

OFFICIAL PUBLICATION

AMERICAN TITLE ASSOCIATION

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TITLE
NEWS

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THE PRESIDENT'S POSTSCRIPT



Things have been humming. Proposed legislation in Washington dealing with title insurance on Capehart Housing has taken up a considerable amount of the time of your National President, the Chairman of the Title Insurance Section and a great many members of the Association. The suggested legislation has the effect of putting the federal government into the title business—not only so far as title insurance is concerned but also, if the bill first introduced should become law, the government would engage in searching titles. All of us—abstracters and title insurers alike—are free enterprisers at heart and we are not happy with any encroachment by government into the field of private enterprise. We have called on a number of you for help already, and if the situation becomes serious, we will be calling on everyone to help. However, knowing the way things work in Washington, it is our hope that the fire will be out before this message actually reaches you in print.

You all know that one of my fond hopes is the formation of state associations in those areas where none presently exist. Based on activities now underway, it seems likely that real progress will be made in this direction.

I am pleased with the contributions members are making to Title News. They are interesting and helpful to the industry. May I suggest that if you, or any of your associates have recently given papers concerning abstracting or title insurance you send them on to the National Office. It may well be that they will provide worthwhile material for Title News.

Ernest J. Lobbert



TITLE NEWS

The official publication of the American Title Association

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Proposed New Constitution and By-Laws

Section 1 of Article XII of the Constitution and By-Laws as amended October, 1956 provides that "Motions or Resolutions for amendment or revision of the Constitution and By-Laws may be offered at any mid-winter conference or annual convention, by a vote of two-thirds of the active members in attendance and voting there. Notice of such proposed amendments or revisions shall be sent to each member of the Association by the Executive Vice-President not less than thirty days prior to such next annual convention meeting and posted in a conspicuous place at such next annual convention meeting by twelve o'clock noon on the second day of such meeting."

The following proposed new constitution was read in full at the General Membership Session of the Annual Mid-Winter Meeting in New Orleans, Louisiana, on February 19, 1959. Its adoption was approved unanimously by those present. This reprint shall constitute official notice to all members that the proposed new constitution will be presented for final vote to the delegates to the 1959 Annual Meeting at the Commodore Hotel, New York, New York, October 19-20-21-22, 1959.

ARTICLE I. NAME

The name of this Association shall be "American Title Association." The principal place of business shall be at Detroit, Michigan, or such other place as the Board of Governors may determine.

ARTICLE II. OBJECT

The purpose of this Association shall be the advancement of the science of evidencing title to real property; the promotion of the acquaintance, mutual advantage and general welfare of its members by the interchange of ideas, and by protective, remedial or other measures to further the common interests of its members and the general public in harmony with their respective rights, interests and duties, and in general to do any and all things that may be incidental to, implied from or appropriate to the promotion and encouragement of the objects and purposes as hereinbefore set forth.

ARTICLE III. MEMBERSHIP

Sec. 1. Membership shall be limited to three classes: (1) active, (2) associate, (3) honorary.

Sec. 2. Active members shall be those directly and primarily engaged in title evidencing, and who are members in good standing of an affiliated state title association, as well as those so engaged in jurisdictions where there is no affiliated title association, and whose applications shall have been approved by the Board of Governors. Only active members shall have a vote.

Sec. 3. Associate members shall be all those who are not directly and primarily engaged in title evidencing and of a class or classes as may be designated by the Board of Governors.

Sec. 4. Honorary membership may be conferred by the Board of Governors at any annual convention upon any person who shall have performed distinguished and meritorious service to this Association or to the science of title evidencing.

Sec. 5. Upon approval by the Board of Governors any state title association may affiliate with and its members in good standing join this Association, upon its filing with the Association its application with a copy of its constitu-

tion, or articles of association or incorporation, and its by-laws, together with a list of its members, setting forth therein that such members are eligible for membership under the Constitution and By-Laws of this Association.

Sec. 6. All members shall be of good moral character, have an established business reputation and responsibility, shall subscribe to the Code of Ethics of this Association and be governed by its provisions.

Sec. 7. Representation: Each active member present or represented at any meeting shall have one vote. Each firm, partnership or corporation which is an active member shall select from such firm, partnership or corporation, its accredited representative and alternate. No representation shall be by proxy in any voting. Each affiliated state title association may send one or more delegates to any meeting of this Association or of any section thereof, who may attend and participate in the deliberations and discussion at such meetings, but as such delegate shall not have a vote.

Sec. 8. Resignation of Members: A member not in default in payment of dues, and against whom no complaint or charge is pending, may file his resignation in writing with the Association, and it shall become effective as of the date it was filed, when accepted by the Board of Governors. The Board may reinstate any member who has resigned, on his written application for reinstatement, if his application is filed within one year after resignation.

Sec. 9. Expulsion and reinstatement of Members: The Board of Governors may censure, suspend or expel any member for cause, after a hearing before such persons and in such manner as the Board shall direct, or may suspend or drop from membership any member for nonpayment of dues. Any member shall be automatically dropped from membership upon the filing with the Association of a notice by the Secretary of any State Association that the member has been dropped from its membership, and may not be reinstated except upon his reinstatement by such State Association. Any member suspended, expelled or dropped from membership may be reinstated by two-thirds vote of the members of the Board present and voting.

Sec. 10. Cessation of Property Interest: All right, title and interest, both legal and equitable, of a member in and to the property of the Association shall cease and determine in the event of the expulsion or dropping of such member, or his death or resignation.

ARTICLE IV. MEETINGS

Sec. 1. Annual Convention: This Association shall hold an Annual Convention at such time and place as may be fixed at the preceding annual convention or by the Board of Governors, the time and place to be announced at least six months before the date fixed.

Sec. 2. Mid-Winter Conference: This Association may hold an annual business meeting, which shall be known as Mid-Winter Conference, at such time and place as may be fixed by the Board of Governors, provided, however, that either the annual convention or the Board may cancel the Mid-Winter Conference on thirty days' notice to the membership.

Sec. 3. Section Meetings: Each Section of this Association shall meet annually in connection with the annual convention, but only during such periods as may be assigned therefor, or as will not conflict with the convention program.

Sec. 4. At a time designated by the Board of Governors at the annual convention, a joint meeting of the officers of this Association and of each affiliated state title association shall be held.

ARTICLE V. DUES

Sec. 1. Each active and associate member shall pay dues in accordance with a schedule to be fixed by the Board of Governors at each annual convention for the year next ensuing. Honorary member shall pay no dues.

Sec. 2. An affiliated state title association may wish to collect and remit the dues of its members.

ARTICLE VI. SECTIONS

Sec. 1. The following Sections of this Association are hereby established:

(a) Title Insurance Section, which shall include all title insurance members and abstracters who elect to join this Section.

(b) Abstracters Section, which shall include all abstracters except those who elect to join the Title Insurance Section.

Sec. 2. Each Section may adopt such by-laws and conduct such activities as are not inconsistent or in conflict with the constitution and by-laws of this Association. On Section matters each member shall vote only as a member of such Section.

Sec. 3. Administration of the affairs of each Section shall be vested in an Executive Committee composed of the Chairman, Vice Chairman and Secretary of that Section and four other members, all of whom shall hold office for one year commencing with the end of that annual Section meeting and until their successors are elected and assume office.

Sec. 4. Prior to the annual Section meeting, the Chairman of each Section shall confirm as the Nominating Committee the last Past President of the Association representative of such Sections as Chairman and the two next last Past Presidents so representative, as members, all of whom are in attendance thereat. It shall be the duty of that Committee to nominate a Chairman, Vice Chairman and Secretary of the Section (which officers shall be Chairman, Vice Chairman and Secretary of the Executive Committee) and four other members of the Executive Committee. The report of this Nominating Committee shall be posted in a conspicuous place at the meeting hall by 9:00 o'clock A.M. of the first day of the Section meeting. The Chairman of the Section shall call for a report of the Nominating Committee as one of the first orders of business, following which he shall invite any other nominations from the floor. The Election shall be held the same day.

ARTICLE VII. OFFICERS AND COMMITTEES

Sec. 1. The active members in attendance at each annual convention shall elect a President, Vice-President, Treasurer, and Chairman of the Finance Committee, to serve for one year; and five members of the Board of Governors to serve for three years.

Sec. 2. The Board of Governors shall consist of the President, Vice-President, Treasurer, Chairman of the Finance Committee, Chairman of the Council of Past-Presidents, Chairman of the Planning Committee, the immediate Past-President, the Chairman of each Section and fifteen members. Of the fifteen members, five shall be elected at each annual convention for a term of three years. No member of the Board who shall have served a full term of three years shall be eligible to re-election or appointment to the Board for a time or service commencing less than one year after expiration of his former term. The Board may appoint an Executive Vice-President, a Secretary and such other officers as it deems necessary, and prescribe their duties, compensation and terms of employment.

Sec. 3. The Executive Committee of the Board of Governors shall be composed of the President, Vice-President, Treasurer, Chairman of the Finance Committee and Chairman of the Section of which the President is a member. The President shall act as the Chairman.

Sec. 4. The President shall within thirty days after his election appoint the following Committees, designating one member of each Committee so appointed as Chairman: Planning, Judiciary, Co-operation, Membership and Organization, Legislative, Advertising and Publicity, Constitution and By-Laws and such other Committees as he may have been authorized to appoint by the Board of Governors or by the members at any convention, each to consist of such number of members as he shall deem advisable unless otherwise provided. The term of office of members of each of these committees shall be contemporaneous with the term of office of the appointing President. The President shall appoint a Chairman of the Grievance Committee to

serve during his term of office and two members to serve for a term of three years, no two members of which Committee shall be accredited from the same state.

Sec. 5. The Finance Committee shall be composed of the Chairman of said Committee, elected as provided in Section 1 of this Article, and the President, Vice-President and Treasurer.

Sec. 6. The Council of Past-Presidents shall be composed of all Past-Presidents, the Chairman of which shall be elected by the members of the Council present at each annual convention and he shall be a member of the Board of Governors. The Council may elect such other officers as may be determined expedient and proper.

Sec. 7. Each of the officers named and each of the section officers, except the Executive Vice-President, Secretary and such other officer or officers as the Board may designate, must be an active member or accredited representative of an active member and shall hold office for one year commencing with the last day of the convention during which he is selected and until his successor has been selected and has assumed office, unless herein otherwise provided.

ARTICLE VIII DUTIES OF OFFICERS AND COMMITTEES

Sec. 1. The President shall be the executive head of this Association, a member ex-officio of all committees, including the Executive Committee of each section; and, except as otherwise herein provided, shall appoint all committees of this Association, fill all vacancies in office, and preside at all meetings of this Association.

Sec. 2. The Vice-President shall perform the duties of the President in case of his absence or inability to act.

Sec. 3. The Executive Vice-President shall have charge of the Association office and correspondence, keep accurate record of all meetings, collect all monies due and remit the same to the Treasurer on or before the first day of each month following receipt thereof and perform such other duties as may be necessary for the proper conduct of the business of this Association. The Secretary shall assist the Executive Vice-President in all his duties and act for him in case of his inability to act and, in case of a vacancy therein, assume the duties of such office.

Sec. 4. The Treasurer shall duly account for all monies of this Association received by him, and, subject to the control of the Board of Governors, perform such other financial duties as may be necessary for the proper conduct of the business of this Association.

Sec. 5. The Board of Governors shall have the care of the welfare of this Association and shall have authority to perform all acts or duties necessary for its benefit. It shall transact such business as shall arise between Annual Conventions and Mid-Winter Conferences and perform such other duties as shall be directed at any Annual Convention or Mid-Winter Conference. It shall have power to fill vacancies in the office of President, Vice-President, Treasurer, and Chairman of the Finance Committee, or among its own members, such appointees to hold office until the end of the next annual convention and thereafter until their successors have been elected or appointed and have assumed office. No member of the Board shall be represented by proxy at any of its meetings. A majority of the Board shall constitute a quorum.

