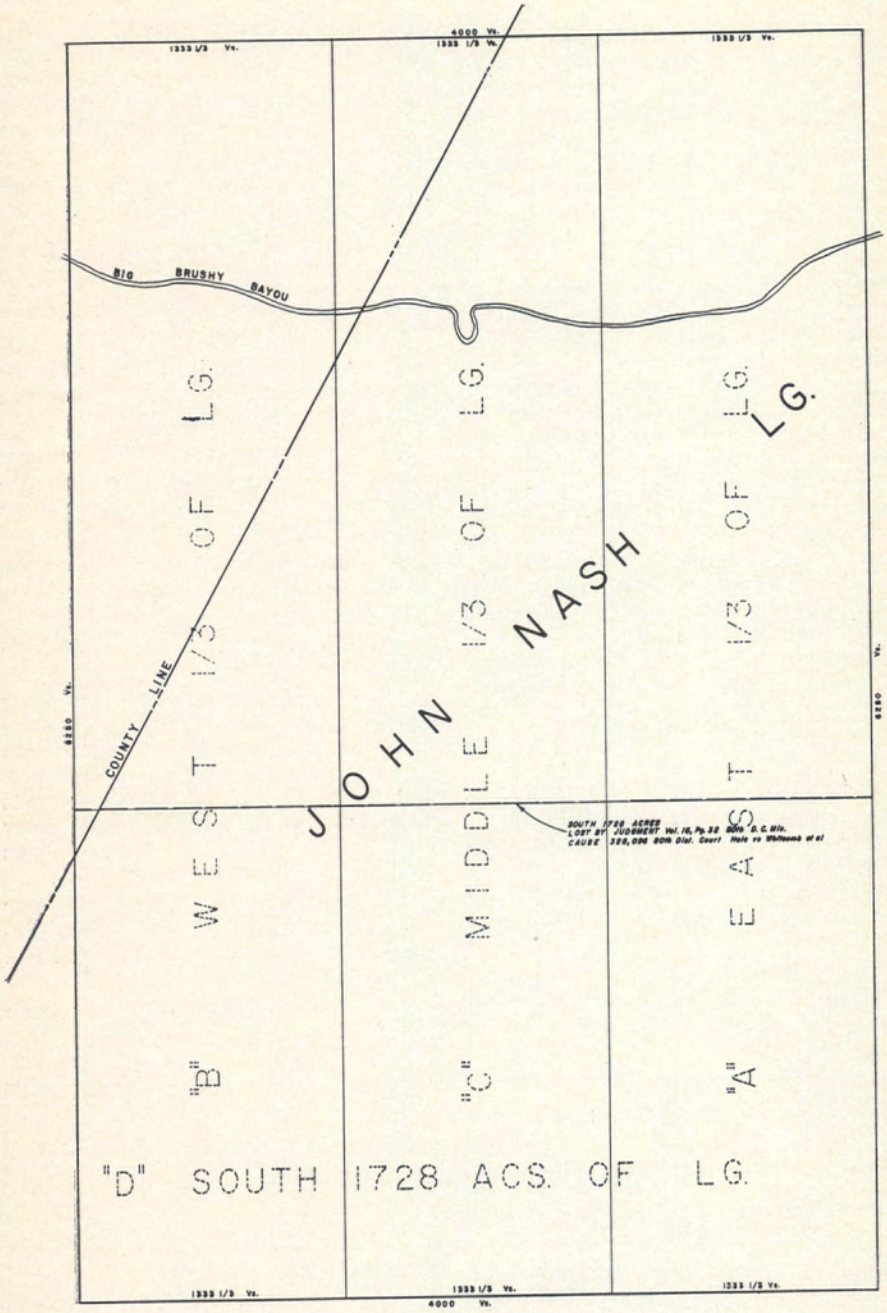
NOTE THESE DATES . . .

