TITLE NEWS

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AMERICAN TITLE ASSOCIATION

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A LETTER

from

THE PRESIDENT

January 5, 1960

Dear Friend:

The best news so far this year certainly is that the steel strike has been settled. I have a feeling, and let's hope it is right, that the other differences between labor and management due to be negotiated this year will not take so long to adjust and will not be so hard on our economy.

This issue of Title News, made up of the proceedings of our National Convention in New York last October, is the written result of all the planning done by Ernie Loebbecke, George Rawlings and Art Reppert. It is a very valuable issue to read and re-read and keep for reference—and again our thanks to these three ATA officers who were chiefly responsible for putting this fine business program together.

I would like to remind you that the Mid-Winter Meeting of our Association will be held in February at the Riviera Hotel in Las Vegas, Nevada. Your Executive Committee will meet on the 15th, your Board of Governors will meet on the 16th, and we will all meet together on the 17th and 18th, with adjournment probably at noon on the 18th. As always, there is no planned program for this meeting, its purpose being to handle current association and business developments at the national level. Everybody is welcome, of course, and it provides a good chance for all those who have something to say, not only to get it said, but to hear what someone else may have to say about it.

Remember too, in accordance with the change suggested and approved during our General Sessions in New Orleans a year ago, the "Annual Reception" will be held Tuesday evening, Feburary 16. Hope to see you there.

Sincerely

Lloyd Hughes

P.S. It will be interesting to watch what comes of Representative Rains' (D-Ala.-Chairman of the Housing Committee) proposed billion dollar "shot in the arm" for the housing industry.

TITLE NEWS

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EDITORIAL OFFICES:
3608 Guardian Building
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AMERICAN TITLE ASSOCIATION

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President, American Title Association, 1959-1960

Report of National President

ERNEST J. LOEBBECKE
President, Title Insurance & Trust Company
Los Angeles, California

This is perhaps the moment any American Title Association president reaches with the greatest feeling of trepidation. It is the time when he must, through his report to the convention, account for his year's activities and thus justify the confidence his fellow title men placed in him at the beginning of the year.

I cannot speak for my predecessors, but insofar as I am concerned, I must in all honesty admit to you that our Association progresses more through the efforts of those who have preceded me, the continuing support of the membership, and the fundamental importance of our industry, than through any efforts of my own. It is because of this realization that I want to express my deep and sincere thanks for all the help I have received this year. Vice President Lloyd Hughes, and Section Chairmen George Rawlings and Art Reppert have been invaluable in their help, as have Treasurer Joe Knapp and our effective and experienced Finance Chairman Mort Smith. The Board of Governors has never shirked a moment's responsibility as the governing body of our organization—it has spent long hours in meetings and between times has quickly responded when called upon.

The past presidents, from Harold McLeran on through the list, have likewise been ready at hand whenever needed. All of our Committees have been active and we are indebted to each of the Chairmen and his committeemen for their interest and hard work. This is particularly true of our Convention Committee under the leadership of Harold Beery. He, his committee, and in fact all of the members of the New York Title Association and their ladies have worked long and hard to create this outstanding convention for us. I know I speak for all of you as I express our deep and sincere appreciation for their efforts on our behalf.

There is another group which has done much for our National Association, and a great deal for me personally. I refer to the state associations,

ERNEST J. LOEBBECKE

their officers and their members. Ann and I will never forget the wonderful hospitality that has been shown us. Unfortunately, I could not attend every state association meeting, and what was more unfortunate, Ann could not be at all of the ones I did attend. But if any man doubts the interest of our members in our industry, or their friendliness and their hospitality, I can assure him, from personal experience, that they exist to a far greater degree than I had ever dreamed possible.

Finally, I want to thank Joe Smith, Jim Robinson, Alice Pursell and the others on our national office staff in Detroit. These are dedicated people, who all year long have cheerfully and industriously worked to serve us all. Day or night, whenever I called, they were ready to do anything asked of them.

All of them — officers, members, staff—are the ones who have made our Association a going concern during this past year. If I have contributed anything, the credit really should go to my secretary, Miss Vera Tamm, who has also worked tirelessly on Association affairs during this past year. As your president, then, I am sure you will agree that my function has been principally that of observer. I have been privileged to occupy a position from which I could see all that occurred. My responsibility now is to report my observations to you and to make a few recommendations which I hope may be of some value to our Association.

These observations will deal with two aspects of our Association. The first, which I report on today, deals with the more general aspects of the American Title Association. The second, which I will report on at our Thursday morning session, will deal with some of the specific aspects of our organization, the services it renders to its members, and its finances. This division of my report is a departure from custom. Thursday morning's meeting is a joint meeting of the two sections, a meeting of the membership of our Association for the purpose of considering and discussing its problems. It is not a general session as this one is—for our general sessions, because of the importance of our industry are, in reality, quasi-public sessions.

It is with these things in mind that we have built this convention program. Our general sessions are designed to bring you speakers who will make an important contribution to each of us—speakers who are men of national prominence in fields closely allied to our own. It will also bring you reports on matters of general interest. Matters that have occupied the attention of many of our members during the past year.

These are all set forth in your program and I will not take time to detail them here. Suffice it to say that they are matters of importance to all of us and we are indebted to all who have worked hard on them in our behalf.

Let me turn then to the broad picture. To the reason and justification for our existence and the need for reviewing our goals and continuing the long-range planning, which has marked the success of our Associa-

ON THE COVER

It seems appropriate to begin this bright, shiny New Year with a message from the chief executive officer of an industry with which title men have been so intimately associated and with which we have marched forward hand in hand with the determination to serve the real estate buying public ever more effectively and efficiently.

We treasure the friendship of men like Frank J. McCabe, Jr., Executive Vice President of the Mortgage Bankers Association of America, pictured on the front cover, whose message (see page 9) will be of interest to all title men. We salute Mr. McCabe for the contribution he and his association have made toward fulfilling man's basic desire for the ownership of real property.

tion and our industry thus far. In passing, may I say here, that some of the matters which will be presented to you on Thursday for your consideration, are based on the premise that they provide a reasonable means of accomplishing this objective.

My observations during the past year have led me to the inescapable conclusion that our industry is an important and vital part of the nation's economy—more so than most of us realize. It is only in this area that I can find any reason to be critical of our membership—and that includes me as well as the rest of you in this room. As I have traveled around the country this past year, I have found repeated evidences that we underrate ourselves. This is evidenced in a number of ways—failure to stand up and make ourselves heard —conducting ourselves as though other groups were important and powerful forces in the scheme of things while we were just small potatoes— and finally, in being apparently unwilling to consider ourselves and our industry important enough to back our convictions with our time and our dollars to the extent we should.

Because of this, I am, and have been, devoting my time and effort to building the stature of our industry and our members through our Association. That is the theme we have adopted for this year.

You all know that we have stressed the building of new state associations, and particularly the strengthening of those already in existence. We feel that this is necessary because the fundamental strength of the American Title Association lies in its various state associations. It is there that we really get down to cases in meeting the problems which beset us. Because the laws of each state are different, because practices concerning real property transactions differ in each state, it is at the state level that the majority of the legislation and government intervention occurs which affects our individual businesses.

But because the things that happen in one area ultimately affect others, these local problems are important to us as a national trade association. It is to our mutual benefit to have strong, active state associations, all taking a strong and united interest in the affairs of the American Title Association. Thus we are working to increase unity and singleness of purpose within the American Title Association.

Likewise we l o o k outward. We must build our stature in that direction as well as within. We are an integral part of the total real estate picture. Thus we have kindred interests with such groups as the National Association of Real Estate Boards, the Mortgage Bankers, the American Bar Association, the National Association of Home Builders and other like organizations. It is to our best interest to work with these groups, to do our part, and to encourage them to do likewise. Our welfare is dependent upon real estate activity. Real estate, because of the large volume of m o n e y required to finance its transfer, is a leading component in the total economic picture. We must be aware of this — we must keep abreast of current developments in the general economic picture, and particularly in regard to what is happening to the real estate segment of the economy.

To illustrate my point, I quote from the August, 1959 Bulletin of the First National City Bank of New York, which states — "Widespread home ownership in the U.S.—where more than half the families own their own dwellings—is something we are proud of. But we also have to recognize that the demand for mortgage financing tends to pre-empt the bulk of the national savings flow and at times to create financing difficulties for governmental bodies as well as public utilities and industrial corporations." Statistical data in the same report shows that at the present time the total mortgage debt is in excess of 170 billion dollars; whereas long-term corporate debt is about $105 billion, and the total of state and local

debt amounts to a little more than $55 billion.

With this in mind, let us consider the effect of our industry on the economy of our nation as a whole. We are a tremendous factor in it, particularly insofar as our effect on the money market is concerned. Is it any wonder then that government takes such an interest in our business. And is it any wonder that real estate is the subject of so much legislation. Or that some of our own people, more interested in their own immediate welfare than in the future of their children and the maintenance of our freedoms, count more and more on government control and intervention in our business. They forget that if you ask Uncle to help you, you irrevocably grant him the right to control you.

Be that as it may, one thing is sure. In this age of planned and controlled economy, when government undertakes to control the economic cycles, we can all rest assured that real estate, its use and its financing will be one of the means by which the economic planners will attempt to carry out their job.

Lest you feel that these comments indicates that I am concerned about the future of real estate activity, let me digress from my main theme for a moment to assure you that the contrary is true. Our total national population is expanding rapidly. These people must have a place to live and must have a way to earn a living. This means homes, stores, schools, factories and a host of other things which require a more concentrated use of real estate. The fundamental strength of our economy lies in the fact that as our population grows so does our economic structure, for under our system productivity creates wealth. Wealth, of course, is nothing more or less than the ownership of property of one kind or another and as all of us well realize real estate is the most important form of property we have. Therefore, logic indicates that real estate activity will continue at a high level. On that score I have no concern, for while there will be ups and downs in the real estate cycle, long-range no one can deny that the population surge will result in greater and greater real estate activity.

Thus, all of us who make our living from real estate will prosper from this growth. But we have a responsibility. It is to continue to build and develop the ideals, ethics and high standards of our profession so that we can maintain as much freedom as possible from government intervention and control.

I need not remind you that we live in an age of planners. Both sides of the aisle in our nation's capitol are convinced that we can have a controlled economy; that government can prevent the major upheavals which have occurred in the past. Perhaps this is true. Since World War II there have been evidences of success in this direction. All of us hope that it can be done. No one wants a repetition of 1932.

But title people are free enterprisers. I don't think any of us would want to buy this controlled economy at the price of a complete loss of freedom. We are willing to go along, but not all the way.

We will cooperate to the fullest, however, so long as we believe that the controls are for the best interests of our country. To do this we must also know and work with those people in government who are charged with carrying out this program—particularly as it relates to our industry.

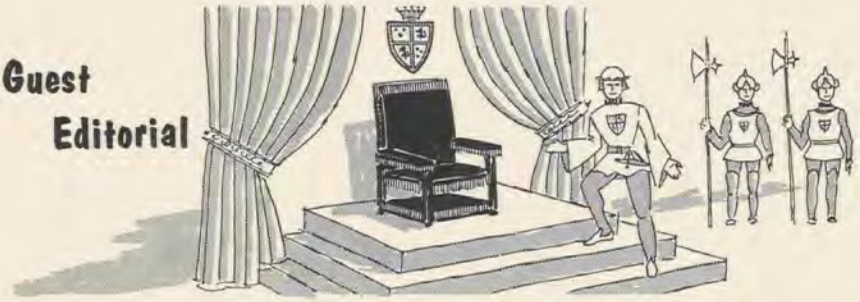
We have some of these people at our convention. They are just as dedicated, just as hard working as we are. They want to carry out their responsibilities just as we want to carry out ours. They need our help and it is important that we know them and their problems. They expect us to be vocal; they want to hear from us when we believe that something is wrong. This was illustrated during recent months when we were objecting to proposed changes in connection with Capehart Housing projects. We were well received—we were

listened to—and we received consideration. That we failed to achieve our total objective is as much our fault as anyone elses. We were not prepared to meet this challenge. We arrived too late at the scene of combat.