Sec. 6. The Executive Committee shall be empowered to act for the Board and bind the Association in any situation or emergencies when, in the discretion of the Committee, it is impracticable to defer action awaiting the assembly of the Board. It shall report such actions to the Board at its next meeting. A majority of the committee shall constitute a quorum.

Sec. 7. The Council of Past-Presidents when requested shall, and on its own motion may advise with and give counsel to the Board or any officer or committee on any measure deemed to advance the good of the Association, and shall report through its chairman at all meetings of the Board.

Sec. 8. The Finance Committee shall have general supervision of the finances of this Association. It shall present to the Board of Governors at the Mid-Winter Conference a budget covering proposed expenditures for the ensuing fiscal year, and shall approve all expenditures of the Association.

Sec. 9. The Judiciary Committee shall investigate and report at each Annual Convention important decisions rendered in Federal and State Courts relating to the duties, liabilities and responsibilities of the abstractors and insurers of title to real property or liens and obligations thereon and other decisions relative to land titles.

Sec. 10. The Committee on Co-operation shall work and co-operate with such bodies as the American Bar Association, the National Association of Real Estate Boards, the United States Savings and Loan League, the Mortgage Bankers Association of America and the Commissioners on Uniform State Laws, or with committees or authorized representatives from these or similar bodies for the purpose of securing uniform action by the several associations to promote good legislation, and to prevent bad legislation to the end that security of land titles and facility of their transfer may be attained in the highest possible degree.

Sec. 11. The duty of the Committee on Membership and Organization shall be to obtain new members of this Association and assist in the organization of state title associations.

Sec. 12. The Legislative Committee shall consist of the Chairman and one member from each state and shall, subject to the approval of the Board, have power to act with regard to legislation pending before the Congress and any state legislature on matters affecting or relating to the interest of abstractors and title men and the title business generally and shall submit a report of such action at each annual convention.

Sec. 13. The Committee on Advertising and Publicity shall consider and recommend to the Association ways and means of effectively advertising and publicizing the title business, and securing a more wide-spread understanding and knowledge of the functions and purposes of title insurance and abstract companies.

Sec. 14. All motions and resolutions involving any change in, amendment to, or revision of the constitution and by-laws shall be referred to the Committee on Constitution and By-Laws. The Chairman shall report at each annual convention.

Sec. 15. The Planning Committee shall study ways and means for improving the operations and methods of the Association and the furtherance of a closer relationship between it and the membership. Its recommendations shall be submitted by the Chairman to the Board.

Sec. 16. The Grievance Committee is charged with the duty and responsibility of receiving and investigating complaints of alleged member violations of the principles of the Code of Ethics. A complaint may be filed by another member, by any Section, or by any aggrieved party. The complained-of member shall be given notice of the complaint and full opportunity to refute the charges against him. The Chairman shall report the Committee's findings, with its recommendations to the Board at its next meeting. The decision of the Board shall be final and binding upon the parties, subject only to appeal therefrom to the next following annual convention of the membership. No censure or expulsion shall be effective except upon a vote by two-thirds of the members of the Board present and voting and only after reasonable notice to the complained-of member and granting him the right to appear in person and present evidence in his defense.

Sec. 17. At each annual convention there shall be a Nominating Committee composed of the seven last Past Presidents who shall be in attendance thereat and who continue active in title evidencing. It shall be the duty of this Committee to nominate candidates for the offices of President, Vice-President, Treasurer, Chairman of the Finance Committee, and five members

of the Board of Governors. The report of this Nominating Committee shall be posted in a conspicuous place at the convention meeting place by 6:00 o'clock P.M. on the second day of the convention. Other nominations may be made for any of the said offices, provided the names of such nominees are posted in such conspicuous place at the Convention Meeting place by 9:00 o'clock A.M. on the third day of the Convention over the signatures of seven voting members in good standing, no two of whom shall be accredited from the same state. The report of the Nominating Committee shall be made on the floor of the Convention and such additional nominations, if any, shall be announced on the morning of the third day by the Chairman at the general session of the Convention. The election of officers and governors shall be held on the third day of the convention.

Sec. 18. The above named officers, committees and Board shall perform such other duties as may be requested or directed by the active members at any annual convention.

ARTICLE IX. INCORPORATION

Sec. 1. This Association may determine to incorporate as a non-profit corporation by a vote of two-thirds of the active members in attendance at any annual convention.

ARTICLE X. AMENDMENT OR REVISION

Sec. 1. Motions or Resolutions for amendment or revision of the Constitution and By-Laws may be offered at any Mid-Winter Conference or Annual Convention by a vote of two-thirds of the active members in attendance thereat. Notice of such proposed amendments or revisions shall be sent to each member not less than thirty days prior to such next Annual Convention and posted in a conspicuous place at such next Annual Convention by twelve o'clock Noon on the second day of such meeting.

Sec. 2. Unless otherwise specifically provided therein no amendments to or revision of the Constitution and By-Laws or any part thereof shall affect or change the term or tenure of office or the power or authority of any officer or any member or any committee or Board of this Association previously elected or appointed or the functions and powers of any such officer, committee, board or council.



The officers and staff wish to express their gratitude to the committee on Constitution and By-Laws for their painstaking effort, the long hours devoted to the task, and the excellent presentation made at the Mid-Winter Meeting. Members of the Committee are: John J. O'Dowd, Chairman; John Klein, T. J. Bomar, James T. Reid, G. E. Harbert, H. G. Ruenmele, George C. Rawlings and Arthur Reppert.



Judiciary Committee Report

F. W. AUDRAIN
Vice-President, Security Title
Insurance Company
Los Angeles, California
Chairman, Judiciary Committee

Policy of Defense

An invitation is extended to title company counsel to comment on two recurring problems:

(1) Some insured owners file actions concerning their land, a disputed right therein, or claim an easement or other right in adjoining land. The defendant by answer or cross-complaint pleads a right in the insured's land. The cross-complaint may be based on his construction of an instrument of record which was construed otherwise by the plaintiff's title insurer. The court rules for the defendant and establishes a right in the plaintiff's land, in favor of the defendant, and based on the court's interpretation of the earlier recorded instrument.

My company has had two such insureds come forward to press a claim on the policies, their claims being the company's first notice of these events. Thus far, the insureds have not filed

actions against the title insurer, after denial of the claim.

(2) The insured is a defendant in an action mostly based on his alleged fraud, and seeking to either establish a constructive trust in the land or to divest him of title. For my company and as I hear other title counsel express themselves, we do not assume the truth of the allegations, but defend, reserving our position, i.e., to withdraw or deny liability for loss if the action clearly and strongly develops into a serious off record basis of fraud.

These defenses pose a problem as to the extent to which an insurer must go to defend as to claims of the insured's alleged fraud. Most title company counsel advise their companies as to the peculiar circumstances of each case and there have been some embarrassing situations arise out of good faith efforts by the insurers to act with propriety under law and under contract. Have your trial court experiences been helpful to you in finding a firm policy in these matters?

Adopted Children

Mr. H. E. Tully, Assistant Vice President of Washington Title Insurance Company, Seattle, calls attention to two cases.

There is extant in the states a majority and minority rule as to a testator's intent concerning adopted children, when reference is made in a will to children. Title men have noted the question in various situations and that the courts have considered the application of statutes relative to adopted children in determining the status of such children where a will refers to children.



A recent appellate case in Washington adopts the majority view—excluding the adoption rules as to children and finding adversely to the adopted child as a remainderman, i.e., to take as a child of a deceased life tenant. **Trueax vs. Black**, 152 Washington, Dec. 49 (2/59).

Finality of Bankruptcy Orders

Mr. Tully also calls attention to **In re Tyne-American Steel vs. Venetucci**, 261 F 2d 249, involving a bankruptcy proceeding in the Seventh Circuit. In the case, the bankruptcy court permitted a state court foreclosure, which led to a sale to new persons as owners. The bankruptcy orders enabling the foreclosure became final early in 1956. The foreclosure decree was made in September, 1956. That decree acquired finality and redemption rights expired by January, 1958. Possession became an issue and the surprise was that the bankruptcy court permitted the bankrupt and his trustee to relitigate the 1955 orders lifting restraining orders and authorizing joinder of the trustee as a defendant in the foreclosure action. The Circuit Court affirmed the District Court order sustaining the 1955 orders.

For title men a continuing peril is the uncertainty as to the achievement of true finality of bankruptcy orders below the level of district court decisions. Particularly is this true as to abandonment orders, sales free and clear, and the wonderful assortment of orders made at the request of persons interested in a bankruptcy asset, without concern as to whether the title man can find therein a reliable base for title insurance.

U. S. Bound by Lien Statutes

Mr. Hiram E. Stonecipher, Vice President, Union Title Company, Indianapolis, reports on a December, 1958 case, A.S. 155 N.E. 2d 140.

The debtor corporation had property which was sold by the receiver and the United States under a judgment not docketed under the conformity statute claimed priority as to sale proceeds as against a regularly docketed judgment of the appellant in this case.

The United States claimed priority under the General Federal Statute 31 USCA 191, claiming that the broad and sweeping language of the statute was a clear command that debts due to the United States shall be first satisfied without regard to lien rights.

On appeal, after a trial court ruling for the United States, the appellate court reversed, holding that the United States is bound by the lien statutes of the state and that the broad language above referred to had reference only to general funds not committed to the payment of valid existing liens.

Value of Subrogation Rights

In *Lawyers Title Insurance Corporation vs. Bank of Fort Mill*, 167 F. Supp. 448 (Nov 58) the plaintiff utilized its policy subrogation rights, to the end that its own bonding carrier was able, via plaintiff, to recover on a bank endorsement appearing on a check given by plaintiff's insured lender, which check represented loan proceeds out of an insured loan that later proved worthless.

Seldom does a title insurer have occasion to resort to its subrogation rights in policy loss situations and the case illustrates the value of these rights.

Shelley & Kraemer

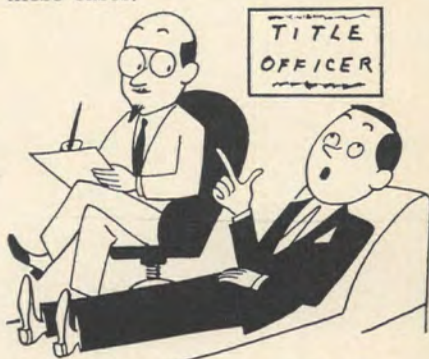
Land developers in their continuing effort to cope with *Shelley vs. Kraemer* have tried to use the private club or corporation membership method. Most states haven't had any cases ruling on the efficacy of this method.

The Florida Supreme Court, in April, 1959, held that *Shelley vs. Kraemer* and the Fourteenth Amendment precluded enforcement of a covenant that restricted land ownership to corporate members in a corporation restricted to white Gentiles.



By this time most counsel for the companies now know that the 9th Circuit Court has chosen to align itself with the Metropolitan case and that the 3rd Circuit Court has preferred the Boyd case. I have no new comment to make as to this situation. What need be said has been well said heretofore.

For title men these cases call for a renewed acquaintance with the geographical boundaries of the ten federal circuits outside of the Capitol. Many of us note the number of forthright and interesting U.S. D.C. decisions in this area and would like for some of the cases to be the ultimate firm rule, but there is plausible reluctance to base a definite practice on these cases.