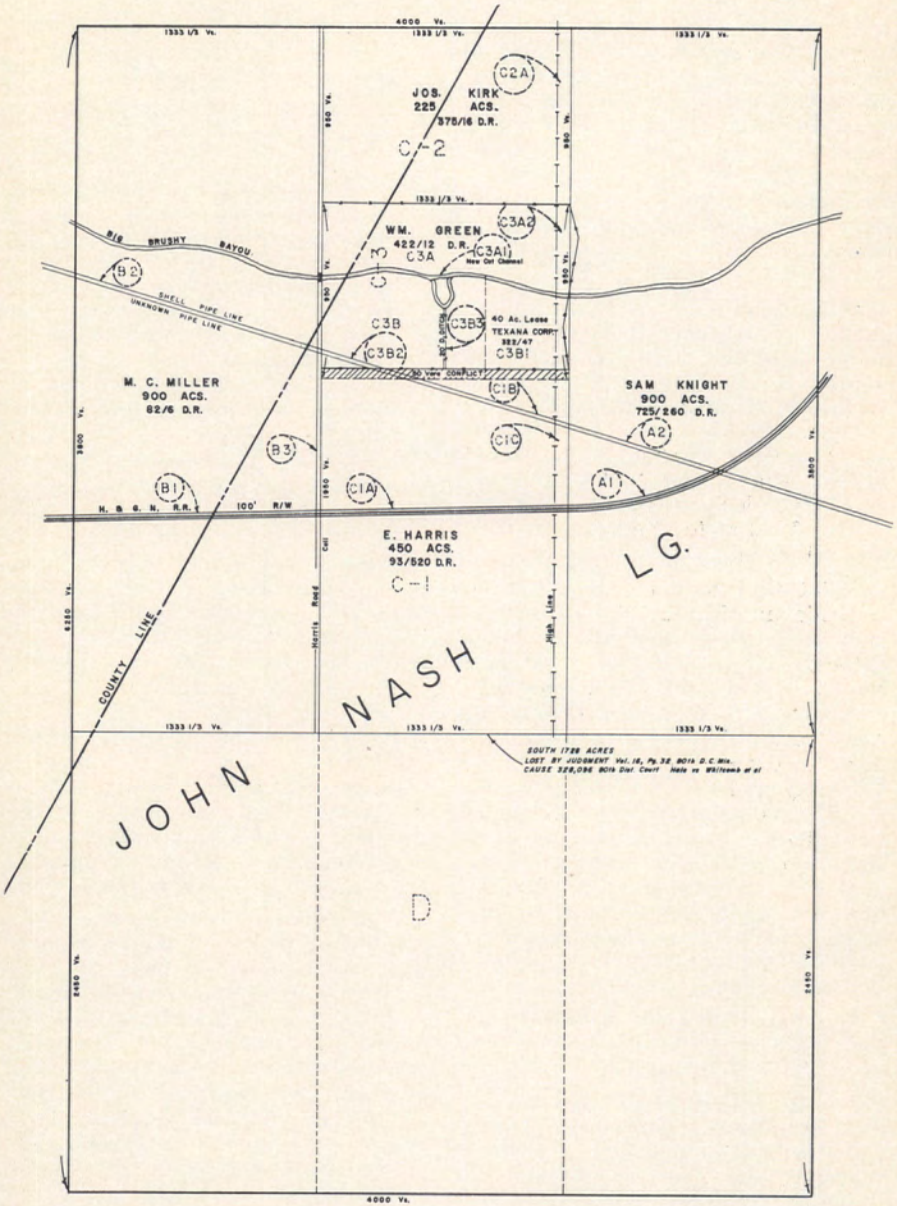
American Title Association

1959 MID-WINTER CONFERENCE

FEBRUARY 19 - 20 - 21

Roosevelt Hotel — New Orleans, La.


4000 Vs.
1333 1/3 Vs.
1333 1/3 Vs.
1333 1/3 Vs.
BIG BRUSHY BAYOU
COUNTY LINE
JOHN NASH
WEST 1/3 OF LG.
MIDDLE 1/3 OF LG.
EAST 1/3 OF LG.
6660 Vs.
6660 Vs.
SOUTH 1728 ACRES LOST BY JUDGMENT Vol. 10, Pg. 32 Dist. Court CAUSE 350,000 80th
"B"
"C"
"A"
"D" SOUTH 1728 ACS. OF LG.
1333 1/3 Vs.
1333 1/3 Vs.
1333 1/3 Vs.
4000 Vs.


4000 Vs.
1333 1/3 Vs.
JOS. KIRK
225 ACS.
375/16 D.R.
C2A
C-2
WM. GREEN
422/12 D.R.
C3A2
C3A1
New Cut Channel
C3A
C-3
BIG BRUSHY BAYOU
B2
SHELL PIPE LINE
UNKNOWN PIPE LINE
C3B
C3B2
C3B3
40 Ac. Lease
TEXANA CORP.
382/47
C3B1
ATCHISON
50 Vara CONFLICT
C1B
M. C. MILLER
900 ACS.
82/6 D.R.
SAM KNIGHT
900 ACS.
725/260 D.R.
A2
C1C
B3
B1
A1
H. & G. N. R.R.
100' R/W
C1A
E. HARRIS
450 ACS.
93/520 D.R.
C-1
Harris Road
Cem
High Line
COUNTY LINE
JOHN
NASH
LG.
SOUTH 1788 ACRES
LOST BY JUDGMENT Vol. 16, Pg 32 80th D.C. Wis.
CAUSE 328,096 80th Dist. Court Hale vs Whitcomb et al
D
3800 Vs.
2850 Vs.
950 Vs.