We can't let this happen again. The next time it may be on a far more important issue. We feel that on Thursday morning you will concur with the recommendations of your Board of Governors which are designed to give us better machinery with which to work in the future.

But that is not the real answer. The real answer lies with each of us. By our support of our local state associations and in turn our support of the American Title Association we will insure success. A determination to work with unity toward a common objective will achieve for each of us a maximum of success in a great and growing industry.

Guest Editorial



During the past three decades one of the most profound and meaningful changes in the American economy has been the conception of the mortgage as a credit instrument. From a short term, burdensome and often difficult-to-negotiate loan, it has become a modern, streamlined credit device, providing for regularly amortized payments and readily available to many rather than a limited number. The ease of mortgage financing today, its wide availability, the inauguration of a nationwide market for some classes of loans, the emergence of the mortgage as an investment comparable to other media—all these developments have occurred in this modern era which has seen the greatest resurgence of home ownership ever known.

In all that has happened in our modern mortgage industry, no more important contribution has been made than that of title insurance. There was a time when the question of title militated against the investment acceptance of mortgages just as obsolete foreclosure and redemption laws in some states do today but that obstacle has long since been removed. Title insurance has contributed a measure of investment quality to mortgages impossible to estimate.

I don't suppose that in all the areas of business and finance there are two groups which work more closely with each other than do those in mortgage banking and the abstract and title insurance fields. This is certainly as it should be because both have a common purpose and a mutual objective. Growth in title insurance during the past three decades has been phenomenal and it will continue because title insurance is becoming increasingly recognized as a necessary part of investment in real estate. Mortgage bankers will foster that growth because they— more than any others —know and appreciate the value of title insurance.

Frank J. McCabe, Jr.,
Executive Vice-President
Mortgage Bankers
Association of America

Report of Planning Committee

LAURENCE J. PTAK
President, Cuyahoga Title & Trust Co., Defiance, Ohio

As you will recall, your Planning Committee last year made but a few recommendations with the hope that their complete accomplishment was more important than a formidable list of worthwhile projects that could only partially be done.

It is indeed gratifying, therefore, to find that over the past year all of the recommendations of the Planning Committee have had concentrated attention and all have been accomplished.

I do not think it is necessary to review all of these items as they are listed in the January 1959 issue of Title News. By referring to this issue each of you that so desire may refresh your memory as to the recommendations, and I am sure each of your will agree that great progress has been made.

Now, as to the coming year. The untimely death of Jim Sheridan caused your Planning Committee to give immediate thought to the status of our national headquarters. When the affairs of the association have been in such capable hands for so long a period of time, it seemed most important and only fair to those who were to carry on to give thought as to how the headquarters was to operate.

With this in mind, your Planning Committee recommended to the president of the association at the mid-winter meeting in New Orleans that a study be prepared, for presentation at this annual convention, to the Executive Committee, the Board of Governors, and the convention membership, covering the following matters:

(1) **The organization of the national office.**

The officers of the association to carefully study the set-up of the national headquarters and make any recommendations indicated as a result of this study.

The study to give consideration to the present personnel, services presently being rendered, and a determination that the office be so organized as to carry on its work, and, further, to increasing its effectiveness.

(2) **Location of the national office.**

In view of the fact that the lease on the present headquarters in the Guardian Building in Detroit expires in January of 1961, and, further, in view of the fact that a substantial number of our members have recommended that the office be moved, and, further, considering the length of time it would take to make plans to accomplish such a move—this over-all matter should be included in the study mentioned above.

In furtherance of the Planning Committee's recommendation to the president, the president appointed a committee consisting of himself, Mr. Lloyd Hughes, and Mr. George Rawlings to make such study.

Such study has been made and will be presented to the Executive Committee and the Board of Governors, and their recommendations, if any, will be presented to the convention at the joint section meeting on Thursday morning.

It is the hope of the Planning Committee that the recommendations in this study will be approved, and, if so, it is felt that this coming year will be a busy one for the national headquarters, without the addition of any other new recommendations.

In the event that no changes are approved in the organization or the location of the national headquarters, additional recommendations by the Planning Committee will be made at the mid-winter meeting.

Again, this report is short, but it is felt that there is sufficient material in the "hopper" at our national headquarters to keep it constructively busy—at least until the time of the mid-winter meeting.

Report of Film Committee

ROBERT K. MAYNARD
Manager of Advertising, Lawyers Title Insurance Corporation, Richmond, Virginia

Mr. President, ladies and gentlemen: I hope this report will be one of the shortest on record.

There is no new film to show to this convention. Your committee is sorry—but not at all apologetic.

They said it couldn't be done—but in less than eleven months your committee made up of representatives from four title insurance companies and the national and one state title association has succeeded in coming up with a script that substantially satisfies each one of us without being watered down to 50 proof in any area of the story. The script and story boards for the animation were presented to the Association's Executive Committee on last Saturday — and they were approved by those gentlemen representing seven insuring and abstract companies. The entire production project is now in the hands of the Jamieson Film Company of Dallas, Texas, suh. We have been assured that the film will be ready to show at the Mid-Winter meeting in Las Vegas. (I'm sure that little plum will attract hundreds of you who just wouldn't go to Las Vegas for any other reason).

I want to be impartial in my advertising quotes so, let me say that I'm not a professional committee chairman. I'm a title insurance advertising man. However, for those of you who might be wondering if I would recommend that everyone should be a committee chairman, my answer is yes—if everyone could have a committee to work with (or be worked by) such as I have. Messrs—no, that doesn't describe them — monsieurs Rogers, Harris, Stockwell, Robinson and Everts have been ready and willing to work when called upon. And I feel certain you will agree, when you see the final result—the film—that they are all very able gentlemen. I thank them—and I thank you.

New Horizons

PERRY MORTON
Assistant Attorney General, Lands Division, Department of Justice, Washington, D.C.

You have honored me by your invitation to appear again on the platform of your Annual Convention. Two years ago I had the privilege and pleasure of speaking to you at Richmond on a more specific subject: "Evidencing of Titles for the United States".

I gave you then a few sample statistics to illustrate the large place the United States Government occupies in the market for the services of abstracters and title companies. With a quick brush, it may be useful to up-date some of those figures, if for nother reason than to provide a volume measure to emphasize my continuing official interest in the title services provided by the members of your Association.

In the ten year period prior to July 1, 1959, the Federal Government filed condemnation proceedings to acquire over 77,000 tracts of land, and, in addition to that, the Attorney General, acting through the staff of the Lands Division, has approved the titles to more than 76,000 other tracts or parcels for acquisition by voluntary purchase. The condemnation proceedings involved nearly 7,500,000 acres of land for which a total of over $468 million was deposited in the various court registries. The direct purchases included nearly 3,500,000 acres for agreed considerations totaling about $340 millions. So, in this ten year period, the title work done for the Federal Government involved well over 150,000 individual title searches extending over every State of the Union and all of the territorial possessions. In the last fiscal year alone the dollar volume of Federal land acquisition exceeded $107 million.

It goes almost without saying to this audience that in the handling of this volume of title business the Department of Justice has encountered an almost infinite variety of complicated and unusual problems. "Evidencing of Titles for the United States"—my Richmond subject—thus continues to be Big Business from almost any point of view.

My thoughts today, however, come to you under a more general and somewhat cryptic heading: "New Horizons". I realize that this title doesn't sound as much like "bread and butter" as the other one; but I thought it might serve to tickle your curiosity. Actually, the thrust of my remarks today **is** directly related to your bread and butter.

The needs of today's commerce in real estate are as far removed from livery of seisin as a long range ballistic missile is different from a bow and arrow. And yet to a disturbing extent we remain shackled, in our handling of real estate transactions, by antiquated practices, procedures, customs, laws, and **attitudes.**

In recent decades, title attorneys, abstracters and companies have become increasingly sensitive to the widely held public opinion that existing conveyancing practices and procedures a r e needlessly inefficient, cumbersome and expensive. If I start sounding like a preacher, I want it understood that I am talking from the inside looking out, not from the outside looking in on you. In a very real sense, I consider myself a part of you. For twenty-two years before assuming the duties of my present office in July of 1953, I had actively engaged in a practice devoted largely to property litigation and title work in a region where land is the principal source of material wealth. My keen interest in today's subject is therefore no passing fancy. These are views which do not come out of my official toga. They represent my deep personal convictions. They are a continuation of a sort of personal crusade on which I embarked well over twenty years ago.

Those who go to the trouble and expense of attending a meeting like this are generaly the ones who least need its help. As Elton Trueblood once observed, the t r o u b l e with Jesus' admonition to "Feed my sheep" is that the wrong sheep come to the feeding place. I well know of your many individual and collective contributions toward improvement. If, during these few minutes, I can merely identfy some of the problems and then remind you of some of the possible solutions, you may go out from here rededicated with a missionary spirit.

There **are** "New Horizons" in this business. We can attain them if we keep them in sight and work toward them hard enough. We may well lose what we have if we don't.

In my home town an old lawyer once said to me, nearly 30 years ago, that he saw no reason to discourage the handling of real estate transactions by every Tom, Dick, and Harry. This, he thought, supplied more quiet-title suits for him to handle—more messes for him to unravel, more quit claim deeds and explanatory affidavits for him to prepare, more entries and exhibits on the abstracts he had to examine. Aside from the "To Hell with the Public" character of this attitude, I question the validity of it even from the standpoint of selfish advantage. I can't prove this with any handy figures. But I do assert as a personal conviction growing out of long experience, that a title practitioner will make a lot more money by doing everything possible to facilitate the flow of real estate commerce through his office, than he will by collecting occasional fees out of quiet title suits of questionable necessity. It may be shocking to say it this way, but I insist that no one has a proper—much less a vested—interest in perpetuating a state of confusion.

If we who work with the present system of conveyancing can see beyond the ends of our noses, we must realize that it is actually to our own longer range self interest to do all we can to eliminate, or at least to reduce the adverse impact of, some ofd the congenial absurdities an complexities of our rather antiquated

system. Here and now, I want it clearly understood that I do **not** propose the junking of any of the present recording systems. That would be the height of folly.

I am not a revolutionary. I am not a bleary-eyed visionary.

What I propose is intelligent reform. What I suggest is as practical as a drink of water.

I do not want—and neither do you—any government operated system of title services such as you perform. That would be abhorrent to my philosophy of government at either the national or local level. With a few isolated, local exceptions, the Torrens system, for example, has failed to receive any general acceptance for very good and practical reasons. I do not believe that any government sponsored or operated system of title services could match the efficiency, economy, or reliability of the private enterprise which you represent. I could not believe that any more than I could advocate socialized medicine, or socialized law, or socialized industry.

Even this close to Halloween, I am not waving a Jack-o-lantern to scare you. I am saying to you in deadly earnest, however, that there is enough evidence of public impatience with the inefficiency and costliness of our present system, that we who ought to know the most about it should be in the vanguard of every movement for improvement. When I refer to inefficiency of the **system,** I am talking about the system **itself;** not your operations in the use and administration of it.