I want to talk to you about
my brother

Report of Committee On Standard Forms of Title Insurance

At the time of the 1958 Annual Convention, Chairman Benjamin J. Henley, reported completion of the monumental task of developing a comprehensive report on standard forms of title insurance. Through oversight, it was not included in the summary of convention proceedings. Other members of the Committee are: H. E. Tully, Herman Berniker, Harold W. Beery, James G. Schmidt, Joseph S. Knapp, Jr., Melbourne L. Martin, Laurence J. Ptak, Frank I. Kennedy, Howard T. Tumilty, V. C. McNamee, A. E. Peterson, A. B. Wetherington and Richard H. Howlett. R. W. Jordan, Jr., deceased, was also a member.

Acting upon the suggestions of the Chairman of the Committee contained in the report made to the Richmond Convention in 1957, the Chairman of the Title Insurance Section appointed a somewhat larger committee for 1958, including representatives of title insurance companies distributed geographically, across the continent. Two objectives were in mind in this action. First, the production of an owners' policy form for approval by A.T.A. and second, the consideration of suggested changes in the A.T.A. loan policy.

Life Counsel suggestions

The adoption of this program was stimulated by a communication received during the Richmond Convention from Life Insurance Counsel acting through Messrs. E. F. Carrier, C. H. Bonin and Bernard Docherty. This communication to the Association included the following suggestions:

"Life Insurance Counsel, attending the Fifty-First Convention of American Title Association, at a meeting held today, Sunday, October 13th, 1957, discussed the following subjects and appointed Mr. E. F. Carrier, Mr. C. H. Bonin and Mr. Bernard Docherty as their representatives to bring such subjects before the convention for its consideration:

"1. Adoption by American Title Association of a form of owners' policy which would insure marketability of title.

"2. Amendment of the A.T.A. form of policy so as to provide that any payments made by the company which do not reduce the original debt secured by the mortgage insured, shall not effect a pro tanto reduction of the Company's liability thereunder.

"3. Amendment of the A.T.A. form of policy so as to provide that, without obtaining the Company's consent, the insured may agree to a partial release of the security.

"4. Amendment of the A.T.A. form of policy so as to provide for insurance against violation of zoning laws, this however subject to the stipulation that said coverage shall be with respect to loans on income producing properties; and further that it be limited to new construction.

"5. On VA-FHA paper or any mortgage paper where a governmental guaranty is involved, it is suggested consideration be given to coverage, within the framework of the A.T.A. form, against any downward revision by the Federal instrumentality of payment by it, under the terms of its guaranty, by reason of a breach of restrictions."

A meeting of the Committee was held at Memphis on February 9th of this year to consider the procedure which should be followed in the consideration of the matters before the Committee. Both the preparation of an owners' form and the revision of the loan form were discussed. Discussion occurred also of various features

which should be considered in both forms.

Owners Policy Subcommittee

For the draftsmanship of an owners' policy the Committee determined that the Chairman should appoint a sub-committee composed of the Chairman and four members. This sub-committee was instructed to draft the proposed policy and submit such drafts to the full Committee for its consideration. In drafting the form, the sub-committee was given the following instructions:

1. The proposed policy should be designed to cover the interest of an owner, lessee or life estate, but not designed so that in the alternative it could be used to insure a lender.

2. That two forms should be prepared, one affording insurance covering marketability of title and the other not offering such insurance.

3. That all exceptions to coverage be contained in Schedule B and not incorporated in the conditions and stipulations of the policy as is now the usual practice.

4. That the policy should not be a full coverage policy but should contain standard exceptions from coverage in Schedule B, with the understanding that individual companies using such policy could, under proper conditions eliminate some of these standard exceptions and still be entitled to refer to the policy as the A.T.A. standard owners' policy.

5. That the policy should by its terms be not assignable.

Carrying out the program outlined by the Committee, a sub-committee was appointed consisting of James G. Schmidt, Senior Vice President of Commonwealth Land Title Insurance Company of Philadelphia, R. W. Jordan, Jr., Senior Vice President and Counsel of Lawyers Title Insurance Company of Richmond, A. E. Peterson, Vice President of Chicago Title and Trust Company and Richard H. Howlett, Vice President and Senior Title Officer of Title Insurance and Trust Company of Los Angeles.

The sub-committee, following its appointment, made an extended study

of the problems presented. Each member, exclusive of the Chairman, prepared a proposed form of owners' policy for consideration. There was a liberal exchange of views by correspondence. The differences in policy drafts was such that it was deemed expedient to hold a meeting of the sub-committee for a face to face exchange of views.

This meeting convened at Seattle on last Saturday, September 20th and continued on Sunday and Monday following. Unfortunately the illness of Buck Jordan prevented his participation. However, he was represented at the meeting by Hart McKillop so that a full committee was in effect present and participated in the discussions.

When the sub-committee meeting convened first consideration was given to two provisions contained in the instructions. First that there be two policy forms — one insuring against loss resulting from unmarketability of title and the other excluding such coverage; and second that the forms be not full coverage forms, but that they include standard exceptions from coverage in Schedule B, with the understanding that individual companies using the policies could under proper conditions eliminate some of these standard exceptions and still be entitled to refer to the policy form as A.T.A. Standard.

I am sure that we would all prefer that the practice with regard to insurance against loss resulting from unmarketability of title should be uniform in all States. However, because of local title conditions in some localities this is impossible. Therefore it will be necessary, if any measure of standardization is to be accomplished, to have two approved policy forms one of which will include such insurance and the other of which will not.

Standard exceptions now used in different parts of the country are more in the nature of exclusions from coverage than exceptions to title. It is the conclusion of the sub-committee that these exclusions cannot be uniform in all areas because of differences in physical conditions

such as tide and submerged lands in some states, mining claims and mineral and oil rights in others and similar matters in others, and also because of the differences in State laws, such as those affecting mechanic's liens, public improvement assessment liens, water rights, community property and dower rights.

Recommendations

The subcommittee therefore recommends that geographical areas in which these general exclusions are or can be identical should be grouped into zones and standard exclusions should be approved for each of such zones, so that the A.T.A. owners' policy for each zone will be that which contains the particular exclusions that are necessary to provide appropriate coverage in such zone. Both the areas in question, and the scope and language of the general exclusions will have to be worked out by the committee with local groups. For instance, the areas might be based upon those of the present regional districts, and most of the exclusions might be those most generally now used in the particular district. It is suggested that these exclusions shall be printed in a separate part of Schedule B which could be designated as either Part One or Part Two of that Schedule.

The other Part of Schedule B will provide the place for typing of the special exceptions to which the particular title may be subject.

If this procedure is to be followed there will be several standard forms of A.T.A. owners' policy each of which will be designated as the A.T.A. owners' policy for its particular zone, and would carry that designation, i.e., A.T.A. Owners' Policy Zone A, or Zone B, as the case might be. The only difference between the several policies would be in the insurance or non-insurance against loss resulting from unmarketability and the difference in the printed exclusions. The contract of insurance and the stipulations in all of them would probably be identical.

It will be the recommendation of the committee that each company be permitted to change the format and

arrangement of the form and the various schedules and parts so long as no change is made in the substance of the policy and still carry the designation of A.T.A. Owners' Policy.

The sub-committee has agreed upon a form of policy for consideration of the Standard Forms committee as a whole. It is hoped that this form will be ready for distribution to the members of the committee within the next few weeks, and that the committee can meet for action upon the recommendations of the sub-committee at the time of the Mid-Winter Meeting in 1959. If a final decision can be made at that time it is hoped that the proposed policy or policies can be submitted to the 1959 convention of the Association for final approval. This procedure will provide the opportunity for full discussion of the forms by members of the committee and will likewise give our good friends Life Insurance Counsel the chance to consider our program and give us their views before the forms are presented for final action.

The Committee considered the 1957 suggestions of Life Insurance Counsel for modification of the A.T.A. standard loan policy form, and recommends that the following action be taken:

1. That the sentence in paragraph 8 of the conditions and stipulations providing that payments on losses under the policy shall reduce the amount of insurance shall be changed to read as follows:

"All payments under this policy, other than such as are made to satisfy or subordinate liens or encumbrances hereby insured against, shall reduce the amount of insurance pro tanto****"

2. That the first clause of paragraph 5 of the conditions and stipulations be modified to include a partial release provision substantially as follows:

"Whenever the Company shall have settled a claim under this policy all right of subrogation shall vest in the company unaffected by any act of the insured except that the insured may (a) release or substitute the personal liability of any debtor or extend or

otherwise modify the terms of payments, or (b) release from the lien of the mortgage or deed of trust insured hereby part or parts of the security for said indebtedness, provided, the value of the land released does not exceed 10% of the value of the land described or referred to in Schedule A hereof, without the consent of the company.

3. That insurance as to zoning cannot be made available as a standard coverage. That this insurance can be provided only in specific instances by affirmative coverage.

4. That insurance relating to conformity to government regulations of F.H.A. insurance or V.A. guaranty are not a proper subject matter for title insurance coverage. It is the view of the sub-committee that the A.T.A. Loan Policy form does not now include such coverage, and that no attempt should be made to include it in title insurance policies.

Action Postponed

Final action on the suggested changes in the loan policy were postponed, at least, until the Mid-Winter meeting so that they too can be discussed further with Life Insurance Counsel. In drafting the suggested form of owners' policy the sub-committee has relied extensively upon the stipulations and conditions of the A.T.A. loan policy for a pattern. It is the recommendation of the committee that when the drafting of the owners' policy forms has been completed and it has been approved a further study of the loan policy form shall be made and that so far as is consistent with the respective coverages that the two forms be made identical. This is particularly desirable as to the insurance contract and conditions and stipulations.

In concluding I must express to the members of the sub-committee including Buck Jordan, my thanks and yours for their very considerable contribution of time, and their understanding approach to the problems involved in development of an owners' policy form.

In Memoriam



Kansas Titleman Dies

Notice was received of the death of Charles Hall, vice-president of the Hall Abstract and Title Company, Hutchinson, Kansas. Mr. Hall passed away on April 29.

Ex-President Lindow's Wife Passes Away

Mrs. Edwin H. Lindow, wife of A.T.A.'s past president, died March 26 in her home 7143 South Riverside Avenue, Detroit. She had been ill for several months.

Death Comes to A.T.A. Member

Fellow members mourn the loss of Mr. Harley Fremont Thompson, a practicing attorney in Kinsley, Kansas for almost 50 years, who passed away May 16 at the age of 69.

Mrs. H. Clarence (Mary) Gerke

It was announced by Don B. Nichols, Secretary of the Illinois Title Association, that Mrs. H. Clarence Gerke, of Edwardsville, Illinois, died on Monday, May 18th following surgery at Barnes Hospital in St. Louis.



**IN THE
ASSOCIATION
SPOTLIGHT**

Phoenix Title Company Sold To Coast Firm

The Phoenix Title and Trust Company, was sold May 15 to the Transamerica Corporation. The multimillion dollar transaction is reportedly one of the largest deals of its kind ever completed in Arizona.

Transamerica, with home offices in San Francisco, is primarily an insurance holding company. It has total capital of more than \$184 million and 117,000 stockholders.

The sale also includes Phoenix Title's branches in Tucson, Yuma, Mesa, Scottsdale, and Bisbee. The firm also has associated companies in all the state's 14 counties.

Charles W. Mickle, president of Phoenix Title, said he will remain with the firm as president. He said Transamerica has announced it will continue in every respect with the present management and all personnel and policies. The Title Company has more than 500 employees.

The firm's annual report for 1958 listed the company's assets at \$11 million and book net worth at \$4 million.

82-Year-Old Abstract Firm Takes Advantage of Birthday

The Shepard Abstract Company, Mason City, Iowa, capitalized on its 82 years of continuous service to the community by combining dramatic advertisements with publicity releases and feature articles. Emphasizing the

complexities of the public record, the painstaking care with which transactions are recorded, and the financial stability of the company, the public was invited to visit the abstract offices for a personal tour of the plant. We need more of this!