REPORT OF JUDICIARY COMMITTEE

F. WENDELL AUDRAIN

Vice President-Counsel, Security Title Insurance Company
Los Angeles, California

When I returned to my office after "Seattle" and an unusual journey on the S.S. Sightseer under the command of Admiral Wharton Funk, I found a letter from Ernest Loebbecke appointing me as chairman of the Judiciary Committee. I feel somewhat influenced by such alacrity, hence this writing so soon for Title News.

Right off, new Judiciary Committee members are acknowledging their notices and inquiring of ways to help. A reply to this inquiry is best found in the letter of Eugene Tully, Vice President, Washington Title Insurance Company, Seattle, dated October 6, 1958, wherein he encloses a copy of a 1958 decision of the Supreme Court of his state—Lesamiz vs. Lawyers Title, etc., 322 P. 2nd, 351.

Plaintiff's complaint disclosed that he believing himself the owner of land and timber thereon, sold the latter to Timber Company; that Timber Company upon commencement of cutting, was told by Lumber Company, that Lumber Company had title to timber, instead of Timber Company and that he, plaintiff, then bought a policy from defendant which was silent as to any claim by Lumber Comapny. The appellate court here notes, and this is important to the case, that plaintiff did not tell defendant what he knew about the Lumber Company claim against Timber Company.

To go on. Thereafter Lumber Company sued plaintiff and the title company declined the defense of the action.

> "The insurer refused to accept the defense of that action on the ground that the insured had notice of the claim, which was not of record, prior to when he secured the title policy, and that, therefore, the action on such a claim was **one excepted** in Schedule B of the policy, which provides in part as follows:
>
> 'This policy does not insure against:
>
> . . .
>
> '2. Rights or claims of persons in possession or claiming to be in possession, not shown of record; rights claimed under instruments of which no notice is of record and **rights or claims based upon facts of which no notices are of record but of which the insured has notice;** . . . "

Thereafter, at his own expense and direction the insured defeated the Lumber Company claim and now sues title company for expenses of defense. Plaintiff, deeming his complaint good, after a demurrer was sustained, appeals on the theory that he did state a cause of action. The court discussion proceeds directly upon the language from the policy—in bold face above.

Plaintiff says he had no knowledge of "facts" supporting "Lumber's" claim, that having no such knowledge he had no disclosure duty, and that Lumber Company's dismissal of its action against him was an adjudication that there were no such facts:

> "This case turns upon the meaning of the language **'rights or claims based on facts'.** Is this ambiguous? Not unless the word 'facts' raises an ambiguity in itself. The word is neither qualified nor limited. Anything constituting a fact, whatever the category may be, is embraced within the plain and ordinary meaning of the word."

The court noted the usual rule wherein ambiguity in a policy is construed against the insurer, but then noted another rule that a word in an insurance contract is to be construed

in its ordinary significance and went on to say:

"The word 'facts' as used in the policy is not ambiguous, and, therefore, its ordinary meaning applies.

The claim to the timber was based upon the asserted title and the assertion of ownership by the Biles, etc. Lumber Company. This assertion of a thing to exist and ownership, was a **fact** within the clear meaning of the word. The appellant had knowledge of these facts and the duty to disclose them to the respondent's agent when he made application for the policy, to avoid the exclusionary clause thereof. If the appellant had made this disclosure, the insurer would then have been given the opportunity to make its investigation of the **asserted facts of title and ownership,** and determine whether to assume the risk of deefnding the appellant's record title."

This case caused my recollection of Title and Trust Company vs. Parker, 233 Fed. 2d, 505 (Title News—August, 1956, p. 14) wherein another insured bought his policy and withheld significant information from his insurer. The case also called to mind my reference in the Seattle report of the Judiciary Committee to the significance of the decision "when to decline to defend." Here, the defendant should be regarded as having a sound basis for refusal to defend.

The officers and counsel of many title companies have a never ending concern over the line as variously located in different states that marks the boundary for title companies and for the practice of law. I have at hand a 99-page publication, having a page describing it as follows:

"UNAUTHORIZED PRACTICE SOURCE BOOK

A Compilation of Cases and Commentary on Unauthorized Practice of Law

PROJECT ON UNAUTHORIZED PRACTICE OF LAW, AMERICAN BAR FOUNDATION"

Inevitably it includes and refers to those cases involving title companies. The cases are familiar but that they appear in this August, 1958, publication is continuing notice that the subject should have the interest of title men, whatever their divergent strong opinions may be.

Many of us who are members of the Bar and who are house counsel were interested in the article in the American Bar Association Journal, April, 1958, "A Continual Professional Problem—Ethics and the Unauthorized Practice of the Law."