Justified dissatisfaction with the system has a way of snowballing into uninformed and unjustified criticism of not only the system but also your operations. And from there it is only a short jump to unwise action by an uninformed people or their legislative representatives. If you want an example, some of your chief officers will remember conferring with me during the last six months about a proposal in Congress to forbid the use of Capehart housing loan proceeds for the purchase of title searches or insurance. In the place of title insurance, the idea was to substitute a title guaranty by the Secretary of Defense in every Capehart case. The committee report which recommended this proposal contained the amazing statement that this provision would ". . . require this service to be performed by the Department of Justice as it is on all other Government property; . . . "The words "this service" relate back to the words "title search and insurance". Such a statement must have come out of ignorance of not only what the Department of Justice does but also what **you** do in the handling of a title transaction whether you are abstracters or title insurers. Can you imagine what my budget would have to be if I were to maintain the experienced personnel and adequate facilities all across the country to perform the services which you now perform for us on a contract basis?!! I doubt that I need to explain or elaborate, to this audience, the lesson which I think is implicit in this recent experience.

In this business there is no such thing as standing still. If we do not go forward we necessarily go backward. This generalization applies to any of the present methods of dealing with our title system. It is just as true in localities where land transactions are handled by personal searching of the records by lawyers as it is where abstracts are prepared by abstracters and examined by lawyers and as it is where title insurance is predominant. This is so because with each passing year the chains of title become longer and the exposure to risks of imperfections becomes greater. It follows that unless something is done to turn the tide, the costs become higher and the public becomes more and more impatient.

Generally speaking the end product toward which the efforts of all of us are directed is called a "Marketable Title". With the constant lengthening of chains of title year after year the quest for marketability becomes more and more like looking for a needle in a haystack.

Fortunately there are tangible and

reasonable means by which the adverse tide can be stemmed and improvements accomplished.

Great progress has been made in some states in recent years toward accomplishing basic improvements in the laws governing the transfer of real property. New laws may not be able to solve all the problems which beset us, but they certainly are needed in any program for practical and substantial refrom of our land transfer system. New laws we are going to have whether we like it or not. The popular expression, "There ought to be a law", comes out of a feeling which lies very deeply in human nature. When a large enough segment of the public gets the idea that something is wrong, it is a pretty good bet that there is going to be a new law, sooner or later. The only real question is whether it is going to be a good law or a bad law.

This is the reason why the active interest and effort of an Association like this is of such tremendous importance if we are to have "good" new laws to work with. There is power in an organization like this, and in your state level affiliates, by which you can, if you will, add the impetus which will greatly accelerate the accomplishment of the improvements already in sight.

Undoubtedly the brightest stars on the new horizons of legislation relating to our system of land transfers are the "Marketable Title Acts" which have been adopted in a few states. Iowa pioneered in this field as long ago as 1919. There were watered-down similar efforts in Illinois, Indiana, Wisconsin and Minnesota in the early '40s. The real landmark, however, is the Michigan Marketable Title Act of 1945, which became the guidepost for the Nebraska and South Dakota Acts of 1947 and the North Dakota Act of 1951. In general pattern these Acts declare, in effect, that one who has an unbroken chain of record title to any interest in land for a specified period of time shall at the end of such period be deemed to have a marketable record title to such interest, subject only to narrowly limited antecedent exceptions, and subject, of course, to any defects in the chain of record title during the stipulated period. With certain exceptions, all outstanding interests having an origin prior to that period (or in some states prior to a certain date) are extinguished by the statute unless an appropriate notice thereof is recorded, and a good record title for the full period (or since the certain date) is declared to constitute a marketable title. Such a statute not only bars the old interest by lapse of time, which is the usual function of a statute of limitations, but provides a mechanical method of determining the situation on the record. The bar is made to apply to all such old interests (not within the narrow specific exceptions) unless evidence of their existence is perpetuated on the record by some special declaration so that subsequent purchasers and mortgagees may be given appropriate notice. One of the problems with which any such legislation has to contend is, of course, the effect of possession. But possession is an ever present problem in any event. In this respect the Michigan Act applies unless the land in question "is in the hostile possession of another". But the Nebraska Act provides that the record title holder may show the fact of his possession (actual or constructive) by recording a simple affidavit stating that fact. It is noteworthy that the preservation of antiquated interests, to the extent that they are not otherwise barred, can be accomplished under these acts by the recording of a simple notice of them. There are appropriate penalties for the recording of false notices. But the commencement of an action is not necesary to keep them alive as it is under the orthodox statutes of limitation.

While I have described Marketable Title Acts as the brightest stars on the horizons of new legislation, there continues to be a definite place for improvement in the more orthodox legislative approaches toward greater security of title transactions. Many of our general and special statutes of limitation are still absurdly encumbered with unnecessary and unwise

exceptions and disability provisos. All of these deserve our most serious reconsideration.

The re-study of our Curative Acts is also a most profitable undertaking in the direction of improvement. There is a careless tendency to confuse curative acts with special statutes of limitation. But the difference is clear enough. A statute of limitation bars an otherwise actionable claim of interest unless an action is brought within a certain period of time. But a curative act **declares** that a title instrument is valid notwithstanding some formal imperfection, such, for example, as a defective acknowledgement. It does not have to depend on the failure to bring an action. A curative act is constitutionally based on the idea that the legislature can, generally speaking, dispense retrospectively with formal requirements which the legislature had the power prospectively to impose. But most of the curative acts which remain in great numbers on the statutes of most of the states are ridiculously narrow in their application to particular kinds of defects in particular kinds of instruments in particular situations. Many of them, by their own terms, do not even apply on the face of the record, but are made to depend on facts, such as the fact of possession, which do not appear of record. Many of them apply only to instruments prior to some specific date in the distant past. This requires periodic up-dating by the legislature if the acts are to have any modern utility. But the up-dating is too often neglected. There is no reason why curative acts should not be more comprehensive than most of them are. There is no reason why they should not be made to operate on formal imperfections prior to a certain bulk period of time instead of prior to a particular date in the remote past. In a paper which I gave more than 21 years ago, I referred to such a comprehensive act as being "prospectively retrospective"; and I still think that is a good way to describe it.

Another major area of possible legislative improvement has to do with the evidentiary effect of certain matters appearing of record. It is no news to this audience that in passing upon titles we necessarily indulge in certain presumptions. Some of you here offer insurance that such presumptions are correct. We necessarily assume, for example, that a recorded deed has in fact been delivered, unless there are other recorded facts which cause a suspicion to the contrary. Legislatively declared presumptions cannot in many circumstances be made conclusive. But it is not necessary that they be conclusive for them to aid marketability substantially. There are many states in which the judicial decisions, or the statutes, or the practices and customs of the Title Bar are fairly well developed in the field of presumptions. But there are many states in which there are still substantial vacuums in respect to the presumptions which can reasonably be relied upon. Comprehensive legislation in this field could be most useful.

Now I have laid the foundation for what may be a major book-selling job. I am being facetious, of course, in calling it that. Actually I can't think of any better way in which I could spend this half-hour than to bring to your attention as forcefully as possible the point to which I now come. I don't believe that anyone present could realize any better than I do the difficulties of trying to work out sound legislative improvements in these various highly technical areas without having to spend an inordinate amount of uncompensated time in the basic research which is necessary to practically useful and constitutionally dependable results. Later this week my good friend Ray Potter, of Detroit, is on your program to describe the so-called "Michigan" project, and I do not want to steal any words out of his mouth. He will have two days in which to adapt himself to what I think I have to say now.

In a nutshell it is this: About two years ago, a committee of the Real Property, Probate and Trust Law Section of the American Bar Association and the Law School of the Uni-

versity of Michigan launched a project, the first fruits of which are about to be picked. This undertaking received generous support from many private subscriptions, including a very helpful contribution from your Association. By the greatest good fortune, Profesosr Lewis M. Simes was available to direct this research and writing. The printed first volume of this work is expected to be available in December. I have had the very cherished privilege to examine a copy of the manuscript. Ray Potter will describe it to you in greater detail. I merely want to say, as it connects into my own theme, that here is a monumental work of law. It contains a complete commentary on the problems of improving our land transfer system by practical legislation within the existing framework. It contains exhaustive studies of all questions of constitutionality related to such legislation. And it proposes and discusses more than 30 "Model Acts", ranging all the way from one as broad as a Model Marketable Title Act to one as narrow as a "Model Act on Limiting the Duration of Options".

This tremendously important and practical contribution to legal bibliography will soon be available to you. I hope you will **use** it. Local level revisions and adaptations are, of course, necessary and expected in connection with any such work as this and that will require some local effort. But here, collected in one place, will be all the basic patterns and reference materials for genuine progress in the direction of legislative improvements. There can no longer be any very good excuse for not making the necessary local efforts on the ground that you do not have the time or the money for the basic drafting and research.

Now, in the remaining minutes, I want to deal briefly with another old favorite subject of mine: Title Standards. All I have said so far relates to the bright prospect of improvements through legislation. Title standards, on the other hand, offer great possibilities of improvement by voluntary understanding. They are aimed at a somewhat different target.

Marketable Title Acts, statutes of limitation, and curative acts ordinarily look back a considerable number of years to a fixed or progressive base point prior to which defects are rendered harmless. Title standards, however, deal in considerable part with ourt attitudes and opinions on questions which are not yet touched by any such retrospective legislation. Such standards do not pretend to validate titles which are actually bad because of substantive infirmities. They are not intended as rules of **ideal** practice in the **prospective** handling of new transactions. They are simply rules formulated and generally accepted by the bar to be applied in the **examination** of titles where certain technical and commonly recurring imperfections are found already in the record.

Most of us can agree upon a dictionary definition of "marketable title." Generally, it is one free from "reasonable" doubt. All of us believe that **we** are "reasonable" men. It is always the **other** fellow who is unreasonable. We who are reasonable men regard the hypermeticulous examiner as a plague. We would be free to do a lot more profitable business if we did not have to waste our efforts complying with his silly requirements. But the worst of it is that if we are left to our means, we—who are reasonable men, don't forget—tend to become hypermeticulous in self defense. Unless some means of escape are provided, the norm for title examination tends to be established in any community by the examiners who raise the most objections irrespective of their triviality or lack of merit. State-wide standards of title examination, reached by agreement of the members of the Bar, afford the most workable means I know to break this vicious circle which otherwise exists among title examiners.

To the best of my present information, state-wide standards have been adopted in a total of 23 states, and in at least one other state local standards of two metropolitan centers are so widely accepted that they have virtually state-wide use. This has all

Current Economic Trends and Their Implications

MARTIN R. GAINSBRUGH, *Chief Economist National Industrial Conference Board*

The nation's output of goods and services failed to rise in the third quarter of this year after five successive quarterly increases. This and other disappointing items in the flow of business information has turned some analysts to viewing the near-term future with darker glasses. Sensitive indicators, such as new orders, have turned downward. Other basic measures of current activity, such as personal incomes and retail sales, have also begun to edge downward. Industrial production fell in each month of the third quarter and will probably dip again in October.

Has the top, therefore, been reached in the expansion which began in the Spring of last year? Those who believe the peak has already been passed are confusing the disruption caused by the record-long steel strike with an ebbing in the strong basic economic forces responsible for the 1958-1959 business recovery. These forces making for expansion are as strong in the main as they were before, so that with the resumption of steel production the economy should snap back into the prosperity phase.