Villanova Project

Pursuant to instructions received from the Board of Governors, the Villanova Project Committee met with faculty members from the University to outline methods of gathering necessary information, and to discuss programming, costs, format, and other details of the project.

Committee Chairman, Gordon M. Burlingame, has reported that, as of May 18, subscriptions aggregating \$9,795.95 have been received from individual members. Those present at the meeting were enthusiastic about the selection of Directors from Villanova University who will participate in the preparation of the treatise, which will be copy-righted in the name of the American Title Association.

The target date for completion of the work is September 30, 1960, but it is hoped that one of the Directors will report to the general membership at the time of the Annual Convention on the progress of the project. Distribution of copies will be handled by the Association office in Detroit.

Members of the Villanova Project Committee are: William H. Deatly, Thomas P. Dowd, Harold A. Lenicheck, Lawrence R. Zerfing, and Harold F. McLeran.

"Mister Title" Abdicates His Throne

It was with mixed emotions that the Association staff and other members of the title industry learned that William Gill, Sr. had resigned as president and director of the American-First Title & Trust Company to assume his duties as president of the new multi-million dollar Great Western Business Investment Company. It goes without saying that we shall all miss his vitality, his good judgment, and his counsel in industry affairs, and that we wish him the greatest success in his new position.

In order to avoid having this sound like an epitaph, we are repeating the two announcements of his resignation and selection as president of the new corporation that were carried in the Oklahoma City newspapers:

'No. One Title Man' Resigns

William Gill, Sr.

To Step Down At Trust Firm

William Gill, Sr., Wednesday announced his resignation as president and director of the American-First Title & Trust Co. of Oklahoma City.

Gill will terminate his job May 15, ending 34 years association with the state's largest title and trust firm.

The prominent civic leader did not announce his plans for the future, but speculation is that he will become associated with a large investment firm here.

"I am considering an offer to become associated with an Oklahoma company, but I am not at liberty to name or divulge the nature of its activity at present," was all Gill would say on the matter.

A special meeting of the American-First board of directors has been called for Thursday afternoon to select a successor.

After a successor is named and business is squared away, "The first thing I want to do is enjoy a Gulf coast fishing trip, after which I will announce future plans," Gill said.

One of Oklahoma City's bestliked businessmen and most active civic leaders, Gill joined the company on January 15, 1925, as a clerk-typist, when the firm was known as American National Company.

He rose in succession to assistant vice-president, vice-president and executive vice-president. On July 1, 1953, he was elected president to succeed the late General Raymond McLain.



WILLIAM GILL, SR.

A native of Pottawatomie county and long-time Atoka resident, Gill served as president of the American Title Association in 1937-38 and was at one time president of the Oklahoma Real Estate Association.

His greatest honor in his profession came in 1950 when he was named "America's No. One Title Man" by the American Title Association. It was the only time the award was ever given.

His book on "Land Titles" is in use at Oklahoma City University, Okla-

homa State University and the University of Oklahoma.

Active in the Oklahoma City chamber of commerce, he spent much of his civic efforts in behalf of 4-H Clubs and FFA and was honored with a life membership in both groups.

Regarding his civic endeavors, Gill said Wednesday "I will continue to participate in community affairs, because I believe it to be a good citizenship responsibility.

"Far too many of our good people are content to let the other fellow help build a better community and reap the benefits from efforts other than their own," he declared.

Gill Heads New Firm

Company to Boost New Developments

William Gill, Sr., 34-year veteran in the title field, Tuesday was named president of the new multi-million dollar Great Western Business Investment Company which is preparing to play a major role in Oklahoma real estate and commercial development.

Announcement came after the first meeting of Great Western directors, ending informed rumors that Gill was the executive choice.

Observers had expected his selection, after Gill resigned as president and director of the American-First Title and Trust Company coincident with announcements that the unique new firm was negotiating with a man of top stature in financial circles.

Other officers elected are John J. Griffin, secretary, and Jean I. Everest, treasurer. Both will also function as vice presidents, along with B.D. Eddie, Sylvanus G. Felix, S. N. Goldman, Guy H. James, John E. Kirkpatrick, Dean A. McGee and R. A. Young.

The officers also form the board of the directors, and include all of the stockholders of the new corporation. No stock issues are involved in the plans to transfuse money into hitherto impossible developments.

Starting with an authorized capital of \$1 million, Great Western commands credit up to an estimated \$12

million, which in turn could release as high as \$60 million for projects throughout the state, directors have explained.

Immediate projects were not designated. However, in an acceptance statement, Gill indicated the potentiality of "strip cities" growing up along major highways as among ventures drawing close attention.

He noted numerous promising projects are now being by-passed because banks, real estate companies and other organizations cannot accept them, hampered either by lack of capital or legal restrictions.

He said the new investment company will bridge that gap in Oklahoma's financial picture.

The rise of Oklahoma as a center for scientific education and home-grown research contributes to bright future for new and expanded Oklahoma industry, Gill added.

At 67, Gill thus enters on a new phase of an already wide ranging career. Born in Tecumseh, Oklahoma Territory, he started as a county court reporter at Atoka, entered the abstract business here on his own in 1923, and wound up in 1947 as president of the American-First.

New Officers for Abstract and Title Guaranty Company

At a meeting of the board of directors of the Abstract & Title Guaranty Company, Detroit, Michigan, Thomas P. Dowd, vice-chairman of A.T.A.'s Title Insurance Section, was elected president, and Frank I. Kennedy, the Association's president in 1948-1949, was elected chairman of the board.

The board also appointed three new assistant secretaries: James R. Bolin, legal department; Frank Dowd, escrow department; and Earl Reed, manager of the abstract department.



Thos. P. Dowd

A native of Detroit, Thomas Dowd is a graduate of the University of Detroit Literature and Law School. He started with the Abstract & Title Guaranty Company in 1923, and has been vice president and secretary since 1944. He is a member of the Michigan State and Detroit Bar Associations and the Birmingham Country Club.

Also a native of Detroit, Frank I. Kennedy graduated from the U. of Detroit Literature and Law School.

He became counsel for the company in 1928 and president in 1933. He is a member of the Michigan State and Detroit Bar Associations, as well as the American Bar Association and is past president of the Michigan Title Association. Kennedy served as a U.S. Army Colonel in the European theatre during World War II.



Frank Kennedy

New construction lending by savings and loan associations approached \$1 billion in the first quarter of 1959, roughly 30 per cent above the comparable 1958 figure, according to the United States Savings and Loan League.



**"OF COURSE I WANT IT TODAY.
IF I WANTED IT TOMORROW,
I'D GIVE IT TO YOU TOMORROW!"**

Looking Forward To Seeing You In New York



A.T.A. Annual Convention, October 19-22



meeting timetable

June 8-12, 1959

National Association of Insurance Commissioners
Statler Hilton Hotel
Boston, Massachusetts

June 10-12, 1959

Illinois Title Association (52nd Annual)
Drake Hotel
Chicago, Illinois

June 12, 13, 1959

South Dakota Title Association
Lawler Hotel
Mitchell, South Dakota

June 17-20, 1959

Oregon Land Title Association
Timberline Lodge
Timberline, Oregon

June 25-27, 1959

Colorado Title Association
Hotel Colorado
Glenwood Springs, Colorado

June 27, 28, 1959

Idaho Land Title Association
Shore Lodge
McCall, Idaho

June 28-30, 1959

Michigan Title Association
Belvedere Hotel
Charlevoix, Michigan

July 10-13, 1959

New York State Title Association
Saranac Inn
Adirondacks

September 11, 12, 1959

Kansas Title Association
Town House Hotel
Kansas City, Kansas

September 13-15, 1959

Ohio Title Association
Hotel Carter
Cleveland, Ohio

September 20-22, 1959

Missouri Title Association
Conner Hotel
Joplin, Missouri

September 21-24, 1959

Mortgage Bankers Association
Hotel Commodore
New York, New York

September 27-29, 1959

Nebraska Title Association
Town House
Omaha, Nebraska

October 2-4, 1959

Washington Land Title Association
Harrison Hot Springs Hotel
British Columbia

October 19-22, 1959

American Title Association Annual
Commodore Hotel
New York, New York

(New York State Title Assn., October 20, 1959.) (One day meeting in conjunction with ATA Convention.)

November 9, 10, 1959

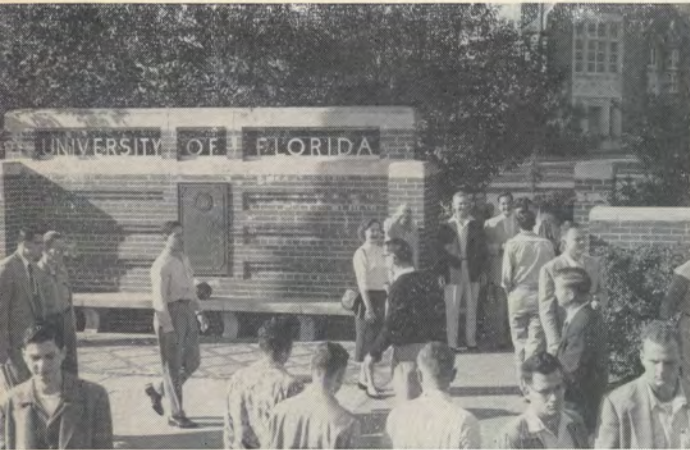
Indiana Title Association
Lincoln Hotel
Indianapolis, Indiana

November 12, 13, 14, 1959

Florida Land Title Association
Fort Harrison Hotel
Clearwater, Florida

You Should Have Seen T

Florida Land Title Association
In History Making University
Course for Abstracters



eir Faces



They came to the University Campus at Gainesville, Florida, these abstracters, clerks, and managers, expecting they knew not what. Most of them had never attended a state or national convention. They came with doubt and reservation; they stayed to learn; and they left with reluctance. Highlights of the two-day course of instruction included a comprehensive outline of Standard Abstracting by Morton McDonald, a Public Relations panel under the direction of James Robinson, a discussion of Escrows, by James Chace, a discourse on the Liability of Abstracting, by James W. Day, a Title Insurance Panel, led by Hart McKillop, a luncheon talk on "The Personal Touch," by A.T.A.'s Director of Public Relations, and a dynamic, challenging address by Dr. Frank Goodwin, Professor of Marketing.





Alvin R. Robin, Jr., president of the Florida Land Title Association is welcomed by Dr. Harry M. Philpott, Vice President, University of Florida.

The first Florida Land Title Association Conference was held on the campus of the University of Florida, Gainesville. The conference was conducted by the General Extension Division of Florida and the University's College of Business Administration. It was sponsored by the Florida Land Title Association.

The theme of the meeting was "Public Relations." The program was designed to help personnel of Florida Land Title Companies develop a broader understanding of the problems involved in better public relations. In addition, operational problems, such as mechanics' liens, escrows, chancery proceedings, etc., were discussed.

Expecting at the most 60 employees to register for this first experiment in abstracting education at the university level, the program planners were amazed and delighted to find 102 titlemen present for the lectures and panel discussions. Following the meetings, 90 of those in attendance expressed the hope that another such program would be planned for the near future. 65 of them said that it provided the kind of experience that could be applied to their own situations, and 36 declared that it was one of the most rewarding experiences they had ever had. Typical of their comments were:

I received great benefits from the conference.

I feel inspired to better serve my employer and its clients.

Future programs along the same lines as this program was planned would be beneficial and appreciated — enjoyed it very much.

I would like to see the course become an annual affair of the Florida Land Title Association.

Speaking from the standpoint of a title company chief executive, I am most pleased with the sessions.

Personally, I took back some new ideas and a better understanding of the word "Service."

It was a great experiment that warrants annual participation.

As a representative of management, it was my intention to audit this course to see whether it would be worthwhile for my employees. It was!