The role of house counsel is being increasingly noted and some of us attended the "House Counsel Seminar" at the recent American Bar Association convention at Los Angeles. It is our professional obligation to our companies to be sensitive to our status and to the interest of our profession in this general subject.

The "President's Page" of the Los Angeles Bar Association Bulletin, September, 1958, contains a reference to and a quotation by Theodore Roosevelt which I liked:

"His was not the delicate touch when battle was the order of the day to bring objectives to successful conclusion. The philosophy of living of this great man is well embodied in his description of The Man Who Counts—

'It is not the critic who counts; not the man who points out how the strong man stumbled, or where the doer of a deed could have done better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood, who strives valiantly, who errs and comes short again and again because there is no effort without error and shortcoming. It is the man who does actually strive to do the deeds, who knows the great enthusiasm, the great devotions, who spends himself in a worthy cause, who at the best knows in the end the

triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat."

On page 26 of Title News, May, 1958, the article on encroachments by Melvin B. Ogden closes with

"(An excellent article on this subject is 'The Effect of Encroachments on the Marketability of Land Titles', by Ross D. Netherton, Chicago-Kent Law Review, Vol. 27, No. 3, March, 1949.)"

I sent for Vol. 27, No. 2, March, 1949, being the issue of the Review referred to. I recommend to you its acquisition.

ADDITIONAL INFORMATION ON FEDERAL LIENS

With interest in Federal Liens growing day by day, members of the ATA may be interested in securing a copy of a comprehensive analysis of federal lien problems. "Federal Tax Collection and Lien Problems" by William T. Plumb, Jr., is a 300 page study of this current and vexing topic and is available for $2.00 by writing to Mr. Plumb.

Address your request to:

MR. WILLIAM T. PLUMB, JR.
Colorado Building
Washington 5, D. C.

1957 REPORT OF STANDARD FORMS COMMITTEE

BENJ. J. HENLEY, *Chairman*

President, California Pacific Title Insurance Company, San Francisco, California

This report is submitted to bring the activities of this committee up to date for readers of Title News. It is a summation of accomplishments rendered at the 1957 Convention and is to be followed by the Committee Report of 1958 in the December issue.

The Committee has little in the way of accomplishment during the past year to report to you.

Several questions relative to the adequacy of the A.T.A. Standard Loan Policy, and the construction of its provisions, have arisen. It is difficult to know how to answer these questions because the Association has formulated no procedure under which an authoritative reply can be given to any question. It is possible that some procedure should be established to do this. Until something of that kind has been done, each company must decide for itself what it intends to insure when it issues the A.T.A. Loan Policy and how its various terms are to be construed.

Suggestions are made from time to time that some of the provisions of that form should be studied and modified for clarification and, in some instances, for changes in substance

A considerable sentiment has again arisen for the approval by the Association of an A.T.A. Owners Policy form. I reported to you on this subject at the Cleveland convention in 1955. I told you at that time that it was my conclusion that an owners policy form which would be used by the members of the Association could not be produced by a Standard Forms Committee; that it would have to be done by a specially constituted committee representing individual companies who were of a mind to compromise and develop a form which they would use as their basic policy form.

During my tenure as Chairman of your Committee on Standard Forms, which as most of you know has been of some duration, several efforts have been made to develop a Standard Owners Policy. My views on the possibility of such an accomplishment are the result of long, sad experience. It has never seemed possible to get the members of a committee to agree on a form, let alone to produce one which the company members of the Association would approve and use. My enthusiasm for working on such a project diminished over the years until it just about evaporated. However, the Chairman of your Title Insurance Section has so urgently insisted that another try be made that I have again undertaken the effort to produce such a policy. The approach now under way is quite different than anything that has been adopted in the past. On July 24th, I addressed to the Presidents of 25 title insurance companies located in various parts of the country, a letter asking if they would cooperate in the drafting of such a policy. The companies selected were those which to my knowledge were the issuers of title insurance policies in volume. In that letter I stated that it was my conviction that the following considerations applied to the development of such a policy:

1. That there is no considerable number of users of title insurance who frequently secure owners policies in different areas. Therefore, there is no such customer pressure for a standard form of owners policy as brought about by the adoption of the A.T.A. standard loan policy form. This minimizes the incentive to insurers to change from long used forms to new ones.

2. That a standard owners policy form drafted by a Standard Forms Committee, even if approved by

A.T.A., will probably not be put into general use and possibly will not be used by any insurer. Therefore, the work done by such a committee on a standard form will be wasted. The work must, in my opinion, be done by people who approach it from the standpoint of using the policy in their companies when it has been approved.