Undoubtedly the inventory accumulation in the first half of this year accelerated the upswing. Without the threat of the steel strike, national output in the second quarter probably would not have been so great as it was. But this was only one of the elements in the general recovery pattern. In the absence of a steel strike, what would have happened this summer, what would be happening now, would have been a steady upswing in business activities, even without the rush to accumulate steel inventories.

The two sustainable forces already sparking the economic expansion before the interruption of the steel strike were the renewed willingness of consumers to buy hard goods and recovery in business spending for plant and equipment based upon the need for cost-cutting modernization and for new products. The expansion was also supported by a high level of housing construction. Even as late as last month, when signs of tight money were flashing, new housing starts were well in excess of 1.3 million, annual rate, not very different from the 1.4 peak rate reached in a few months early this year.

The Conference Board's consumer buying plans survey through last month, and even including the first week in October, still show every sign of continued consumer confidence. Plans to purchase automobiles were still pointing upward, as were most plans to buy household appliances. Plans to buy new homes were holding firm.

Our capital appropriations survey in the first half of this year has already indicated boosts in business capital spending which should continue into 1960. There are no signs of any change in these plans and no fundamental reason why they should change at this time. When it comes to capital spending, businessmen usually look ahead more than a month or two. The steel strike, temporary as it surely is, should not change their spending plans — although some shortages of steel may delay delivery of equipment.

It is for these reasons that the trend for the near term still continues favorable to further expansion. The current tapering off in key indicators represents a temporary dislocation in the economy rather than a cyclical turning point. The hesitancy in business of recent months may still hold for October, but the basic upward trend in business should reassert itself in the final months of the year and in the year to come.

been accomplished since the first state-wide standards were adopted in Connecticut in 1937. I take an almost parental pride in the Nebraska Standards, first formulated in 1938. I have a sort of grandfatherly interest in the Michigan Standards, first published in 1956, and in the Florida Standards which came out in March of this year. To my personal observation, the greatest practical usefulness for the standards lies in eliminating the fly-specking type of minor objections, which are a nuisance to title men particularly, and the public in general, but which are not of sufficient consequence that they would ordinarily result in a suit to quiet title. Beyond this, however, I know that in a 14-year period after standards were first adopted in Nebraska, the number of suits to quiet title, in relation to the number of real estate transactions, was reduced by almost exactly 50 percent. I have documented this on previous occasions. For today's purposes I simply assert it as a fact.

Those of you from states which have not yet tasted the benefits of a system of title standards would stand to gain much by developing the idea. Representatives of title companies in such states have no reason to assume that the idea will not work in states where title insurance is prevalent or predominant. As others of you know, title companies are in many places the most enthusiastic supporters of standards of title examination. It just stands to reason that the situations with which title standards most commonly deal may be compared to the friction in a machine. To whatever extent the friction can be removed the machine is necessarily going to work better and more economically.

I urge you all, therefore, to pick up these implements which are now available and work with them for the improvement of our land transfer system to the end that you can better serve the public with which you deal, and as a by-product, put more net money in your own pockets.

CURRENT TRENDS IN EMPLOYMENT

In Millions

	Item	1957 Apr. (A)	1957 July (B)	1958 Apr. (C)	1958 Sept. (D)	1959 Apr. (E)	1959 July (F)	1959 Aug. (G)	1959 Sept. (H)
1	LABOR FORCE (Household Survey):								
2	Total labor force incl. armed forces	69.8	73.1	70.7	71.4	71.2	73.9	73.2	72.1
3	Armed forces	2.8	2.9	2.7	2.6	2.6	2.5	2.5	2.5
4	Civilian labor force, total	67.0	70.2	68.0	68.7	68.6	71.3	70.7	69.6
5	Unemployment	2.7	3.0	5.1	4.1	3.6	3.7	3.4	3.2
6	Employment	64.3	67.2	62.9	64.6	65.0	67.6	67.2	66.3
7	Agriculture	5.8	7.8	5.6	6.2	5.8	6.8	6.4	6.2
8	Nonagricultural industries	58.5	59.4	57.3	58.4	59.2	60.8	60.9	60.1
9	Self-employed, unpaid family, and domestic workers	9.1	9.4	9.3	9.2	9.4	9.6	9.5	9.4
10	Wage and salary workers	49.4	50.0	48.1	49.2	49.7	51.2	51.4	50.7
11	PAYROLL EMPLOYMENT STATISTICS:								
12	Nonagricultural industries								
13	Wage and salary workers	51.9	52.2	49.7	51.2	51.4	52.4	52.1	52.5
14	Manufacturing	16.8	16.7	15.1	15.8	16.0	16.4	16.2	16.3
15	Durable goods	9.9	9.8	8.6	8.8	9.3	9.5	9.1	9.2
16	Nondurable goods	6.9	6.9	6.5	6.9	6.7	6.9	7.1	7.1
17	Nonmanufacturing	35.1	35.5	34.6	35.5	35.4	36.0	35.9	36.2
18	Mining	0.8	0.8	0.7	0.7	0.7	0.7	0.6	0.6
19	Contract construction	2.7	3.0	2.5	2.9	2.7	3.0	3.1	3.0
20	Transportation and public utilities	4.2	4.2	3.9	3.9	3.9	4.0	3.9	3.9
21	Trade	11.2	11.2	10.9	11.2	11.1	11.3	11.4	11.5
22	Retail	8.2	8.2	8.0	8.1	8.1	8.3	8.3	8.4
23	Wholesale	3.0	3.1	3.0	3.0	3.0	3.1	3.1	3.1
24	Finance, insurance and real estate	2.3	2.4	2.4	2.4	2.4	2.5	2.5	2.5
25	Service and miscellaneous	6.3	6.4	6.4	6.5	6.5	6.6	6.6	6.6
26	Government	7.6	7.4	7.9	7.9	8.1	7.9	7.8	8.1
27	Employment (Household Survey)*	65.1	65.3	63.7	63.8	65.9	65.7	65.7	65.5
28	Agriculture (Household Survey)*	6.2	6.6	5.9	5.5	6.3	5.8	5.7	5.6
29	Nonagriculture industries (Household Survey)*	58.9	58.9	57.8	58.3	59.6	60.2	60.0	59.9
30	Nonagriculture employment (Payroll Records)*	52.2	52.5	50.1	50.8	51.9	52.6	52.0	52.0
31	Unemployment rate*[1]	4.0	4.2	7.5	7.2	5.3	5.1	5.5	5.6

NOTE: The household survey data are obtained by personal interview with individual members of a small sample of households and are designed to provide information on the work status of the population classified by demographic characteristics. Payroll employment data, on the other hand, are obtained by mail questionnaire which are based on the payroll records of business units. From them, detailed statistics on the industrial and geographic distribution of employment are prepared. One consequence of these two approaches is that persons employed in more than one establishment during the reporting period are counted only once in the household survey, but twice or more in the payroll figures. By definition, proprietors, the self-employed, domestic servants and unpaid family workers are excluded from the payroll data but not from the household survey (an adjustment has been made in Line 10 for this difference).

1 Unemployment as per cent of civilian labor force.
* Seasonally adjusted.

Sources: Bureau of the Census, Bureau of Labor Statistics—10-14-59

N.B. SEE PAGES 80-81 FOR 25 YEAR SUMMARY OF NATIONAL ACCOUNTS

CHANGES IN INDUSTRIAL PRODUCTION, 1956-1959

Seasonally adjusted index numbers, 1947-1949=100

	Industry	1956-'57 Peak Month (A)	1956-'57 Peak Index (B)	1958 Apr. (C)	1959 July (D)	1959 Aug. (E)	1959 Sept.(p) (F)	% Change '56-'57 Peak-April 1958 (G)	% Change April 1958-Sept. 1959(p) (H)
1	INDUSTRIAL PRODUCTION	2/57	146	126	153	149	148	−13.7	+17.5
2	MANUFACTURES	8/57	147	128	157	153	152	−12.9	+18.8
3	Durable manufactures	12/56	165	131	167	159	158	−20.6	+20.6
4	Primary metals	9/56	148	86	106	67	64	−41.9	−25.6
5	Fabricated metals	11/57	141	118	150*	147	145	−16.3	+22.9
6	Nonelectrical machinery	12/56	157	122	156	159*	157	−22.3	+28.7
7	Electrical machinery	12/56	216	166	227	221	227*	−23.1	+36.7
8	Transportation equipment	2/57	222*	178	218	212	209	−19.8	+17.4
9	Instruments	8/57	174	159	199*	196	197	− 8.6	+23.9
10	Stone, clay, and glass	7/56	161	135	180*	175	173	−16.1	+28.1
11	Lumber and products	1/56	128	107	137	132	n.a.	−16.4	+23.4a
12	Furniture and fixtures	1/56	124	110	149*	145	145	−11.3	+31.8
13	Miscellaneous	10/56	146	129	156*	155	153	−11.6	+18.6
14	Nondurable manufactures	8/57	132	125	146	146*	145	− 5.3	+16.0
15	Textile mill products	1/56	110	92	123*	121	n.a.	−16.4	+31.5a
16	Apparel and products	7/57	113	106	130*	129	n.a.	− 6.2	+21.7a
17	Rubber products	3/57	145	112	172*	162	n.a.	−22.8	+44.6a
18	Leather and products	2/56	109	94	115	n.a.	n.a.	−13.8	+22.3b
19	Paper and products	8/57	163	152	184*	182	n.a.	− 6.7	+19.7a
20	Printing and Publishing	12/57	142	137	150	152*	151	− 3.5	+10.2
21	Chemicals and products	8/57	186	178	211	213*	n.a.	− 4.3	+19.7a
22	Petroleum and coal	1/57	146	127	135	134	132	−13.0	+ 3.9
23	Food and beverages	12/57	114	113	118	119	n.a.	+ 0.9	+ 5.3a
24	Tobacco manufactures	9/57	114	117	132	n.a.	n.a.	+ 2.6	+12.8b
25	MINERALS	3/57	132*	109	118	117	116	−17.4	+ 6.4
26	Coal	3/57	92*	63	56	61	62	−31.5	− 1.6
27	Crude oil and natural gas	2/57	154*	129	148	148	149	−16.2	+15.5
28	Metal, stone and earth minerals	4/56	136*	113	118	99	93	−16.9	−17.7

a—April, 1958 to August, 1959
b—April, 1958 to July, 1959
n.a.—Not available
p—preliminary

*Postwar (1950-1959) peak
Peak for line 1, 155 (June, 1959)
line 2, 158 (June, 1959)
line 3, 172 (June, 1959)
line 4, 154 (May, 1959)
line 11, 139 (May, 1959)
line 18, 117 (May, 1959)
line 22, 149 (March, 1959)
line 23, 121 (May, 1959)
line 24, 134 (April, 1959)

Sources: Federal Reserve Board; The Conference Board—10/15/59

Report of Chairman of Abstracters Section

ARTHUR REPPERT

President, Clay County Abstract Company, Liberty, Missouri

I have been attending these National meetings since 1942. I have not been able to attend all of them, but of late I have missed only a few.

I have always attended the Abstract Section meeting, but until this year when I realized I would be called upon to make a report as your Chairman, I was not conscious that the chairman made such. I have heard some very interesting papers and panel discussions, but never remember of hearing an outstanding report of the chairman. I am sure you will not remember this long after the meeting either, but it has become custom, so here goes.

Generally speaking, Abstracting is about the same throughout the United States. Customs, practice and laws are different, but each of you in your own area endeavors to compile in a comprehensive form an abstract that is acceptable to your customers.