As we said, they came with doubts in their hearts and scepticism on their faces. But you should have seen them before the evening of the first day's session was over.

Many of the speeches will be reprinted in future issues of TITLE NEWS.



SUMMARY OF DISCUSSIONS

MID-WINTER CONFERENCE—1959



ABSTRACTERS SECTION

The meeting of the Abstracters Section of the American Title Association convened in the Roosevelt Hotel, New Orleans, Louisiana at 2:00 o'clock, February 19, 1959, Mr. Arthur Reppert, Chairman of the Abstracters Section, presiding.

Mr. Reppert reported that at the Executive Committee Meeting and the Board of Governors meeting the previous day, a contribution to Villanova University had been considered and at the suggestion of those Abstracters present, the resolution authorizing the subscription of ATA funds for the purpose of supporting the proposed study of state regulations be amended to include Abstract License Laws in the various states. "The Board of Governors," he said, "voted to increase the budget in order to accomplish this." The first subject under discussion was that of title plants and photography. Mr. Morton McDonald, Jr., of Florida, raised the question whether or not the National Association had ever published material concerning the advantages and disadvantages of geographic systems. Mr. Zerwick, of Wisconsin, Chairman of the Committee on Title Plants and Photography, invited all those present to meet in the same room following the formal program for an exchange of information concerning title plant systems. Mr. Zerwick also reviewed the report of his committee, based upon the questionnaire which had been dissiminated last year. Mr. McDonald, Sr., was questioned about his experience with a new kind of typewriter and he discussed at some length the merits of the Remington-Rand Automatic Typewriter and the Friden Automatic Typewriter. The suggestion was made by Mr. William Jackson, of Oklahoma that exhibitors at an Annual or Mid-Winter Meeting contributed much to the modern thinking of the abstracters who attended. In describing the experience within his own title plant, Mr. Reppert stated that the purchase of two electric typewriters had been instrumental in saving a considerable sum of money in labor costs. Mr. Snyder, of Missouri, described the photostatic process established by his firm in 1951 for a daily take-off. He went on to say, "the County Assessor in the

old days used to send a girl over to the Recorder's Office and have her make a short take-off of the instruments that were filed every day so they could make their assessment change on the books. So, I talked to the Assessor and asked him if he wouldn't like to save some money. He did say he was interested in saving money. After we make our general take-off, then we go through all of the instruments filed that day and pull the warranty deeds out and make a positive copy of the warranty deed and sell that to the Assessor for his take-off. If there are eighty warranty deeds in a day, you can probably reproduce all of them in an hour and a half and you have a complete take-off for his assessment purposes. This is the only contract we have other than the general public walking in the door." Mr. Snyder, added that the cost of reproduction of positive copies is approximately 6c a sheet.

At this point Mr. Joseph Smith, Executive Secretary of the ATA, told those present that the same questions of modern improvements in title plant maintenance were being discussed in a different room by the Title Insurance Section.

The members then turned their attention to the all important subject "What Will the Abstract Business be Like 10 Years From Now." The discussion that followed indicated that, in spite of a definite trend toward the sale of Title Insurance, abstract making still has a definite place in the title industry. Typical of the thinking of those present were the following remarks from Mr. William Gill, of Oklahoma City, Oklahoma. "I think the first thing we must keep in mind is that the public is going to dictate the title evidence you furnish, whether you like it or you don't like it. When I was chairman of the Abstract Section I preached and I have preached it ever since that if I were

an independent abstractor, the first thing I would do would be to make a title insurance connection and I would build a plant which I could work from, if and when the time ever comes that you are going to have to go to title insurance.

"Now, you ladies and gentlemen know as well as I know that the trend is toward title insurance. How much longer that trend will be I don't know, but you mustn't ever forget that the public eventually is going to tell you what type of title insurance they want. If you are equipped to furnish them what they want, I don't think you have anything to worry about. If you are not equipped to give them what they want, than you are going to be in a bad fix.

"Now, getting to this question of organizing our own title insurance company. I will drop you a thought on which to think about. My company has capital assets of about a million and a half dollars. We have a limit placed on us by two big life insurance companies of \$200,000.00. That is all they take our policy for. Most of them will take it for \$600,000.00 which is the limit which we will write. The title companies that have capital assets of a half million dollars, they have limitations of \$25,000.00 and \$50,000.00 put on them. When you talk about forming a title insurance company, you are going to have to have a strong enough capital structure to make it attractive to the eastern investors. You are going to have a period of successful operation before the investor will take the new policies.

"The only solution I know is, like I said, make your connections so you will be prepared. I wouldn't worry about it too much. We make both. If they want abstracts, they can have them. In Oklahoma, ninety-nine percent of our deals are based on the abstracts. Title insurance is the additional protection, but the public is going to tell you eventually what to do, Ladies and Gentlemen, and that is what you are going to have to do. I would equip myself to give the

public whatever it wants, because that is what you are going to have to do."

Further comment was made regarding re-insurance treaties among small and medium sized companies. Also, pertinent to the question were the remarks of Mr. Charles Adams, of Lubbock, Texas. "Back to our original question here, what does the future look like, I think that we are going to find that the county abstractor is pretty well entrenched. He is required by the public and as long as he functions efficiently and gives the public what they want he is going to stay. We talk about the trend to title insurance. It is certainly coming in our state. State Highway Department requires title insurance on all performance since they have started participating in the ventures of right-of-way even on the state roads, as well as, the Federal system. We find in some counties the state is unable to buy title insurance, because the local abstractor is so non-aggressive that he doesn't want to fool with it. He feels that is not worthwhile. That is the man—if any business ever originates in his county that amounts to anything—who is going to lose out and some title company will come in. In our city we have some very aggressive competitors and we have had no title insurance companies interested in coming in, even though there have been plants for sale, because the abstractors in our town are on the ball, much to my discomfort. I try to stay there with them, but I believe that so long as that situation exists that the local abstractor will get out and try to meet the demands of the public, then ten years from now he is going to be there and be there strong."

Deep concern was expressed over the title insurance activities sponsored and operated by Attorneys and how it will effect the abstractor.

Particular reference was made to the Bar Association operated title insurance company in the state of Florida. Even though recognizing the ever growing extent of competition from the lawyer operated title insur-

ance group, Mr. Alvin Robin, President of the Florida Land Title Association, had this to say: "The legitimate business in Florida flourished before, but the fund is definitely becoming a competitive force, and we can no longer ignore it and stick our heads in the sand. It is there and it is annoying and I think it is going to get worse before it gets better." Mr. Robin went on to say that during ceremonies of the Bar Association in Orlando, Florida the statement was made that there were 2,200 members in Florida. Serious doubt was expressed as to the ethics of attorney owned and operated title companies.

President Loebbecke, was asked for a statement and he responded as follows: "I am intrigued as I always am by the intense interest you people show in the activities of our organization. I am going to come right out and say something that I have said to the Executive Committee and to the Board of Governors that I have said to the committees that have worked on the problem, that I hope we will all continue to work in the direction of bringing every member of our industry closer together in the solution of our problems by being more of **one** organization. I think only by taking steps to keep our industry closely knit by working on each other's problems can we make this industry grow. Maybe we have too many people who like to think that government can do it better than industry can. I have a feeling that I find hard to overcome that the greatest danger we have is not from within the ranks of our own industry but, as in many other kinds of business, the greatest danger we have facing us is the intervention on the part of government. I think we have a second case out in the west that you have had to some degree in the east and it is disturbing me. That is the fact that lending institutions are buying title companies. This is a controlled business situation. As a business man you don't like to lose business because it is controlled by someone else, but this doesn't disturb me. We have met the competition and got along.

What does disturb me, at least one case the title company so controlled, because of the way it was operated in my judgment, is now facing bankruptcy, and of course I think for any title company to go broke is inexcusable. It is poor management and its only because someone's selfish interest in another direction led to the destruction of the principles that make the title industry sound. When you get a lot more money for a loan fee than you do for the examination of the title there is sometimes a strong tendency to get the people to do things in conjunction with the title, just so you can earn the loan fee. Ladies and gentlemen, we have an industry. If people are going to tax us, if they are going to legislate us out of business, they don't need help from us to get ideas how to do it. What you people are doing here, what is done at these Mid-Winter Meeting where we get together and talk about our problems and get them out on the floor and put the best minds we have in the industry in solving them is the way we are going to make the industry go, not to be afraid that our legislators or governmental official may hear of what we were talking about and get a new idea to some way cause us trouble. I am as you might guess a free enterpriser and I don't care if it is a title insurance office or an abstract office, it is still free enterprise, and I for one think that we ought to spend our efforts in improving our industry. We are justified in existing and making sure that we travel together in the best direction.

Based upon a general discussion of the possibility of establishing minimum standards of underwriting Mr. Ruummele offered the following resolution:

"Be it resolved that the Abstract Section requests of the Title Insurance Section some statement of minimum underwriting standards."

SECONDED AND UNANIMOUSLY ADOPTED.

Meeting adjourned at 4:00 p.m.

Title Insurance Section

The Title Insurance Section Meeting of the 1959 Mid-Winter Conference of the American Title Association convened in the Roosevelt Hotel, New Orleans, Louisiana, at 1:30 o'clock, February 20, 1959. Mr. George Rawlings, Chairman of the Section presiding.

Before opening the meeting to general discussion Chairman Rawlings, gave a brief summary of the action of the Executive Committee. He reported that the Life Insurance Counsel had requested that the National Association make available the names of companies that have re-insurance agreements and also requested that copies of the agreements be made available. After considerable discussion and based upon the recommendation of the Board of Governors, it was decided that the President, Mr. Loebbecke, should discuss in more detail with the Life Insurance Counsel the mechanics of providing the needed information.

He said:

"Another question which had been presented by the Life Insurance Counsel concerned steps which could be taken by Title Companies with respect to furnishing information on cases where condemnation proceedings had been instituted on property on which they have a lien. It was stated that there is no way to get this information except by going on the ground, and a surveyor is the logical one to develop such information. Now, if the life companies, under the circumstances want a local office of a company to develop that information through a surveyor I am sure they will be happy to do it, but you can't avoid the cost of a surveyor in that connection."

Mr. Rawlings asked for an expression of opinion from among those present concerning the following communication he had received from a member.

For discussion at the Mid-Winter Conference I submit the following: "What will the present local abstract-

ers title office be 10 years from now? Will it still be a locally owned abstract office? Will it be a branch office of a title insurance company? Will it be owned by a title insurance company? Will the business of title evidence be operated by state or nation, with the title company perhaps operating through the local attorneys offices? What is the future of the locally owned title office?"

Many of the members responded to this question. Typical of the remarks were those of Mr. Robert Stockwell, of Indianapolis, Indiana, and Mr. Mark Eggertsen, of Salt Lake City, Utah. Mr. Stockwell said, "I don't have any crystal ball. The only thing I have is about twenty-five years of experience out in Indiana, talking to some one hundred forty or fifty of these so-called local abstracters. I can see in that question an innate fear which has seemed to have gripped the abstracter, and perpetually so, and I think it is a common fear.

"I believe that I can give that local abstracter every assurance in the world that he has something that is exceedingly essential; that he can feel there is a great element of security in his position.

"Of course, we have seen many instances of large title insurance companies buying local abstracters. The only thing I can tell you about the efficiency of that sort of operation is from my own personal experience—and I believe those experiences, if they were analyzed in a good many places, would be found to be rather common experiences—that is, for a large company to go into the smaller localities and purchase abstract plants in an effort to be in a position to

obtain the necessary search work of the public records is not basically in itself a feasible, nor a profitable operation.