3. That the general use of the A.T.A. standard loan policy form proves that a standard owners policy could be generally used, notwithstanding local prejudices in favor of existing policies.

4. That while the drafting and placing in use of a standard owners policy presents some difficulty and involves much toil, it is desirable to the industry to have a standard form of owners policy and **to use it.**

I suggested that if a new attempt to produce a Standard Owners Policy form was to be made, that it could be effectively done only if some such procedure as the following is adopted:

1. The task should be undertaken only if a substantial number of large issuers of title insurance decide, as a matter of company policy, that a standard owners policy is desirable, and that they will participate in its formulation.

2. That each participant will designate a responsible member of its staff to participate in the work of drafting the proposed policy with authority to commit the company as the work proceeds.

3. That a sufficient volume of business must be represented by those who agree to participate, to justify the work.

4. That each of the participants must commit itself in advance to use the form as its standard form if it is approved by at least a majority of the participating companies.

I requested each of the addressed company officers to answer the following questions:

1. Do you believe that a standard owners policy is of sufficient importance to justify the time and effort which will be involved in its draftmanship?

2. Do you think that the procedure outlined would offer hope of ultimately producing such a policy?

3. Will your company participate in the drafting of the policy with the idea that when and if the form is approved your company will use it as its standard form of owners policy?

4. If you do not consider the program practical, and still think that we should try for a standard owners policy, will you please indicate how you think we should go about preparing it?

5. Will you please make any comments or suggestions which would be helpful?

Replies from all of the men to whom my letter was addressed indicated a majority belief that the time and effort necessary to try again for an owners policy was justified. Almost all of the replies indicated a willingness to participate in the program.

So, still retaining some of the optimism of youth and being a glutton for punishment I have again undertaken the project of attempting to secure agreement of a sufficient number of insurers to a standard owners policy form to warrant its approval by the American Title Association.

The work has already commenced by the preparation in tabular form, on a readily comparable basis, of the insuring clauses and schedules of the owners policies now approved by California Land Title Association, New York Board of Title Underwriters, Chicago Title and Trust Company, National Title Underwriters Association, and Kansas City Title Insurance Company and also the A.T.A. Standard loan policy. This digest has been placed in the hands of all of the companies to whom my letters have been addressed.

It is my thought that if an A.T.A. Owner's policy form is to be approved, that at the same time any desirable changes in the A.T.A. Standard loan policy should be made. The two policy forms so far as is consistent with the type of the insurance assumed should, I believe, be identical.

In my first letter to title insurance

executives I made one statement which already has been partially discredited. That statement was that "there is no such customer pressure for a standard form of owners policy as brought about the adoption of the A.T.A. standard loan policy form." Since our arrival at this convention our guests, the Life Insurance Counsel in attendance here, at a meeting held on Sunday concluded to present to this convention for its consideration some five items. The first of these is the recommendation "that there be adopted by the American Title Association a form of owner's policy which would insure marketability of title." Thus the pressure for such a policy form is building up.

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(Thursday, Friday, Saturday)

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New Orleans, Louisiana

BUSINESS AND ECONOMIC OUTLOOK

DR. EMERSON P. SCHMIDT, *Director, Economic Research Department*
Chamber of Commerce of the United States, Washington, D.C.

Economic recovery and expansion are underway, but the outlook, possibly, appears a little more favorable than it really is. The plus factors outweigh the minus ones, but there are some of the latter.

Surprises

The recent recession might be labelled the "surprise recession."

A year ago, there was no general awareness of the downturn in the economy. The general indices such as income, employment, unemployment and production had shown no clear trend, nor set up any general alarm. The 1955-57 recovery hit a peak in July, 1957. Excess inventories and idle plant capacity became visible generally only last autumn, about November to December. Then, there occurred a very rapid rise in unemployment, the fastest rise in our history, from December to February—nearly 2 million.

And this, plus the idle plant capacity and the excess inventories, suggested that we might be running into the old-fashioned capital goods depression; a serious and long recession might be in prospect. A possible decline in corporate earnings and the decline in the stock market after July, 1957 explains the rapid rise in the bond market last winter and spring.

When Congress reconvened in January, we had a welter of anti-recession spending and tax-cutting proposals, both in and out of Congress. Eliminating duplicates, bills were introduced calling for $200 billion of new expenditures over the next 5 years—many with an anti-recession label. They were strongly pushed, but, somehow, the Administration resisted most of them. On February 12, President Eisenhower made a statement, for which he was laughed at, in which he said: "Every indication is that March will commence to see the start of a pickup. That should mark the beginning of the end of the downturn in our economy."

This was charged off as wishful thinking or irresponsible political talk, or a device to reduce political pressures for relief and spending programs.