We go to our State Association meetings, zone or district meetings and the national meeting to try to learn a better way to conduct our business, to keep up to date on the way things are being done, to learn of new machines to more efficiently operate our office, and to hear discussed new laws that affect the title to real property, so we can better prepare our abstract for our customer.

It is for this reason you are here today. I hope the program we have prepared for you will do for you some of these things. We have attempted to make it an interesting one

as well as informative, so that when you get home you will be able to use something you heard to your advantage.

I am sure you will also agree with me that also at any meeting you attend like this, there is a great deal to be had from the little conversations you have with a new friend you meet. Don't feel shy about asking him a question as to how he does something you are interested in. It is this type of association that makes for a good meeting for you.

I feel that most of you in this group are very much interested in your State Association and have worked long hours on committees or as an officer of it, and you, I feel, are like I was until I became a member of the Board of Governors of our State Association; I wondered what the state association was doing for me. I fully found out the year I was president of my State Association.

There is continually some problem to be worked out for the betterment of the association as well as for each member.

These same problems are here on the national level, except that you seem to have many more of them, and I am now happy to tell you of the marvelous way your President this year has handled your affairs. Ernie is one of the easiest men to work with I have seen in a long time, and also he is the most organized. He has not this year taken any of the problems lightly and is one of the hardest workers of himself and his board I expect to know.

At the mid-winter meeting the executive board met every day, starting at 7:30 a.m. and adjourning only for the general meetings.

The death of our beloved Jim Sheridan just before the meeting caused perhaps a few additional problems, but I tell you this to let you know that your officers and Board of Governors are all people who are dedicated, and continually working on your problems, some of which you never realize, for the reason they are taken care of before they become known to you.

I know some of you here come from states who have some form of laws that you feel protect your customs better because of them. There are many kinds I have found out, but to know about each one is a long and hard task.

At the mid-winter meeting the idea of having Villanova University compile a digest of the title insurance laws of the various states was suggested, and when the matter came before the board, wherein they were asked to join in the preparing of this digest, I felt that unless a similar study was conducted as to the laws affecting abstracters, I could not see the fairness to the spending of Association funds. I made such a suggestion and it was agreed that it would be included in the report, so that some time the later part of next year I understand, your state association will have a digest of the laws of the various states. Perhaps they will help you to get some legislation for your state if you desire it.

One of the pleasures of being your chairman is the chance to be invited to state meetings other than your own. I was very much pleased when I was asked to attend the Arkansas meeting and also the Michigan and Kansas Meetings.

It is interesting that members of the various states all seem to have the same things to talk about. Sometimes the words to describe the same things are different, but they are all very much alike.

I was much interested in a paper given at the Michigan meeting entitled "The Title to Submerging Land of Lakes Adjoining Michigan." The problems are similar to accreation title we have on the Missouri River adjoining my County in Missouri.

In Arkansas a gentleman with the Federal Land Bank gave an interesting paper.

The conversation over the glass of brown liquid is always interesting, and it is here that you can discuss the ways you are doing things with your friends.

A matter that I am sure each of you has heard discussed at our National Meeting, I feel, is going to have some progress made toward solving, I am happy to inform you

there is something concrete being done. This matter is the one dealing with the underwriting practices of the National Title Insurance Company and how they affect us abstracters.

A committee was appointed by Ernie Loebbecke and is attempting to develop such a manual. Each of you received a letter from our National office to send your suggestions to its Chairman, Mr. Zerfing. I hope you who are interested will do so if you have not already.

There has been quite a bit of discussion from the floor as well as in small groups as to some of the practices of some of the National Insurance Companies and I feel sure, knowing who are on this committee, that they will try to seek a solution to the problem. They will however, need your help.

Ours is an association of people in the field of providing title evidence to Real Property and not two groups, one providing abstracts and the other Title Insurance. We can scratch each others backs, and it is not necessary for one of us to kick the other or be kicked.

Each of the companies issuing title insurance policies nationally have at their home office a local business, where they also keep up some type of a plant so in their own local operation they are abstracters just as you and I. They have the same problems about plant operation. They are trying to service their customers whether it be in their local operation or in their national business, and sometimes they can not understand your procedures because they are different from their local operation. I feel that we are all enlightened men and women and if we will take time to listen to their problems, they will listen to ours. I realize this is not always true or has been in the past, but I feel that this committee is going to try to come up with an attempted solution of the problem. However, it is not something that can be worked out over night or without your suggestion, so send them to the committee.

I have appreciated the various State News letters or papers that have been sent to me by some states who have done so. I have enjoyed reading them and was greatly interested in an excerpt from an article appearing in the Yale Law Journal that appeared in the Iowa Title News. It is the type of thing we observe more and more in Law Review and Bar Journals.

In this article appearing in the Yale Law Journal of May, 1959, the writer suggested the substitution of a revamped suit to quiet title for the present system of Abstract-attorney opinion, title insurance, or any other type of title evidencing.

I repeat for the benefit of you not from this great state portions of this article.

"Transfers of land depend on hoary formalities and outdated legal doctrines slavishly adhered to by lawyers, courts and legislators. The usual system for recording land titles fails to improve their marketability and tends, rather, to impair their value."

"Most states retain the outmoded grantor-grantee indexing system despite the utility of a territorial system under which each jurisdiction would be divided into tracts and all interests indexed by parcel."

"In Sum, judicial adherence to the marketability standard is both an implicit admission that shortcomings in the law of land-transfer engender private injustice, and an explicit process which serves to accentuate and aggravate the law's inadequacies."

"Most authorities view Torrens as unacceptable and title insurance as insufficient, and prefer a solution within the framework of the recording system which would enhance the legal—or, in some cases, functional marketability of real property." With respect to the unpopularity of Torens, the writer says,

"More intense is the opposition of vested interest groups — notably title insurance companies, professional abstracters and some attorn-

eys—who thrive on and would perpetuate the confusion which current recording systems create."

"Title insurance is essentially an improved method of appraising the status of recorded titles, a method which neither removes defects nor protects against major losses."

"Examinations by attorneys and professional abstracters are of limited reliability because derived from dispersed, incomplete and poorly indexed public records."

In more than adequate-sized words the writer indicates that none of the present systems or actions are adequate. It would make one's own premises tremble with fear if the reader had the least idea that the writer was correct. This student (and his ivory tower supervisors) are surely not aware of the thousands of safe real estate transactions being enjoyed daily by persons completely ignorant of and unaffected by the confusion and uncertainty rampant in the terrestrial title field. May Providence bless their blissful state.

With many of its admitted defects, let's not scrap immediately the protective systems now employed for a system which its promoter estimates (in all his promoting optimism) would cost an average of "somewhere around $575.00," but would only need to be repeated "every fourth or fifth transfer." No doubt there would be much more and better "thriving on" under the proposed system, but the practical effect upon 999 out of 1,000 transactions would not merit the change from the landowner's viewpoint.

Another article which I feel is a must for your reading if you have not already done so, is an article in the August issue of the American Bar Association Journal. It is an article entitled "A New Role for Lawyers," The Florida Lawyer's Title Guaranty Fund.

You may be saying we have heard of this. It is a title insurance company issuing policies in Florida, and also other states have or are in the process of forming such. I felt the same when I was reading it and said to myself, the Missouri Bar is thinking along the same channels but they will buy their information from me.

I was greatly upset, however, to read in this article the following:

Subsidiary to Lawyers' Title Guaranty Fund is Lawyers' Title Services, Inc., a corporation organized for the primary purpose of aiding fund members in the development and operation of local title information facilities and assuring them of availability of title information in areas where commercial insurers or other local circumstances have made adequate title information unavailable. At present, title plants have been established by fund members and are in operation in seven counties and several are in early prospect.

The fund actively participates with personnel, facilities and monetary contributions in organized real estate title activities in the state, such as real property law institutes, lectures and work shops on title examinations in the law schools, and cooperative efforts between lawyers and real estate brokers. As its revenues increase it can be expected to participate more and more, directly and through its subsidiary—Lawyers' Title Services, Inc., referred to as "Services." There is no apparent limit to the benefits that the fund and services can render to the profession and the public.

You who reside in states where each county recorder's office has a geographical index have quite a bit to be concerned with for the lawyer just might pass you by and check his own records.

Your national board are not just sitting by on this problem, but have it under deep consideration. However, it will also take a great deal of effort on your part in working in your local area.

It will require, it seems to me, that your relationship with your bar be of the highest type, that you make them feel that you are needed in the transfer of all titles, that your records are so much more correct and you have so much more to offer

them than the indexes in the court house.

If you render the most efficient service, you will get the customer. I keep telling the employees in my office that what we have to sell is service, and that the only way we can provide the best service is through preparation.

Beware of the old thief—Procrastination. Don't say to yourself I can't afford that new machine. Also allow yourself time to sit and "think" about the procedures used in your operation. Are they being carried out in the most efficient manner? We are also prone to believe that because it was being done a certain way when we came with the company, that must be the best way. Give yourself time to "think" about your operation.

I am sure business has been good in your area this year, and if you are an average abstracter you will have a much better year this year than last. You are probably so busy you have not had much time to think of your public relations. This is the time to be most conscious of it, however, for when you are busy things have a way of getting slower and your service not the best. Then is the time to get out and call on your customers and find out about their pet problems. So many of them are never prone to tell you, but just go off angry because they didn't get the kind of service they did last year when you weren't so busy.

Also ours is a business which the average person knows so little about and I find they are so eager to learn about it. Do you take every chance you have to tell people about it? If not, you are missing the chance of your life. I have always, I believe, been able to trace some new business to one of the talks I make in my county. I come from a small county in Missouri and we have a couple of very small towns, where I have made talks to Service Clubs and Church groups. In each of these we get a very small amount of business. I had a chance to talk in each and was greatly surprised at the amount of business I received that people told me was because of what I had to say.

I do hope you will however, not become complacent with your business and keep up with what is happening in the area, state and nationally for things are moving much faster than you realize.

Remember, service is what you are selling and when some one else gives better service, he will get the business.

I should not close this report without thanking the officers and Board members of this section for their help and especially Joe Smith, our wonderful executive secretary who is always working for us.

An Ideal Accounting System for the Abstract Office

MARK D. EGGERTSEN
President, Security Title Company, Salt Lake City, Utah

For a guy whose chief objective the past 25 years has been, first, to get the business. and second, to get it out, the subject of an "Accounting System for a Small Title Company" is obviously at least twice removed. Nevertheless when I left the big company and started on my own little abstract office in 1942 I was janitor, messenger, file clerk, searcher, typist, compiler, examiner, bookkeeper and what have you. For that experience I wouldn't trade "all the tea in China."

I started my operation off on a single entry system, using an invoice in duplicate that provided a breakdown as to the particular item billed, such as Abstract Fees, Title Insurance Fees, Miscellaneous (special reports, etc.), Advances for recording fees, revenue, etc. At the end of each day these invoices were posted to the Sales Book, the first column showing total fees billed, and then the respective items posted to the particular column applicable, the total of which had to equal the amount of the first column, i.e.:

SALES BOOK

Date	Inv. No.	Total	Abstract	Title Ins.	Misc.	Escrow	Advances
Sept. 3	1042	$125.00	100.00				25.00
Sept. 3	1043	63.50		57.00			6.50
Sept. 3	1044	122.00		89.00		25.00	8.00
Sept. 4	1045	74.00	40.00		5.00	25.00	4.00
Sept. 4	1046	26.00	24.00				2.00
Sept. 4	1047	67.50		67.50			

The Cash Receipts were entered much the same way.