"The local abstractor is a man who is recognized in his community. It is surprising how any community will take such a local abstractor to their hearts and protect him, even though someone else comes in and builds a much better plant and puts out a much better product, and in a general sense, does a better job. I am saying this from experience, because our company has gone in fifteen or twenty years ago and bought out a number of localities that were originally plants. Everyone of those that we bought, we lost money on for a good many years. We found that the local people were exceedingly loyal to their own people, to their own local abstractor.

"We believe that the abstracting business is one for a local man to conduct and operate; and the business of the title insurance company is to in every way possible help him improve his facilities, to improve in any way possible his business, and certainly, the title insurance cannot be written without a search of the public records—which, again, is the function of the local abstractor."

Mr. Eggertsen said, "I think I can speak for the typical abstractor who represents a title insurance underwriter. I believe we small abstractors will continue to be in business—and mainly because the percentage of the premiums we collect and bear all the expense of creating the finished product leaves not too much of a margin of profit to the local man, but the profit that goes to the underwriter is about equivalent to what that underwriter could expect if he bought us out and ran the show for us.

"In a nut shell, that sums up my opinion. I think that the profit that the underwriting companies are getting now from the abstractor agents is almost equivalent to what they would get if they assumed the entire responsibility; and they have the benefit of the loyalty we build up in the community and the support we have in the community. And if we

do our job right, I think they are going to continue to provide this facility, of which I am most appreciative. It has been a most wonderful thing to the abstractors in Utah who represent a number of national title insurance companies, because they have made it possible to put us in the title insurance business, and thereby raise our position in the community. They practically look upon us as title insurance people, the same as you men who are actually underwriters."

Chairman Rawlins added, "We have found in our experience—and we have taken over some local operations—that, invariably, it costs us more money to conduct that operation than if locally owned. For some reason or other, they think they are operating for a foreign corporation that has a few dollars, and that when five o'clock comes, regardless of how much business is in the shop, they should go home.

"But if the abstractor owns that operation, they probably would be there working till six or seven o'clock, with possibly their wives and daughters helping them to do it. The same kind of incentive is not there, and therefore, a local operation, I think, is a more economical operation.

"On the other hand, I think these questions are really pointed at this: are the title insurance companies, whether national, statewide, or what not, going to come in and absorb the local abstract office, or do without them?

"Well, I just don't know, as time goes on. I'm telling you, competition is teaching us a lot of things. But I say this: that the local abstractor must recognize there is a fast-changing condition in title evidencing. If he thinks he can just continue to furnish abstracts like he did, or his father before him, and ignore the progress of title insurance, then one way or another he is going to find himself in a difficult situation.

"I have used this illustration before. Some of you are as old as I am and can remember when there was a dairy and a bakery in every town. And we see them now where they are few and far between. They have been

taken over by statewide or regional operations of a dairy or bakery.

"But there are still some of those dairies and bakeries that modernized their own operation, putting in the latest refrigeration and trucking facilities, and furnishing the proper service to meet the changing conditions; and they are still in business and doing well.

"I think that is comparable to the abstracter's situation. To the abstracter who is going to sit down and say, 'I'm going to just furnish abstracts, regardless of anything else,' he is going to find sooner or later he is going to be left behind.

"If he is willing to meet the changing conditions and do what is necessary—I don't know what it is, I am not that smart—but if he is alert to meet these changing conditions, he will always get along all right."

Chairman Rawlings then lead a discussion concerning ATA Mortgage Policies and the protection afforded against boundary line difficulties. The question arose as to whether or not the policy was affirmative with respect to boundaries. Mr. Benjamin Henley, of the California Pacific Title Insurance Company, San Francisco, California, made the following statement on that point. "I don't agree that there is no affirmative insurance in the ATA policy on boundary line matters. The policy insures against loss developing from unmarketability of property. If encroachment is such as to take it outside the rule, then the title is unmarketable. Therefore, you have affirmatively insured that the title is free of encroachments, at least. I don't think, in order to create affirmative insurance, you have to spell out everything that you insure against. If you tried to do that, you would have to have a dictionary.

"I think wherever in a contract you agree that a certain result will be occasioned by your contract, that is an affirmative agreement, and the title insurance policy is affirmative. If the legal effect, cloaked in the language we use, is affirmative, then the legal effect is clear.

"It seems to me that is clear as to practically all of these ATA policies;

and it is not the intention, either in the proposed standard owners' forms that we are now discussing, or in the ATA policy, to try to specifically state each instance in which the insurance is affirmative. The general language is affirmative, and it gives affirmative insurance to any condition which comes within the scope of the language."

The next question introduced concerned the basic policies of the various title insurance companies in the handling of exceptions for mortgages in cases where there has been a violation of restrictive covenants and also encroachments over public utility easement. A very comprehensive discussion of the whole subject of uniformity of practice followed. Reference was made to the Uniform Practices Committee of the California Land Title Association and the excellent job which has been done in that state in establishing standard practices. The thought was introduced that, while the benefits of the so-called "Villanova Project" would be considerable, an even more worthwhile activity of the National Association might well be the establishment of a committee for the purpose of recommending uniform practices and procedures. Clarification was asked of the meaning of the term "full coverage policy." Chairman Rawlings said, "I would be entirely willing if you think well of it to undertake to designate a committee to make a nationwide study and survey. With the idea of presenting from that study or survey what would be a standard practice."

President Loebbecke made the following announcement: "I would like to report to you one thing: the Board of Governors asked me to discuss with Life Counsel their recommendation that the American Title Association have the title insurance companies place in the American Title Association's office in Detroit a record of their re-insurance arrangements and copies of their re-insurance contracts.

"The purpose of this is so when life counsel is looking at a certain company and they may have them re-

stricted to say \$100,000, if a deal comes along with \$200,000, they will know they have adequate and sufficient re-insurance with the proper reinsurance agreement, so that they can accept that policy on the \$200,000 deal.

"Your Board of Governors felt that this was not very feasible from the standpoint of American Title Association, primarily for the reason that it would be necessary to keep a great number of copies of reinsurance agreements. You would have to remember to advise the ATA office when you made an arrangement to be reinsured with some other company, and they would have to make copies of the agreement and send it from company to company.

"This would be a lot of work, and perhaps not be a very accurate state of affairs.

"Life Counsel also recommended that insofar as the agreements are concerned, that these reinsurance agreements be standardized, if possible, and I understand your Standard Forms Committee, when it gets through with its present job on standard owner's policy, is going to give consideration to that policy, so that on that second request, this is being done.

"I talked to a representative of the life counsel group who had made this suggestion originally, and in line with the suggestion of the Board of Governors, told him that I would explain to you what I thought we should do as title insurance companies and, secondly, what the ATA would do.

"It seems to me that the individual most interested in the information getting to each of the lenders of the country is the practical title insurance company who is reinsured. The only reason you have a reinsurance agreement is so you can write policies larger than otherwise would be accepted by the lenders.

"All of us who are title insurers are accustomed to furnishing every customer, or potential customer, with financial information, and I told life

counsel that we would recommend, by bulletin from headquarters, that all members of the American Title Association who are title insurers adopt the practice of realizing that the reinsurance arrangements that we have and the type of reinsurance contract that exists are just as important as your financial statement. And we will urge our members when you send financial information to these lenders, that you send along a statement of any reinsurance arrangement that you have made, so that they, in turn, can know what you do have in the form of reinsurance; and when they rate your company, instead of saying they won't take your policy, say for more than \$100,000, they can tell their agents and attorneys in the various jurisdictions they will accept you if the policy is reinsured for \$200,000 or \$300,000, or half a million, depending on what your reinsurance arrangements are:

"This seems to me to be a proper job for each of us as a title insurer, who requires reinsurance today as a part of our every-day sales efforts in getting people to accept our policies.

"So I wanted to report to you and to those of the Board of Governors who are here that I followed your instructions and tried to work out the problem with life counsel."

The members were invited to comment on the organizing of title companies by Bar Associations or at least by members of the legal fraternity in certain areas throughout the country. Serious doubts were expressed regarding the ethics and propriety of such an operation.

Mr. Benjamin Henley, of San Francisco, California then discussed at length the work of the Standard Forms Committee and announced that at the time of the 1959 Convention, a sample policy will be submitted to the members for examination and suggested changes.

Meeting adjourned at 4:30 p.m.

GENERAL

BUSINESS

SESSIONS

The general sessions of the Mid-Winter Conference of the American Title Association convened in the Roosevelt Hotel, New Orleans, Louisiana at 9:30 o'clock, February 19, 1959, Mr. Ernest J. Loebbecke, President, presiding.

The President opened the meeting with an expression of deep sorrow occasioned by the recent death of the Association's Executive Vice-President, James E. Sheridan. He requested the newly elected Executive Secretary, Joseph H. Smith, to read a tribute to the memory of Mr. Sheridan. The following message had been prepared by one of Mr. Sheridan's very close friends and was read by Mr. Smith.

"Ladies and gentlemen of the American Title Association:

One of the most unforgettable characters I have ever known was born in Columbus, Ohio, June 10, 1893. During World War I, he served his country as a Lieutenant in the Air Force. He was later Commander of the Cadillac Post of the American Legion, in Detroit.

He served as President of the Michigan Title Association, and has received numerous other honors.

In 1932, he was chosen as Secretary of this Association, and later became our Executive Vice-President, which position he held when answering the call of his Creator on February 12, 1959.

His services as a trade association managing director were outstanding. His personal assets consisted of his

ability to get along with all groups, his unquestioned integrity, his good judgment, his courage to stand for those things he thought to be just and honorable, his keen sense of humor, and his willingness to discuss the most trivial problems of members. All of these things created unusual love and admiration.

His thorough knowledge of the title business permitted him to intelligently discuss title problems with high government officials, and others. He was highly respected wherever he went, and did everything in his power to increase public confidence in our industry.

He abhorred unethical practices, and continually urged our members to keep the profession on a still higher level.

At times he was, perhaps, provoked in his efforts to, as nearly as possible, please all of our members, which he never conceded was impossible. Knowing him as I did, I do not believe he ever truly disliked any person.

He thought the members of the title industry should more actively participate in public affairs. I have heard him say that we have an obligation of giving, as well as receiving, of our time, our talents, and our money, in an effort to build a still stronger America.

It is appropriate, I believe, to say that behind a good man there is in the background a good woman—a wife who encourages her husband when he is discouraged, and shares with him the satisfaction of his accomplishments. I know he was grateful for this support.

Yes, ladies and gentlemen, we have lost a good man, one who will be missed by his friends, his acquaintances, and our association—a man whose sincerity was never questioned; a man with a friendly greeting and an outstretched hand; a man dedicated to serve his employer the best he knew how; a man who spent his life doing the things he enjoyed and loved; a man of whom we can say: "Well done, thou good and faithful servant."

Yes, a most unforgettable character. I admit my inability to express in adequate words the worth of our good friend, James E. Sheridan."

It was then moved and seconded that the foregoing expression of respect for Mr. Sheridan be entered in the minutes of this meeting as a tribute of the entire American Title Association.

CARRIED UNANIMOUSLY

Following a moment of silent prayer in Mr. Sheridan's memory, the President then requested Past President, Harold McLeran, to pay tribute to the memory of Varick Crosley, a charter member of the ATA, who had passed away in recent months. Mr. McLeran responded as follows:

"The last request which Jim Sheri-

dan ever made of me was the one contained in his letter of February 3, in which he asked me to pay tribute to the memory of Varick Crosley at the Mid-Winter meeting in New Orleans. It is significant that Jim should make such a request for his old friend, and yet not live to hear the tribute.

"And ever near us, though unseen,

The dear, immortal spirits tread,
For all the boundless universe is life—

There are not dead."

This bit of poetry which Varick used on the occasion of the fiftieth anniversary, in recalling the names of departed charter members of the Iowa Title Association, is appropriate in this tribute.