But President Eisenhower was actually correct within a matter of two to four weeks. The bottom of the recession did, in fact, occur in April of 1958.

How Durable is the Recovery?

Gross National Product, which is the best measure we have of our total output or production, hit a peak rate of $446 billion in the third quarter of 1957, and there was a drop to $426 billion in the first quarter of this year. That is a decline of $20 billion in the short space of 6 months, in spite of price increases.

But, then, in the second quarter of this year, GNP rose by $3 billion and by about $10 billion in the third quarter, part of which was price. Experts here in Washington are inclined to believe that in the current quarter the CNP will rise by another $8 to $10 billion. That will mean by December we will exceed last year's peak, in terms of GNP, but at slightly higher prices.

The Federal Reserve Index of physical production dropped from 145, July and August a year ago, to 126 in April. That is a decline of 14%. And it has since then recovered about half of that decline, and stood at 137 in September, and probably will be up another 2 or 3 points in October.

The recovery that we have had is broadly based. It has embraced nearly every sector of the economy.

Again, Surprises

Why do we say this has been a recession of surprises? The only reason for any kind of an outlook report is to see what we can learn from our past experience. After all, no one can really predict what is ahead.

(1) A year ago, we were headed for a recession, yet, few people knew it.

(2) Then, we were surprised that the bottom came as early as April of this year, unaided, incidentally, by anything which the recent session of Congress did.

(3) Then, we were surprised that the recovery was V-shaped, rather than saucer-shaped; in other words, remarkably rapid.

(4) The fourth surprise was the behavior of income. Income was almost depression-proof. Disposable income dropped by only $3.7 billion from the peak to the trough, in spite of a 14% decline in physical output and a GNP decline of $20 billion.

(5) On September 7, we got the fifth surprise. The Department of Commerce and SEC announced that plant and equipment expenditures, which are the heart of the business cycle, will turn up in the fourth quarter of this year, a prediction about which some people have some reservations.

(6) Out of the 25 recessions since 1854 — recessions and depressions — only three others have had a contraction period as short as this one; this is another surprise.

And furthermore—and this is statistical hopefulness—in only a few cases in this 104-year period, have we had what we call a double bottom in a recession; that is, a relapse from recovery. Since the current recovery is so broadly based in affecting almost all sectors of the economy, many feel that the possibility of a double bottom at this time is rather remote.

Plant and Equipment Revival (?)

But there are some question marks. Will plant and equipment expenditures move upward? In the first half of this year, according to McGraw-Hill and other estimators, we have had idle plant capacity of about 30%. You don't build much new space and capacity when you have that much excess capacity.

To be sure, a great deal of that capacity may not be up-to-date or located in the right place. New competition, new products, research, new regional markets may call for additional capacity. Competition always forces a good deal of modernization and improvement.

The prospective rise in the fourth quarter may really reflect more in the way of modernization and updating than an actual increase in capacity. But in steel, in automobiles, in textiles, in most chemicals, in the nonferrous metals including nickel, which was the last scarcity, we have sizeable unused capacity at this time.

If it turns out that the government's forecast is correct, and it is based, incidentally, on reports from businessmen, then the recovery is even more strongly based than has been indicated up to now.

But the companies making castings and machine tools have not yet felt this prospective upsurge, yet they are fairly good barometers. Machine-tool orders hit a low in December of $18 or $19 million, as against $45 million in August a year ago. They recovered a little this year from their 8-year low of last December up to $22 or $23 million, but the recovery has been spotty and somewhat erratic.

Inventories have accounted for about half of the decline in GNP and in the Federal Reserve Index. The third quarter of last year, business as a whole added $2 or $3 billion at annual rates to its inventories—goods on hand. It soon became obvious that inventories were excessive, in terms of declining sales; orders were cancelled. So, we had a very rapid liquidation of inventories. In the first quarter, liquidation ran at an annual rate of $9½ billion.

This meant that people were being laid off, and this explains the rapid rise of unemployment. In the second quarter of this year, the inventory liquidation rate was about $8 billion. Currently, it may be about $3 billion.

New orders in the hands of manufacturers are still below a year ago. They have moved up over one billion since April, the low part of the recession. So, there is still not too strong evidence of a real, strong recovery.

Paperboard production, which has always been a very good barometer, hit an all-time peak rate in recent weeks. This suggests very high Christmas sales. That is about all it does suggest.

Construction

The construction industry has, despite the recession, put in a very good performance. Contracts are actually ahead of last year through the first eight months of this calendar year. Housing has picked up very remarkably, but it will be in more trouble by the end of the year or the beginning of next year, due to the mortgage situation.

The 1959 prospects for the construction industry are, on the whole, favorable, probably about about on the level with this year, perhaps a little plus, due partly to price and due partly to certain strong public sectors of construction — highways and other items that are involved in connection with highways.