As business increased I soon discovered we were spending too much time transferring information from the invoices to the Sales and Cash Books, and at this point we adopted a multiple entry system, and instead of making 300 to 400 individual entries in the Sales Book, we were able to make a nominal 4 or 5 entries. This required going to a quadruplicate invoice, with snap-out carbons. These invoices, of course, are all pre-numbered consecutively.

The white copy was delivered to the customer with the Abstract or Title Policy. From here the bookkeeper picks up or continues the operation as follows:

1. The three copies of the sales invoices are collected together and arranged in the following order: first (or yellow copy) in numerical order; the other two copies (pink and orange) alphabetically.

2. Periodically (probably weekly, though such period need not be definite or uniform) separate tapes are run of the various sales items from the yellow copies, keeping them in numerical order. A summary sheet is then prepared and attached to this group of invoices, with tapes attached. One entry is then made in the Sales Journal indicating inclusive numbers of sales slips, as follows:

SALES JOURNAL

Date	Inv. No.	Total	Abstract	Title Ins.	Misc.	Escrow	Advances
9-4-59 to 9-7-59	23801 to 23846	2,163.45	203.50	970.60	313.00	165.90	510.45
9-8-59 to 9-15-59	23847 to 23956	4,322.67	356.10	2,574.40	353.00	321.57	717.60
9-18-59 to 9-22 59	23957 to 24055	3,229.35	289.75	1,852.70	171.00	255.20	660.70
9-23-59 to 9-30-59	24056 to 24154	3,230.69	177.50	2,107.10	129.00	219.28	597.81

Sales invoices are then filed, still in numerical order, for future reference as to the detailed breakdown of sales book entry.

3. The Sales Journal is then tabulated at the end of each month for subsequent posting to the General Ledger.

Of the three copies of sales invoices prepared two still remain unused after delivering one to the client and using one to summarize income. These two copies are kept in alphabetical order and now constitute the Accounts Receivable subsidiary ledger. If the account is not paid by the end of the first month, one copy (orange) is pulled and mailed to the client with such notation as may be deemed appropriate to speed up collection. If a third bill is necessary, the pink copy is pulled and a Thermo-Fax copy run off and mailed.

The remaining copy (pink) is kept in the file until the invoice is paid, at which time it is used in the next accounting operation.

This next operation and one which naturally follows, regardless of the type of business, is to account for cash collections. Here the following procedures are used:

Increase or Decrease	Increase or Decrease	%	Line	Accounts				
			1	**Assets**				
			2	Current assets:				
1,215.06	1,522.87		3	Cash in banks and on hand		13,033.11		10,442.85
605.18	554.74		4	Accounts receivable	18,713.62		16,129.18	
(105.09)	(152.18)		5	Notes and contract rec'ble	5,399.82		3,812.20	
155.94	81.15		6	Advances to clients	2,954.90		2,405.16	
			7		27,068.34		22,346.54	
(50.00)	(50.00)		8	Res. for doubtful accts.	2,122.50	24,945.84	1,817.20	20,529.34
58.11	35.06		9	Prepaid expenses		625.40		856.22
			10					
			11					
1,879.20	1,991.64		12	Total current assets		38,604.35		31,828.41
			13	**Investments**		5,000.00		4,500.00
3,407.18	20,780.19		14	Trust funds		95,932.59		26,708.53
			15	Deposits and other assets		650.00		600.00
			16	Property and equipment:				
			17	Buildings	24,500.00		24,500.00	
506.50	125.00		18	Furniture & equipment	8,525.00		7,415.20	
	2,200.00		19	Automobiles	3,200.00		3,200.00	
			20	Title plant	10,000.00		7,500.00	
			21		46,225.00		42,615.20	
			22	Accumulated depreciation				
(150.20)	(143.43)		23	and obsolescense	7,352.28		5,419.17	
			24		38,872.72		37,196.03	
			25	Land	6,500.00	45,372.72	6,500.00	43,696.03
			26					
5,642.68	24,953.40		27	Total		185,559.66		107,332.97
			28					
			29	**Liabilities**				
			30	Current liabilities:				
612.07	751.93		31	Accounts payable		1,232.28		1,146.80
(75.00)	(75.00)		32	Contracts payable		620.00		1,057.22
			33	Payroll taxes withheld				
106.29	322.40		34	and accrued		1,501.08		1,319.15
			35	Provision for Fed. income				
658.19	885.65		36	taxes		6,420.11		3,175.12
105.12	302.91		37	Title insurance fees due		2,181.44		1,498.97
			38	Notes payable, current		1,200.00		1,200.00
			39					
1,406.67	2,187.89		40	Total current liabilities		13,154.91		9,397.26
			41					
3,407.18	20,780.19		42	Funds held in trust		95,932.59		26,708.53
	(81.20)		43	Notes payable, deferred		6,328.85		7,451.20
			44					
			45	Stockholders equity:				
			46	Capital stock outstanding		35,000.00		35,000.00
			47	Retained earnings:				
			48	Reserved for title losses	6,422.21		4,985.92	
			49	Unappropriated	28,721.10		23,790.06	
828.83	2,066.52		50			35,143.31		28,775.98
5,642.68	24,953.40		51	Total		185,559.66		107,332.97
Aug. 1959	**Sept. 1959**			**IDEAL ABSTRACT AND TITLE CO.**		**Sept. 30, 1959**		**Sept. 30, 1958**

PERIOD Amount	%	PERIOD Amount	%	Line	ACCOUNT	%	TO DATE Amount	%	TO DATE Amount
				1	Revenue:				
7,220.06	77.9	9,317.01	76.2	2	Title insurance	68.9	70,652.26	67.0	56,840.39
850.22	9.2	1,030.05	8.4	3	Abstracting	16.6	17,039.07	18.2	15,450.26
792.40	8.5	1,498.44	12.3	4	Escrow fees	10.0	10,245.08	10.3	8,721.93
				5	Special reports, descriptions				
281.50	3.1	265.30	2.2	6	and binders	3.5	3,550.40	3.5	3,012.13
121.28	1.3	109.36	.9	7	Sundry income	1.0	1,013.74	1.0	822.06
				8					
9,265.46	100.0	12,220.16	100.0	9	Total revenue	100.0	102,500.55	100.0	84,846.77
				10					
				11					
				12	Expenses:				
4,228.10	45.7	5,329.05	43.6	13	Salaries	43.0	44,029.18	43.6	36,957.45
1,245.21	13.5	1,526.76	12.5	14	Title policy fees	13.3	13,636.78	14.0	11,882.24
405.85	4.4	520.52	4.3	15	Office supplies and postage	4.6	4,705.82	4.9	4,129.14
165.63	1.8	224.80	1.8	16	Taxes and licenses	2.3	2,405.60	2.4	2,085.02
190.00	2.1	190.00	1.5	17	Rent	1.8	1,834.50	2.0	1,730.00
142.50	1.5	155.46	1.3	18	Utilities and maintenance	1.6	1,622.81	1.6	1,399.91
128.29	1.4	149.28	1.2	19	Telephone and telegraph	1.4	1,436.17	1.3	1,112.10
84.36	.9	124.21	1.0	20	Discounts allowed	1.4	1,393.75	1.3	1,088.75
105.00	1.1	160.00	1.4	21	Legal and accounting	1.3	1,376.50	1.2	1,030.00
88.42	.9	115.49	.9	22	Entertainment and promotion	1.1	1,120.42	1.2	985.17
60.50	.7	103.43	.8	23	Depreciation	1.0	1,030.83	.9	752.50
71.92	.8	82.40	.7	24	Travel and auto expense	1.0	1,015.32	1.0	818.39
85.12	.9	102.20	.8	25	Employee group insurance	1.0	985.20	.9	806.13
45.10	.5	57.00	.5	26	Advertising	.8	820.50	.7	622.09
51.78	.6	68.50	.6	27	Dues and subscriptions	.7	760.25	.7	606.62
41.30	.4	52.00	.4	28	Contracted services	.5	540.00	.6	480.00
40.00	.4	40.00	.3	29	Obsolescense of title plant	.4	440.00	.5	440.00
39.35	.4	42.50	.3	30	General insurance	.4	452.81	.5	389.98
32.15	.3	38.25	.3	31	Interest and expense	.3	320.22	.3	257.45
28.60	.3	31.24	.3	32	Bad debts and title losses	.1	120.72	.1	102.60
125.38	1.3	154.90	1.3	33	Sundry expenses	1.0	1,052.81	1.2	977.28
				34					
7,404.56	79.9	9,267.99	75.8	35	Total expenses	79.1	81,100.19	80.9	68,652.82
				36					
				37	Income before Federal income				
1,860.90	20.1	2,952.17	24.2	38	taxes	20.9	21,400.36	10.1	16,193.95
558.27	6.0	885.65	7.3	39	Provision for Federal income tax	6.3	6,420.11	5.7	4,858.19
				40					
1,302.63	14.1	2,066.52	16.9	41	Net income	14.6	14,980.25	13.4	11,335.76
				42					
				43					
				44					
				45					
				46					
				47					
				48					
				49					
				50					
				51					
September 1958		September 1959			IDEAL ABSTRACT AND TITLE CO.		Sept. 30, 1959		Sept. 30, 1958

1. Checks and cash payments are listed on a "Whiz" triplicate receipt form, preferably by someone other than the bookkeeper, as such payments are received by mail or over the counter. One receipt copy is retained at this source and kept in numerical order for internal control on cash collections; the other two copies are turned over to the bookkeeper with the cash and checks and any information received with the payments.

2. Bank deposits are made up and money deposited for each day's collections, on the following day.

3. One copy of each "Whiz" receipt is maintained in numerical order by the bookkeeper for reference.

4. The third copy of the "Whiz" receipt is matched with the respective pink sales invoices previously referred to, for which payment is being made. This receipt is then stapled to the paid sales invoices and weekly, or as often as necessary, these paid invoices with receipt attached are summarized and one posting made to the Cash Receipts Journal for the period, as shown on the following sample:

Date	Received From	Total	Abstract	Title Ins.	Misc.	Escrow	Advances
Sept. 15	Grouped Rec. 1086 to 1091	6,753.94	580.15	3,411.70	1,089.95	40.00	1,632.14
Sept. 23	Grouped Rec. 1092 to 1096	4,251.07	350.50	3,085.30	103.00	303.32	408.95
Sept. 27	Grouped Rec. 1097 to 1099	1,750.75	308.40	921.80	156.00	36.30	328.25

Here, again, we have 2 or 3 entries taking the place of 300 to 400 individual entries in the Cash Receipt Journal.

5. At the end of the month the copies of receipts are transferred to an inexpensive binder for filing, and the Cash Receipt Journal totaled for posting to the General Ledger account.

Where Financial Statements are not required for credit purposes but are used primarily by management, a type known as a "uni-spread" statement, samples of which I have with me, have been used with a great deal of success by various types of businesses in our area.

The operating statement (on the yellow form) is designed with amount and per cent columns on either side. To the left is recorded operating results for the current period (month, quarter, etc.) and on the right side is recorded the accumulated results of operation to date. Thus by expanding the sheets one way the comparative period of the previous year or the immediately preceding period can be seen along side the current period. By spreading the sheets the opposite way, the accumulated results of operation for the previous year can be compared with the current year. The percentage columns can then be used to compare expenses with revenue, or individual expenses to total expense, percentage of budget used or any number of desirable percentage comparisons.

The balance sheet (on the white form) is designed to show to the right, the balance sheet figures as of the particular date and to the left the changes as reflected from the previous balance sheet date with a percentage of change calculation if desired. This type of comparison tells us immediately, for example, if our cash position has increased or decreased and how much from the prior period. This statement can also be spread to compare with previous statements in the series.