Varick Crosley was born in Webster City, Iowa, November 11, 1875, and died December 19, 1958. He was educated in the Webster City schools, worked for six years as an abstractor in Webster City and Nevada, Iowa.

He opened an abstract and farm loan business in Webster City in 1900, organized the Crosley Investment Company in 1928, and reorganized it as Crosley & Boeye, Inc., in 1946, which firm has continued to date.

He was a strong community-minded man and his talents were sought in many capacities, including Park Commissioner, during which time he was instrumental in establishing three parks in Hamilton County, Iowa.

He served as a bank director and in 1922 was elected President of the Farm Mortgage Bankers' Association of Iowa.

He was intensely patriotic and during the first World War, served with the Red Cross as Chairman, was a member of the Draft Board, Chairman of the Defense Council, Chairman of the Liberty Loan drive, and Chairman of the Hoover Relief Commission. Later, he served as Recorder for the Military Order of the Loyal Legion of Iowa, and was Director of that organization.

He was prominent in Masonic circles, had been a member of the Elk's

Lodge, and a Rotarian. He was a staunch Republican, and was influential in State politics. In 1920, he was a delegate to the National Republican Convention. Many governors and legislators called him by his first name and sought his counsel.

In abstract and title circles, Varick worked with equal zeal. In 1903, he was instrumental in organizing the Iowa Title Association, the first State Association in the title industry, serving as Secretary in 1903, and as President from 1906 to 1909—the longest term of any of the Presidents of the Iowa Title Association.

In 1907, he helped organize the American Title Association, and served as its Secretary in 1909.

Varick was always striving to perfect the title business and he was a familiar figure on the convention floor, stoutly promoting or defending title matters. His guidance and counsel will be greatly missed in title circles."

President Loebbecke then recalled that two other former members of the ATA Board of Governors had passed away during the preceding year—Roy Johnson of Oklahoma and Russell W. Jordan of Richmond, Virginia. Mr. Loebbecke said, "The memory of these men who have served our Association, and the others whom we have also lost during the past year, is dear to us."

The President then summarized for the members activities and recommendations of the officers and the Board of Governors.

CONSTITUTION AND BY-LAWS

The Constitution Committee under the chairmanship of Jack O'Dowd of Tucson, Arizona, has completed a final draft of a suggested new constitution and by-laws for the ATA. The existing by-laws provide that a change in the constitution and by-laws must be preceded by action at this Mid-Winter Meeting and official notice to all members prior to enactment. Mr. O'Dowd thanked the members of his committee as well as others, who had made suggestions and read the proposed constitution

and by-laws as provided in existing regulations. After a brief discussion, it was moved and seconded that the proposed constitution and by-laws of the American Title Association as submitted by the committee at this meeting be approved.

CARRIED UNANIMOUSLY

It was announced that the text of the proposed constitution and by-laws would be carried in an early issue of TITLE NEWS, together with a notice that consideration of its adoption would be included in the agenda for the October, 1959 Annual Convention.

Members of the Constitution Committee are:

John Klein, Grand Rapids, Michigan
Thomas Bomar, Miami, Florida
James T. Reid, Rockford, Illinois
George Harbert, Rock Island, Ill.
H. G. Ruenmmele, Grand Forks, North Dakota
George Rawlings, Richmond, Va.
Arthur Reppert, Liberty, Missouri

ASSOCIATION FINANCES

Mr. Mortimer Smith, Chairman of the Finance Committee, reported as follows:

In making a report on your Finance Committee to you, I would like to give you three matters of history, or background.

One is that at the Seattle convention, your Board of Governors authorized a discount of 7½% on the dues statement received in 1959, based upon the premiums, or income, of 1958.

The other is that the Board of Governors also recommended there be included in the 1959 budget which is formulated and is now presented to you, \$20,000 for a Title evidencing film.

The third matter is that we have received the audit of your Association's finances from the Arthur Anderson Company, who has been making the audit for some time. They show that in 1958 we budgeted \$112,523.00, and expended \$95,556.00, including a \$2,500 item which is non-recurring for the Land Title Research which, as you recall, was the Amer-

ican Bar Association University of Michigan instigated project for finding out how to better the methods of conveyancing.

A big thing about this Association is that we have a budget. We prepare a budget and figure what we are going to spend—and hope we get the money to do it with, because the income is not a guaranteed income.

We received a total income last year of \$138,291, and spent \$127,408, which left us a surplus of \$10,083. There is a difference there, because certain things like the convention, advertising, and commercial exhibits, have an income and out-go of their own and they practically wash out, so that for your 1959 budget, there has been adopted by the Board of Governors a budget of \$133,423.

You will recall that the budget of last year was \$112,523. There are sixteen budget items. The main ones that cause this difference are the \$20,000 for the film of which I spoke. We also have an employment contract now which we must meet, caused by the passing of Jim Sheridan, which amounts to about \$4,750 annually, and a few odd additions of a few hundred dollars here and there, to be sure we come along all right.

Over a period of the past several years, you recall I mentioned the \$10,000 surplus from last year, there have been ups and downs. We did find ourselves with a surplus of approximately \$50,000 at the end of last year. We also find that in May, 1959, there comes due maturing value \$27,000 of government bonds which we started to buy ten years ago in our reserve assets account, so that \$27,000 plus \$23,000 of this \$50,000 surplus, is to be reinvested around May 1, 1959, in government securities, so that we will have that earning some money. It is not intended this be part of the reserve assets account, merely to keep surplus money working.

One addition, besides the motion picture and employment contract in your budget for this coming year, 1959, is the Villonova project, which Mr. Loebbecke has already reported to you, and that, of course, is \$5,000

for for this year, and a potential \$5,000 in 1960.

That is your budget, gentlemen. We hope that the 7½% discount will provide \$6,000 more income than the 12.5% discount in the prior year did. How business was in 1958, so far as its results upon our income, was a little problematical, because, as you heard the other day, the first part of 1958 was not much of a business period. It certainly picked up later, and probably our dues income will be about the same."

In answer to a question concerning the securities in the reserve fund, Mr. Smith stated that the Association had begun to purchase those securities in about 1949 and total investment is now \$138,995.00 As of December 31, 1959 the value of that \$138,995.00 was \$167,880.00. The maturity value, if they are all reach maturity, will be \$188,550.00.

OFFICE RE-ORGANIZATION

President Loebbecke reported that many of the routine office problems, such as preparation of the annual ATA Directory and publication of the convention proceedings, have been considered in detail by the Executive Committee and that the Board of Governors had authorized the Executive Committee and the Planning Committee of the Association to examine the operations of the headquarters in Detroit to consider possible improvements from an organizational standpoint and to make a report at the convention in New York.

1960 MID-WINTER MEETING

It was announced that upon recommendation of the Executive Committee and by action the Board of Governors, the invitation of the Hotel Riviera in Las Vegas, Nevada for the next year's Mid-Winter Meeting had been accepted. The dates of the meeting were established as February 25, 26, 27, 1960.

The suggestion was made that the banquet be eliminated at subsequent Mid-Winter Meetings and that the reception be held on the evening of arrival, preceeding the first full day's meeting. The majority of those present approved the suggestion.

ATA STAFF CHANGES

The members present were informed that by unanimous vote Joseph H. Smith had been elected to the position of Executive Secretary of the American Title Association. Mr. Smith was then introduced.

It was also announced that after an extensive examination of qualifications, James W. Robinson had been employed as Director of Public Relations.

FILM COMMITTEE

The work of the film committee under the chairmanship of Robert Maynard was reviewed and it was announced that the Board of Governors had authorized the officers to execute a contract with the Jamieson Film Company for a movie film. The hope was expressed that the film would be available for showing at the October, 1959 Convention.

EXCHANGE OF INDUSTRY INFORMATION

The President pointed out that, in place of a formal program, the Mid-Winter Meetings had always afforded members the opportunity to exchange views on matters of common interest. Everyone present was invited to offer for discussion any subject, which in his opinion would be of value to the industry.

Mr. Frank Stevens of Angleton, Texas asked for a showing of hands of all title men who made use of a geographic filing system. Various members present responded with a discussion of the advantages and disadvantages of a geographic system. The consensus seemed to be that the benefit to be derived from employing a geographic system outweighed the disadvantages in medium size or small title plants but that in areas where many instruments contain multiple descriptions the problem of cross-referencing was a serious one.

It was suggested that the committee on Photography and Title Plants might be well advised to prepare a report on the subject of Geographic Filing for the October, 1959 Convention.

The member's attention was called to the questionnaire circulated some-

time ago by Mr. Otto Zerwick of Madison, Wisconsin, Chairman of the Committee on Photography and Title Plants and the members were urged to cooperate in making these surveys meaningful by supplying the requested information promptly and completely.

Mention was made of the trend in modern home buying, encouraged by the United States Savings & Loan League, toward trade-in situations wherein title to real estate would be held for a comparatively short time. Members were urged to consider all ramifications of the practice with emphasis on the possibility of Mechanics' Liens accruing during the interim period. Attention was called to legislation pending now that provides for the escrowing of a portion of the proceeds of an FHA Mortgage for the purpose of renovating existing residences. Thomas Colleton, of New Jersey reported that he had obtained approximately 100 copies of a report concerning this legislation and would be happy to distribute them.

An expression of opinion was asked with respect to the extent to which abstracters generally are broadening the scope of their activities to include the sale of title insurance. It developed during the ensuing discussion that while many of the abstracters have found it both practical and profitable to combine the making of abstracts with the sale of title insurance, there remain many areas in which the preparation of abstracts continues to be the principal, if not the only source of revenue. "In Texas for example," Mr. Charles Adams, Jr., pointed out, "title insurance accounts for about one-half the total volume of business." He said, "The largest part of our orders for abstracts are from oil men and they don't want title insurance and none of the title insurance companies down there want to issue title insurance on oil filled property. So we are definitely in both businesses and we haven't any idea of trying to destroy the abstracts. In fact, we have copies of practically all the abstracts and find them of great help to our examiner in examining titles." Tradition and

buying habits of the public as well as resistance in some areas from examining attorneys were described as other factors in the continuing popularity of abstracts throughout the country. The point was made that the title industry is flexible enough to meet the demands of the real estate buying public and that in the final analysis it is the customer who will dictate the kind of title evidence to be produced.

Mr. Courtney from Seattle, Washington, asked for a discussion of the experience of those members present with premium taxes in their individual state. He announced that the Washington State Legislature is now in session and that pending legislation would include title insurance companies with respect to a premium tax. "Previously," he said, "we have not paid a premium tax and this new legislation will result in a tax on title insurance premiums. Under the provisions of the existing law this premium tax will be in lieu of all other taxes. Heretofore, we have paid a business and occupation tax. The premium tax is 1%." The discussion that followed indicated a wide range of local practices regarding premium taxes on title insurance, many of them being in lieu of other taxes.

President Loebbecke then stated that in the past, members had considered the Mid-Winter Meeting extremely valuable to them because of the opportunity to exchange information concerning general business conditions. He called on the representatives of the various state associations to give a brief statement of their experience regarding business conditions and recovery from the recent recession. Reports from all of the states including Alaska, indicated an average increase of business during the second half of 1958 and the first six weeks of 1959 of between 10 and 15 percent. Only one state reported no increase in title business generally. All of the others expressed optimism about the prospects for 1959. In several instances there were indications of actual "boom" conditions. President Loebbecke closed this portion of the discussion with the following re-

marks: "it is pretty obvious we came out of the slump the latter part of '57 and early part of '58. From what I can find out, October marked going into higher gear in the title business; and we are still going. There is a great deal of enthusiasm. This enthusiasm is joined by a lot of people. The situation that faces us is the fact that you can invest in bonds today and get a better yield than from investing in common stock. This means that people think there is going to be inflation.