The National Bureau of Economic Research nine indicators are, for the most part, pointing in a favorable direction. Some of them are wobbling a bit. But the majority of them have now been moving up in the right direction. These are key barometers that lead the economy. They move up before the economy as a whole moves up. They look on the plus side.

Automobiles

The automobile situation is quite uncertain. It may surprise you to note that installment credit outstanding today is actually higher than it was a year ago, and this is not a too favorable factor. Normally, during a recession, installment paper gets liquidated and paid off faster than new debt is created.

In the case of automobiles, there has been a slight decline of installment paper from $15.3 billion last year to $14.7, but that is only a $600 million decline. The automobile people are cautious; they regard 6 milllion cars as normal, full prosperity production. They don't think they will reach it next year, but, perhaps, about 5½ million sales, as against 4½ million this year. Although, sales could go higher.

Farm income has been rising through most of this year, although declining somewhat in the last few weeks, months, and, probably, will be lower next year than it is now, both in terms of gross and in terms of net.

Most foreign economies are levelling off, or actually declining a bit, but this is not regarded as a serious factor; it doesn't suggest a further buoyancy in the immediate future.

Wage settlements this year have been on the inflationary side. The automobile settlements, which have a lot of prestige repercussions and communicative influence, are probably only very moderately inflationary. While no one can put a price tag on the settlements, because of the contingencies and uncertainties, the basic wage increase was only seven cents per hour per year over the next three years. But, on top of that, there is the cost-of-living escalator, if the cost of living should rise. Then; there is a differential for skilled labor and there are some cost-raising fringe benefits, which are hard to measure.

But if the auto settlements should become a kind of pattern for the next six or 12 months, and if the steel people can do as good a job as the automobile people did this time—this is the first time that the automobile people have done a good job of bargaining in public, explaining the anti-social effects of labor cost increases which exceed productivity gains—if they can continue that kind of settlement in the next six to 12 months, we can do a good deal to take pressure off prices. Productivity is, apparently, so far as we can see, rising rather rapidly now, about twice as fast as it has in the past two years, 1956 and 1957.

That is based on very rough figures, and shouldn't be taken too seriously; but employees are paying more attention to their jobs, and some of the incompetents and those who are disinterested have been eliminated; as productivity rises, it will help to maintain prices, prevent

prices from going up and give the consumer a better deal.

Money Supply

Including currency, demand and time deposits, the money supply today is $12 billion higher than it was a year ago. This has helped to keep the whole economy oiled and liquid. to be sure, it also has tremendous influence in stopping price declines, and it has done some things that are not on the plus side. It has prevented serious "linkage of risks," insolvency and bankruptcy-spreading and inability to meet obligations spreading from one sector to the other.

The growth in the money supply probably has been the most important factor in shortening and ameliorating the recession.

Budget and Government Bonds

A serious difficulty that lies immediately ahead is the federal budget.

A cash deficit of $13.7 billion is predicted. This has to be financed. But there simply is not enough saving in this country to finance the needs of business, consumers, and this kind of government deficit. Much of it must be financed directly or indirectly through the banking system, and this may have some very serious repercussions.

Whether this estimated $13.7 billion deficit is unduly high or not depends on two things: (1) whether the government's rate of expenditure will equal the budget, which some doubt, and (2) whether its estimate of revenues is correct, which will not be the case if the recovery continues. The revenue may be underestimated by $1 to $3 billion if the recovery continues at recent rates. So, the cash deficit is more likely to be something like $9 to $11 billion, rather than $13.7 billion, which is bad enough, to be sure.

The government bond market suffered the greatest collapse in history this past summer, after the fastest rise in history last fall-winter.

We really had what is almost an internal run on the dollar this summer. For instance, the 1-year, 1½% security brought out in July later sold at 2½% yield. The high taxes which we now have simply won't balance government expenditures and projected expenditures. So, it becomes a question of whether the price level is going to go up, and it becomes a question of where people should invest. We have had literally a flight from bonds, although there has been some improvement in recent weeks.

Furthermore, the government has a ceiling interest rate on securities of 4½% (more government price fixing), which was fixed some 50 years ago. It is conceivable that the government may be unable to sell its bonds to anybody in the United States, except to the banking system; and even the commercial banks have had very sizeable losses in their bond portfolios. Banks "have had it," and some people say they are not going to become suckers again.

Most purchases made by the banks since June resulted in losses. The shortage of investment funds occurred before the Federal Reserve banks began to raise the rediscount rates on August 15.

The rapidity of the recovery and upward price pressure turned the Federal Reserve around. It raised the rediscount rates, and twice it increased stock margin requirements. We have had a very disorderly bond market, to the point where the FED had to come into the long-term market in its open-market operation; and at one point, the Treasury purchased $600 million of its own debt outstanding.