In conclusion I would say that this type of summary bookkeeping and accounting can be used to good advantage in a company where the gross sales volume is anywhere from

$25,000 to $200,000. However, when the sales volume approximates $200,000 it is very likely that the use of some form of Accounting Machine operation should be considered.

In this as well as in all the other phases of abstract and title business, I am a firm believer in John Bell's theory and I quote: "Don't do anything there isn't sound reason for doing—and also, you shouldn't ever do things twice" . . . which reminds me of a story: we had a teacher in our town who was conducting a class in composition and she asked her children to compose a short theme to contain the items of religion, royalty, sex and mystery. In about two minutes little Johnny brought a paper up to the teacher and gave it to her. She said "Are you through?" And he sez yes he wuz and she sez "What could you write about in that little time?" and he sez "Well I wrote about religion, royalty, sex and mystery" . . . and since she didn't believe it she asked Johnny to read it to the class. This is what he read: "My God, the princess is pregnant. Who done it?"

L. J. BURGER

President, Peoples Abstract Company, Des Moines, Iowa

I believe that we all owe Mr. Stewart J. Robertson a vote of "thanks" for suggesting that a part of the program for the Abstractors Section cover "An Ideal Accounting System for the Abstract Office."

When Mr. Reppert asked me if I would serve on this panel, I said "yes." If I had not been an impulsive person, I would have probably slept on it and said "no." But, as it happened, here I am, trying to tell all of you people what to do about your accounting systems, when I am having trouble trying to get my own to operate smoothly.

At all of the meetings that I have attended of the Iowa Title Association, both Regional Meetings and the State Conventions, stress was put on the Companies, both large and small to get in line, charge more for your services, stream-line your abstracts, which out for competitive systems, and above all, give service. In other words everyone was trying to become more efficient. In the past ten or fifteen years, business has been good. We have become more efficient in our operation. We have bought electric typewriters, we have built new buildings, or improved the old quarters. We have tried to find new and faster ways of taking off our records. The one thing that should have been considered and discussed was the accounting system. I believe that 75% of the companies have continued to use their old antiquated systems of bookkeeping, trying desperately to keep accurate records, with no additional help nor improved methods in this department. The Company I am with has grown each year, our improvements have been made with the exception of the Accounting System. My Board of Directors have been on me for the past six or seven years to do something about this. I have visited other Companies and studied their systems. The two I was really interested in were so complicated—one with all the up to date and expensive posting machines, etc. and the other with system that took entirely too many girls to handle, along with the management spending part of his time supervising it. We are at present still operating basically on the "Cash received and disbursement method." We have hired a firm of accountants to go over our records and are now in the process of converting to the accrual system of Bookkeeping. Under the guidance of the accountants, we have made progress, and consideration is being given to possible revision of our billing and accounts receivable for the purpose of attaining greater efficiency.

Art has asked each of the members of this panel to discuss our systems in a simple way—from the time the order is taken, processing of the order, and the posting of the item to our books, and finally to the submitting of the monthly statement to the

customer. I am going to try and explain the system which we are presently using up to a certain point, fully realizing that you will note duplication, as I explain it, and that it can be substantially improved.

1. Order sheet—**Exhibit "A"**—is filled out and all necessary information —as to charging—delivery etc.
2. Order sheet is put with the abstract and entered on our Abstract Order Book—**Exhibit "B"**—giving this order a Number—our numbering system is consecutive. On this Order sheet is given the name of the customer— legal description — date entered. This order number or abstract number is stamped on the Book as well as the cover of the abstract, using a duplicate numbering machine.
3. After the order is completely processed we then figure the charges and bill. Copy of our simple form of invoice **Exhibit "C."** We do not use the carbon system. This abstract is then delivered to the customer with the invoice. This invoice is directed to the customer ordering the abstract. The date, number of the order, legal description, name of the titleholder, (if it involves a mortgage, then the name of the borrower plus the Loan number or the account number of the Mortgage Company) and the amount of the Abstracting service plus any advancements, showing finally the total charge.
4. We keep carbon copies of all Abstracts or continuations made. On the front of this copy the same information, as contained on the invoice is noted. From this copy the information is posted on the Abstract Order Book (**Exhibit "B"**) in the proper space. This same information is then posted to the Abstract Charge Book—**Exhibit "D"**—All the charges for the day are posted the next morning in the same manner, and kept separated by the day, in order to determine the business for the day. This Charge Book is by loose-leaf. The daily sheet is then posted by another girl to the ledger card **Exhibit "E"**—which is kept loosely in a ledger cart. At the end of the month a statement is made from the ledger card. The ledger card contains the same information as the individual invoice, so that the customer can easily identify the charge.
5. When a payment is received—either for the individual order over the counter, or by check, or by a check covering the monthly statement—a receipt is written in a numbered receipt book—(**Exhibit "F"**), and the next morning these entries on the receipt book are then posted to the Ledger Card Exhibit "E."
6. We keep a daily record of cash or checks received and try to deposit every other day. Each receipt written has a notation on it as to whether it was by check or by cash. If there is an error in the charging, or if it is advisable to charge off a portion of an account when a bill is paid, it is also indicated on the written receipt. The written receipt taken from the receipt book is then posted in a cash book for double checking—and also indicated are the charge offs as they occur. If this system is maintained accurately and all the payments received, plus the adjustments made, are posted properly to the Ledger card. at the end of the month—the amount of the charges for services plus advancements charged — less the amount of paid accounts—less any charge offs, should balance, and will give you an accurate record of accounts receivable to commence your record for the following month.

This all sounds very simple—but so far I have never been able to say that I am proud of this system, nor satisfied with it.

I have also brought along for your examination a copy of our Balance Sheet, Operating Statement, Schedule of Cash in Banks and Savings Institutions and Schedule of fixed assets and accumulated depreciation as of December 31, 1958. These are fictitious in-so-far as figures are concerned. Just for comparison I am also pre-

senting to you copies of previous "so-called" statements which were submitted to Annual meetings of 4 and 5 years ago. From this comparison you will be able to see that we have progressed—and that at the end of the year we have been very little off on our operation.

In most of the smaller companies, such as the Company I represent we have learned a slow and inaccurate system can sometimes lead to embarassing situations, which will lead you to lose a customer because of disgust in our inability to give an accurate statement of his account—without having to check and re-check errors in the statement prepared by your own company. This takes time for the customer and eventually he will go to the company who can give him not only service from the standpoint of abstracting but the quick and accurate service of your bookkeeping system. Also from the standpoint of the small Corporation, it certainly is a pleasure and a feeling of pride to be able to submit to your stockholders or the Board of Directors an understandable operating statement. Your Board of Directors will always go along with an expenditure of this type, and for the individually owned Company, when Uncle Sam makes a call, it would be wise to be able to hand him a set of books instead of a record of the cash received and the cash spent.

I want you to understand that I am not proud of this system, as just related, but through a slow process, with the help of our accountants, over the past two years we are beginning to show progress and eliminating some of our duplication. I feel that by the time the National Convention for 1960 convenes that I will be able to submit your National officers a good, simple, workable accounting system.

I have just one more thing to say—and that concerns pay-roll records. We have never had any trouble with this, except the time consumed in preparing it. In June of 1959 a new system was presented to me in a package form—cost about $80.00—which is saving considerable time. It is a system which you can automatically prepare and keep the Social Security Record. I have a complete set of this system here if you would care to look at it. I hope that I haven't gone too far over my allotted time, and want you to know that I thank Art for the opportunity to appear on this panel with Mr. Eggersten and Mr. Schnebelan, and hope that they have learned as must as I have in taking the time to see how badly we need a good Accounting System for the Abstract Companies.

MILTON J. SCHNEBELEN

President, The St. Francois County Abstract Co., Farmington, Mo.

It is with great deal of pleasure that I have accepted the invitation to convey to you something about the accounting system which we use in our own plant at home.

In our search for the Ideal System we realized that our greatest need was simplicity and yet we knew that that could be overdone. If I may digress just a wee bit—Several years ago we discovered that we had purchased an Abstract Company that kept it's only profit and loss breakdown on a large sheet of paper similar to onion skin—about 2½'x4' and broken down into lengthy columns. At the end of the year all expenditures were totaled and all monies taken in were totaled and balanced against one another. If there was more money than expenditures, the stockholders split the proceeds. The remainder of the time the Company carried on its business out of its checkbook.

That, as you all can realize, is not the way to build or have any knowledge of what a business is doing. Progress is not accomplished by draining all reserves in any kind of business.

We needed completeness and availability of the information desired. In addition we needed information

which would give us the true picture not only monthly, but weekly. These are the things we have strived for. We needed information in order to know exactly where the company stood in its daily, weekly and monthly operations. We needed to know where we were undercharging. We needed to know what phases of operations were not netting sufficient profits. We needed to know where we ourselves were failing, and we needed to know where our employees were failing.

This could not be done nor can it be done by the methods which I described previously, but can only be done by taking advantage of the knowledge and capability of other persons if you yourself cannot or will not produce such information. I, myself happen to be the latter. With that in mind and knowing that a person can be jack of all trades and master of none, we bought this talent. It is not expensive and is no different than people seeking us. Just as all of us are persons learned in the art of titles, people seeks us, but as I have learned, we do not seek others who are learned in their particular field, especially accountants. We are, at times too much a part of the American System of Free Enterprise. We have built our business. We understand our business. We believe in our business. We are superior in our business, but like so many, at times we fail to realize how fast time passes in giving our customers their work. With even as high as ten employees, we do not have time to devote to the understanding of accounting or its systems, to know financially what we are doing and where we are going. We are reluctant to let someone else have any knowledge of our profits or how poorly we are doing.

Systems of bookkeeping, accounting or handling accounts have been forthcoming and have been devised to strive to meet all demands which industry imposes upon them. All of the larger Companies spend large sums of money upon financial systems and controls. In each abstract or title business, the demands upon a system is greater than realized. Generally, we not only want information as to Dollars and Cents, but the system must be capable of producing information which is needed for our future planning and capital expenditures. Planning, not only in the sense of the word of paying for that expansion and modernization which we have done, but planning for that which we desire to do. With corporation income taxes, we have to know fairly well in advance, what our taxes will be at the end of a year's work. We have to know how to plan the capital investments in relation to these taxes. We have to know how much money is available, taking into consideration any dividends which might be paid to stockholders.

In our operations, we start off with an order sheet. From this order sheet we keep track each day of the estimated amount of input in orders. Each order is given a number, which number is used throughout the operation. This sheet contains a place for billing. In addition it gives, beside the abstracting or title amount, the amount of the Title Insurance Order. The numbering is simple. The year is first, then the number is from one on. The next year start it over again.

After completion of the order, it is billed on "pull apart" invoice forms which may be obtained from Ohio Envelope Company and are known as form number AB 2,000. This form gives us an original and three copies. The original is sent with the work. Two copies are filed under the customer's name and the third is filed numerically under the number which has been assigned to the order and is the copy which is kept in the office after the account is paid. This number besides being on the invoice and work sheet is also put on the Certificate of the order. Here, we always have a control and a check on the order or number itself. The two copies which are filed under the customer's name form the basis of the accounts receivable ledger. It gives us one copy for mailing, if we choose, with the customer's statement or can be used as a reminder to the customer that we have not received his payment for the order.