Another reason is based on the fact that in our country, we prohibit or deter or discourage venture capital from going into business. The Blue Chip stocks, the number of stocks that are available for investment by people that want to invest becomes less and less. Therefore, there is an upward pressure on the stock market.

We do have some signs of unemployment, and one or two people have voiced a note of caution.

I would like to recall a little history to you, as your President, for whatever it is worth, and tell you that it is very nice to stand here and hear these reports about business being better. We are dependent, to a great degree, on the housing industry. The housing industry has a feeling it is entitled to pretty good treatment from the United States government. I am not going to argue or belabor that point; but I want to say this; we have had three recessions since the close of World War II, with an increasing emphasis that the building industry, and all things related to it, have become a more and more important part of the economy of this country, with the result that Uncle, who hands out the money to make the building industry and the related parts of it good, has used that same business as a counterbalance, as a leveling factor, in attempting to carry on this controlled economy.

I would remind you that in 1957, and even as early as December of 1956, you saw the signs of a deterioration in the building business and real estate business, because of mortgage handling, and thus in your own business. In 1957, when your business

was down, when things were tough, the latter part of '56 and early part of '57, generally business was going wide open. Inventories were high. Employment was high. Commercial loans, being the flow of money, were directed into other segments of the economy.

When the business picture began to slow down in the spring of '57, the general recession picture caught up with the rest of the industry. Business began to put its money in short-term government bonds and cut down inventories. It started to lay off people. It started to do all those things. In the mean time, the government, having miscalculated on the amount of money it would collect in taxes, and having spent more than it should, created about a twelve billion dollar deficit; about seven billion from shortage of taxes, and five billion by spending too much.

The turn-around came when the government started to put a little life back in the industry, to get it going, to revive the economy. The interest rates were changed a little bit, and we then came up against the matter of the stock market climbing way up, increased demands for money, and you find this situation: the government financed the twelve billion dollar shortage. It has been progressively refinancing government loans as the years go by, and so it has more refinancing to do. The interest carrying charge has become one of the largest items in the budget. And the result of that is business men are selling short term government bonds, to put the money into inventories. At the same time, the government is selling more bonds, in an effort to raise the money it needs to operate.

Thus, you have this interest money cost problem; you have the high peak of the industry, and I only point out to you that while enthusiasm and optimism are a necessary thing, while there is great strength in the economy of our country, nobody ever got rich out of inflation. And I would point out to you that it is perfectly possible that the man with the whiskers, who feeds and supports the housing program and highway program

and the rest of these things that make our business good, when he sees business reach a certain level, may well again, as he has three times in the past, pull the plugs on the money situation, so that money will be channeled into other industries, and we, again, will be the first to feel a down turn in this leveling process.

I am not predicting a recession or a depression. I am merely predicting the fact we can depend that when our business is at its best and going wide open, someone is going to try to use it as a control on the economy.

I only point out to you that it is, therefore, wise of business men, I don't care whether you have one employee or five hundred; one office, or fifty offices—it is incumbent upon us to continue to think about those economies of operation we put into effect when we were hit with this last recession. Let's not get rich again all of a sudden, and not care where our costs go. We have raised prices, and the pressure of labor costs will increase, making us increase those prices as time goes on. Let's not, as an industry, contribute to this inflationary trend any more than we have to. At the same time, let us do what we have to do to serve the public, so our industry will be acknowledged, and be subject to as little attack as possible.

Part of our trouble—and this goes for all of us—is due to pure, plain selfishness, selfish motives, in which we are unwilling to be realistic. We are inclined to think we have a God-given right to make a lot of money, and let everybody else take care of himself.

We have a highway program. I was very happy to hear the gentleman from Tennessee say they had stood up and were handling it on a basis where it will be profitable. In California, the head of our department believes the highway industry should do that work and we get a portion in connection with the highway program. I hope you will work with your highway right-of-way and other people to do what you can. You are entitled to make a reasonable profit out of that operation, and there is

no one in the United States as competent to do that job as yourself."

Mr. Malcolm Sherman (Associate Counsel, John Hancock Mutual Life Insurance Company) added the following thought: "There is just one question that I think is important to title men—that is, the possibility of prosperity and good business. There is a law in a great many states that authorizes anyone, a corporation, to come into the state and lend money, and by so doing, is not a foreign corporation doing business in the state, so it has to file every year its annual report, pay income tax and franchise tax, and all those things that are a nuisance to a foreign corporation. For example, if you go into the state of Washington and you have a lot of money and want to help their economy, you are not doing business in Washington. All you have to do is come in and make your investment. That is true in about one-third or one-half of the states. I think you should check the laws in your state where you are in the position where a foreign corporation coming into a state must put a lot of money into taxes that are required of corporations. I wonder if any of you know states where you don't have good laws such as Washington and New York, Carolina, and a few other states, and if you are doing anything to have such a law passed?"

"I think it is significant that we have the biggest real estate boom since 1946. The states that have prospered out of it are the states having such laws. For example, Florida, Arizona, Oklahoma, and a few other states, seem to have enjoyed more prosperity than the others who do not have such laws."

VILLANOVA PROJECT

President Loebbecke announced that one of the resolutions which had been considered by the Board of Governors was a recommendation that Villanova University be furnished with certain funds with which to make a survey of all of the title insurance laws and regulations in the various states.

The project is estimated to cost

\$15,000 and there was a statement that the printing and so forth would cost an additional \$10,000. However, it was felt from investigation that this type of printing and distribution, if printed in book form and distributed widely, for purposes of the American Title Association, this total amount would not be necessary, however. There will be some printing and distribution costs.

Also, it is suggested that biennially the data be brought up to date, probably at a cost of \$1,500 each time, perhaps \$2,000.

The Executive Committee recommended that the American Title Association approve this project and that an amount be allocated for the project of up to fifty percent of the cost, not to exceed \$7,500. That is for this original \$15,000 cost.

The Board of Governors considered this, and the Abstracters, who are represented on our Board of Governors, felt that if the project was good from that standpoint, they, too, had problems in regard to abstracters' licensing laws, and so forth. As a result of considerable discussion, your Board of Governors adopted a resolution whereby it will pay up to fifty percent of the cost of the project, not to exceed \$10,000, with the proviso that the study include a study of abstracters' licensing laws in the various states, and with the further proviso that the Committee which is to be appointed by the president will have first obtained from member companies who are interested in this, commitments for the balance of the cost of the project.

In other words, no American Title Association funds will be spent until member companies interested have provided the balance of the necessary funds.

The project will be over a period of two years, and, therefore, the proviso is that \$5,000 will be put up in 1959, the other \$5,000 in 1960, and when the work is completed, it will become the exclusive property of the American Title Association.

There are many possible reasons why the information will be valuable to both the abstracters and to the

title insurers, and probably its primary value will be for the help of states where either amendments to existing laws governing title companies and abstracters, or states where no laws exist, and they are proposing legislation, that it will be valuable as a work by which they can determine what is being done in other states.

This has been approved by your Board of Governors, and will be included in the budget.

MEMBERSHIP

President Loebbecke reported to the members that the Board of Governors had elected the Service Title Corporation of Baltimore, Maryland to membership in the American Title Association.

GROUP INSURANCE TRUST

I was announced that because of the death of James E. Sheridan, Joseph H. Smith, Executive Secretary of the ATA had been elected by the Board of Governors to serve as one of the three trustees of the Association's Group Insurance Trust.

MINIMUM UNDERWRITING STANDARDS

Mr. Arthur Reppert, Chairman of the Abstracters Section, announced that at a meeting of the Abstracters Section a serious discussion had been held regarding the future of the Abstracting business. He then read the following resolution: "Be it resolved that the Abstract Section of the American Title Association, requests from the Title Insurance Section some statement of minimum underwriting standards and practices."

President Loebbecke, suggested that it would be well at future annual conventions to combine the meetings of the two association sections into a joint session which would afford an opportunity for the free exchange of ideas.

SURVEYORS INDEMNITY BONDS

There followed discussion of the general quality of surveys provided for abstracting and title insurance work. The experience with surveyors among those present as disclosed by remarks from the floor indicated a definite need for education and increasing cooperation between the title

fraternity and engineers and surveyors. It appeared that indemnity bonds for surveyors as a general practice was not practical in the foreseeable future.

LABOR COSTS

It was pointed out that payroll costs represent a major portion of the expense of doing business in the title insurance and abstract industry. Some concern was expressed over the possible effect of minimum wage laws.

ATA DIRECTORY

Mr. Malcolm Sherman of the John Hancock Insurance Company proposed that it might be beneficial for those companies doing a multi-state business to have listed in the ATA DIRECTORY the states in which their services are available. It was also suggested that telephone numbers and zone numbers be listed in the directory. The question was also asked as to the advisability of indexing the member companies according to the city rather than the county in which their offices are located. President Loebbecke responded by saying that all of these matters had been given the most careful attention by the directory committee and that the discussions would be continued.

SALARY SURVEYS

The question was asked whether or not it would be practical to accumulate information with respect to the amounts of wage being paid for various job classifications throughout the title industry. It was pointed out that this had been done on a regional basis with some degree of success but that one of the major problems confronting such a venture was the variance of the classification itself." For example," said Mr. Loebbecke, "we have people that are referred to as title examiners and we find that one company considers a title examiner in a completely different category than another. The same is true of escrow cashiers, clerks and searchers."

The possibility of establishing a Bureau of Research and Development within the framework of the American Title Association was considered.

Meeting adjourned 12:00 noon, February 20, 1959.

MEETING OF OFFICERS STATE TITLE ASSOCIATIONS

The Mid-Winter Conference of Officers of State Title Associations convened in the Roosevelt Hotel, New Orleans, Louisiana at 2:00 o'clock, February 19, 1959, Mr. Don B. Nichols, Secretary of the Illinois Title Association, presiding.

The major portion of this session was devoted to the exchange of information concerning the mechanics of operating the various state associations. Each representative had been handed a card which served as a questionnaire regarding such details as the number of members, the requirements for membership, dues structure, duties of the officers, extent of the paid staff, kinds of committees, publications, annual budget and convention and public relations practices. All of those present expressed their feeling that much benefit was derived from the comparing of this information. During the course of the meeting those present were greeted by the National President, Ernest J. Loebbecke and also by the newly elected Executive Secretary, Joseph H. Smith and by the Public Relations Director, James W. Robinson.

Members were then invited to offer for discussion any matters which in their opinion would be productive and beneficial for title men generally. The representative from Kansas pointed out that the Kansas Title Association is sponsoring a bill in the State Legislature to require all abstracters to maintain an independently compiled set of indices from the effective date of the law.

It was disclosed that several of the companies represented were operating night shifts. In response to the question "how many states are subject to Abstracters Licensing Laws", it was learned that the following states do have such Licensing Laws:

Kansas, Arkansas, Colorado, South Dakota, Utah and Montana.

A survey with respect to the maintenance of title plants disclosed that there are many areas in which the county does not maintain a tract index.

There followed a discussion of the various state association regulations concerning both local membership and membership in the American Title Association. It was disclosed that among those present there are twelve state associations that have a requirement that membership also includes membership in the ATA. Some states have an agreement with the National Office whereby membership in the local organization is a requirement of ATA membership. In other states there are memberships held in state organizations by companies that are not members of the ATA. The importance of distribution of a state directory was emphasized by several of those present.

The members then devoted several minutes to a discussion of other association activities such as workshops and short courses, employee group insurance and educational programs for surveyors. The President of the Florida Land Title Association announced that his organization is sponsoring an Abstracters Short Course, to be held at the University of Florida, for two days in the Spring of 1959. He also announced that a scholarship had been established at the University of Florida, one for the Law School and one for the College of Business Administration.

Meeting adjourned at 4:00 p.m.