How is the Treasury going to finance this huge deficit, plus the possible attrition? $40 to $50 billion of debt annually rolls over. Are people prepared to buy these bonds?

Maybe here is the answer to part of the problem of undue and reckless government spending. October 19-25 is National Thrift Week, to remind us that thrift is fundamental to the successful functioning of our free enterprise economy.

National thrift should begin with the national government. If it had been practiced more by Congress,

some of the Treasury's current financing problems and the resultant rise in inflationary expectations in the country would not now be threats to a smooth, lasting economic recovery. Maybe Thrift Week should be observed while Congress is in session.

The 52% corporate tax rate creates an oversupply of corporate debt and puts a penalty on floating new capital equity shares. The corporations have found a way to print their own "greenbacks." They call them stock dividends. That gets partially around this tax difficulty! Problems of public debt management are inexorably intertwined with tax and budget problems.

If there is going to be inflation, we will find more and more people moving in the direction of equities, and the result is a stock market level that is out of all relation to reasonably prospective earnings. It is almost irrational, and there could be a reversal.

Even the staid AT&T, with a pension fund of $2.6 billion, decided a few weeks ago that it would put 10% of its funds into equities. The demand for equities in the face of a nearly fixed supply is the converse of the situation in bonds.

If the government raises its interest rates, this puts all its previous securities under a cloud, and may reactivate the redemption spree of savings bonds.

Congress may have to face up, in the next session, to the question of whether to raise taxes or to lower expenditures. If recovery comes rapidly and incomes rise and we have a little inflation, perhaps the financial crisis of the Treasury will not be so serious as it looks now. But it is very significant that Secretary Anderson, in talking to the convention of the American Bankers Association in September, literally pled with them, on the basis of a patriotic duty, to buy Treasury bonds. But bankers and insurance companies have a duty to their depositors, stockholders or policy holders. It is not company money that they are investing; it is other people's money that they are investing and they ought to get the best net return; and, yet, the Secretary of the Treasury literally was pleading with the American institutional investor, the insurance companies, etc., to take over-priced securities.

This is a serious situation. We, probably, will work out of it. We will not have a financial collapse.

But in spite of the collapse in the bond market, childish international uncertainties, plus the somewhat uncertain question as to whether capital goods investments are really going to move forward, the recovery is sufficiently broadly based that we can look for a good beginning in 1959, and the fourth quarter of 1958 will be the best of the year.

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CODE OF ETHICS

The American Title Association

The foundation of the American heritage of personal Freedom is the widely allocated ownership and use of the land. Upon the furtherance of that heritage, depends the survival and growth of free institutions and of our civilization. The Land Title Profession is the instrumentality through which titles to land reach their highest accuracy and attain the widest distribution.

The Title Profession having become such a vital and integral part of our country's economy, there are imposed on each member of the American Title Association obligations above and beyond those customarily required of participants in ordinary commercial pursuits and a code of ethics higher and purer than ordinarily considered acceptable in the market-place, to the fulfillment of which the Title Profession is dedicated. Each member of the American Title Association shall be ever zealous to maintain and improve the quality of service in his chosen calling, and shall assume personal responsibility for maintaining the highest possible standards of business practices, and to those purposes shall pledge observance and furtherance of the letter and spirit of the following Code of Ethics.

FIRST

Governed by the laws, customs and usages of the respective communities they serve, and with the realization that ready transferability results from accuracy and perfection of titles, members shall issue abstracts of title or policies of title insurance only after a complete and thorough investigation, founded on adequate records and learned examination thereof, and shall otherwise so conduct their business that the needs of their customers shall be of paramount importance.

SECOND

Every member shall obtain and justifiably hold a reputation for honesty and integrity, always standing sponsor for his work intellectually and financially.

THIRD

Ever striving to serve the owners of interests in real estate, members shall endeavor (a) to facilitate transfers of title by elimination of delays and unnecessary exceptions and (b) to make their services available in a manner which will encourage transferability of title, provide adequately for obligations which they assume in connection therewith and afford a fair return on the value of services rendered and capital employed.

FOURTH

Members shall support legislation throughout the country which is in the public interest and will unburden real estate from unnecessary restrictions and restraints on alienation.

FIFTH

Members shall not engage in any practices detrimental to the public interest or to the continuing stability of the Title Profession.

SIXTH

Members shall support the organization and development of affiliated state title associations founded and maintained upon the Principles set forth in this Code of Ethics.

SEVENTH

Any matter of an alleged violation of the principles set forth in this Code of Ethics may be submitted to the Grievance Committee of the American Title Association.