All of the Company's receipts are deposited in the bank, using duplicate deposit tickets. This gives a daily record of the receipts. We carry no petty cash, so all purchases are charged in order that we may have the delivery ticket not only for what is purchased, but also to give the amount purchased. All of our accounts are paid by check.

Once a week, generally on Saturday, our accountant comes in. He posts the ledger, checks the bank balance and gives a weekly memorandum of the condition of the business. At the end of the month he provides a balance sheet and a profit and loss statement and at the necessary times he completes the FICA and unemployment tax forms. In addition, at the end of the taxable year, he aids in the preparation of the income tax forms.

Actually for a nominal amount per month, we have been given a complete picture at the end of each month of the business with depreciation, surpluses, accounts receivable, accounts payable and earned profits. This gives a balance sheet each month and profit and loss statement for any necessary use to which it might be needed. To provide this, our bookkeeping is a single entry system. Whether it is better than a double entry depends upon what your bookkeeper wants. Ours is based upon the Ideal System of bookkeeping, a system which may be purchased at the local office supply store. Perhaps in a few years it will not be adequate because the detail might have to be by personnel in the office and checked by our accountant, but at present this is not necessary as it requires only an average of from 2 to 4 hours per month. After a system is once started it can be easily continued. The month by month balance sheet is kept on a 12 column sheet and can be transcribed if necessary. Once a system is installed, any changes which may become necessary can be readily made and can be readily understood.

This was an absolute necessity for us. My company has in six years modernized its plant, bought and remodeled a building, purchased the other company in the County besides expanding into an adjacent county with all of the remifications of filming and indexing of records.

It has been my observation that most people abhor the thought of bookkeeping and generally can't understand the nature of debits and credits. However, if an accountant is employed, I am sure that with a few short "skull sessions", the whole nature of the brute will be readily understood and the knowledge again will be worthwhile.

A World of Ideas on Public Relations

CARROLL R. WEST

Vice-President, Title Insurance and Trust Company, Los Angeles, California, President, Public Relations Society of America

Shortly after the beginning of World War II a young G.I. from Minnesota was sent to the Mojave Desert for training in desert warfare. He was a good student and after he had completed his training he was assigned for a time as an instructor. At that point he wrote home to his young bride of a few months and asked her to join him, which she did, but she hated the desert from the beginning. It seemed to her there was nothing but sand, sun and wind and a deadly monotony that was almost more than she could bear. She dreamed of the lush vegetation and the lakes of her native state and finally she felt she could stand it no longer and she wrote to her parents and asked if she might return to them and stay with them. They were disturbed because, while they would like to have her home they felt she should stay with her husband as long as possible until he was sent overseas, so after thinking it over a few days her father wrote her a letter. This letter contained but two lines:

"Two men looked out from behind prison bars. One saw only mud, the other looked at the stars."

Those two lines made a deep impression upon the young bride and she began to look around. She ob-

served the beauties of the glorious nights and the wierd and wonderous desert plant and animal life. As she observed these things she began to write and when she had finished, she had a manuscript for a book. The book sold a hundred thousand copies.

When I was preparing some notes for this talk I wondered just what our approach should be. Should we talk about the organization of a large public relations department in a corporation or should I talk about some of the technical phases of public relations. It seemed to me that this might not be of too much interest to everyone. I thought of this true story and I thought we should discuss some of the tools of public relations in general—in other words, look at the good things, the bad things—we will look at the mud and we will also look at the stars.

First, what is the objective of public relations? Obviously it is to build reputation, reputation for one's company. Just how important is reputation? Not so long ago the New York Sales Executives Club sponsored a forum. This forum was comprised of sales heads of great corporations that headquarter here in New York City. The question that was asked of this forum for the afternoon's study and discussion was this: What are the most important factors in successful selling? After long and careful consideration the men and women in this forum came to a single and unanimous conclusion. Their answer: "The reputation of a company and the men and women behind it are a company's greatest selling assets."

How do we establish reputation? First and foremost, of course, is quality of products and quality of services. In today's economy people demand better automobiles, better refrigerators, better medical services, better title services, better goods and services of all kinds,—but it takes more than that.

Paul Garrett, who retired from General Motors as Vice President in Charge of Public Relations, put it this way. He said:

"It is not enough to do a good job. You must let the public know about it."

Fleischmann, when he was head of the great yeast company that bore his name, defined it this way:

"The best reputation can be obtained through an algebraic equation: x+y=z. The x stands for good performance, the y quantity is public recognition of your good job. Put the two together and a good reputation results."

Benjamin Fairless, who started out at the bottom rung of the ladder and retired as Chairman of the Board of the great United States Steel Corporation, said:

"In the great competitive world of business, public favor is a blessing which cannot be bought. It can only be earned."

So today we are going to talk primarily about the things that we do or do not do to earn public favor or reputation. We are going to approach the subject with two points of view, as I mentioned previously.

Speaking of points of view, not long ago out in Los Angeles a commuter was waiting for a bus. A small boy came along dragging a dog, a small dog, with a great big heavy rope. The commuter said, "Boy, where are you going with that dog?"

The boy said, "I am going to sell my dog."

The commuter said, "How much?"

The boy said, "Fifty thousand dollars."

The commuter smiled and the boy went on. The bus was late that morning and a little while later here came the boy with the rope over one shoulder and a gunny sack over the other shoulder. The commuter said, "Boy, did you sell your dog?"

The boy said, "Yep."

The commuter said, "What? Do you mean to tell me you got $50,000 for that dog?"

The boy said, "No, but I traded him for two $25,000 cats."

So you see it is all in the point of view.

What is this nebulous term called "public relations?" There are many, many definitions relating to the skills,

media research, mass marketing, psychology, and so on—all too many of them, I think—but here is one that I like, developed by the editors of **Public Relations News:**

Public relations is the management function which evaluates public attitudes, identifies the policies and procedures of an individual or an organization with the public interest and executes a program of action to earn public understanding and acceptance.

I particularly like that last phrase "to earn public understanding and acceptance." So if all the definitions could be wrapped up in one I think we can say that public relations is simply the objective to win friends for one's company.

Now, before discussing some of the tools of public relations I think we should talk about some of the things which public relations is not. Public relations is not the old-time, long-outmoded press agent. Good relations with the press are important and we will have a bit more to say about that later on, but it is not press agentry. Public relations is not a sugar coating on a bitter pill, making things appear that which they are not. Public relations is not the lobbyist of the stripe that has been exposed in some of the post-war investigations in Washington. Again, good relations with local, state and federal officials is important, but it is not the "five-per-center." Public relations is not the use of the powerful tools of public relations to serve ignoble ends. And here is something that should be pasted in the hat bands of every man and woman that comes in contact with the public. Public relations is no veneer to cover faulty performance. You know, that is something like putting on a clean shirt over dirty underwear. It improves the appearance but not the smell.

Now, some of the tools of public relations. Obviously we can't cover them all in this brief discussion so I would like to talk about some of those tools which we do use every day in our business, either directly or indirectly. During our discussion I would ask you to remember an old Chinese proverb that goes something like this:

"Any man can tell how many seeds there are in an apple, but no man can tell how many apples there are in a seed."

In other words, it is the little things that count.

What about human relations? Good public relations is, in my opinion, good human relations. For example, we have heard a lot of jokes about doctors and their bedside manner. I imagine that 'most every man in this room has a family doctor—I have—but I would wager that there isn't a one of us who could prove that our doctor is technically any better than any one of a dozen others. Why do we go to our family doctor? I know I go because he makes me feel that my health is the most important of anyone on this earth and because I have confidence in him. Call it the "bedside manner," if you wish—I call it human relations.

We have seen a lot of cartoons and jokes about politicians kissing babies. Did you ever watch a parade when a Senator or Governor or an official goes by and he pecks little Junior, the neighbor's kid, on the cheek? You just watch Mom and Pop. They are so proud they nearly bust their buttons. Human relations!

Ministers and their congregations, they are men who really practice human relations. Why? I think it is very simple. Number one, they like and love people; and number two, they believe wholeheartedly in the thing they are trying to do.

Your friendly service station attendant, your butcher, your baker—you go to them because they practice, maybe unknowingly, good human relations.

So I think in business today it is extremely important that we, as managers, ferret out those people who are having trouble with their human relations problem and counsel them in the art of good human relations. It will pay off.

Just how important is this getting along with people? Not so long ago the Carnegie Institute of Technology

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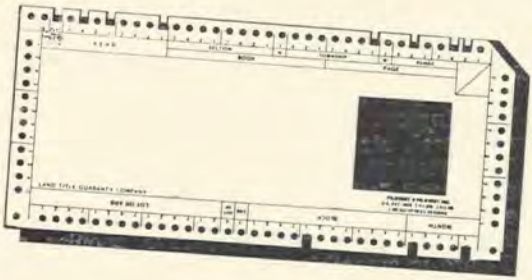

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I mentioned publicity. Is publicity public relations? Yes, it is a part of it, but it is not press agentry.

I suppose when Hollywood press agents pose bathing beauties in bathtubs, maybe it is a part of the build-up, I don't know. I do not believe it does anything to develop better public opinion on behalf of that starlet or her studio. On the other hand, speaking of Hollywood, when I read of the work of Mrs. Spencer Tracy for the deaf, the work that Irene Dunne does on behalf of her church, when I read of the splendid benefits staged by Bob Hope, Eddie Cantor, Bing Crosby and others on behalf of worthwhile charities, that, to me, is publicity and is also good public relations.

When I read of your companies evidencing their faith in the future through expansion programs, building more jobs, better living for more people, when I read of you and your people participating in worthwhile activities in your communities, that, to me, is publicity and it is also good public relations.

Someone in your office would love to give your Editor news about you and your people and your company. Assign that job to someone. There is no mystery to it. They can copy a news release right out of a newspaper and follow that style and if you do that you will find that you can have publicity and good public relations.

What about letter writing? Yes, letters can be good public relations and they can also be very bad. Remember not so many years ago a certain former resident of Pennsylvania Avenue in Washington who was a prolific letter writer and you may recall that he wrote a letter to a certain music critic who had criticized his daughter's voice. The next morning that letter received wide publicity. That day, the President's secretary put a little card on his desk which read:

"Public relations is the letter you don't write when you are mad, and the nice letter you write to so-and-so after you have regained your sense of humor."

I know that many of us are tempted—I am at times—to call in my secretary or pull out the typewriter and let some fellow have it. But I have that little card pasted right in my middle desk drawer and I pull it out and I read it:

"Public relations is the letter you don't write when you are mad, and the nice letter you write to so-ond-so after you have regained your sense of humor."

You know, Dave Garroway put it differently. He said:

"Keep your words soft and sweet. You may have to eat them later."

The point I am trying to make is that we can help to earn public recognition of our good job through letters by reviewing the types of letters that go out from our institutions. I am talking about warm, friendly, to-the-point letters, liberally sprinkled with "Thank you" and "We appreciate." Let us never forget that our letter is an entree into a man or woman's home or office just the same as in person and it can help us to earn public recognition for a good job.

What about use of the telephone—it might seem trite to mention it—but it can be good or it can be really bad public relations. Let me give you some examples here. Not so long ago a friend of mine told me about an organization which he said employed hoot owls. I said, "What do you mean employs hoot owls?"

He said, "Every time you call that place you get this kind of an answer:

"'Who's calling? Who do you want? Who? Who? Who?'

"They sound like a bunch of hoot owls."

Well, of course, it is easy to see

what happened. Someone in that organizaion who is responsible failed to train that secretary, that receptionist, that order clerk, how much better it would be to say: "May I tell Mr. Smith who is calling, please?"

I know you have all had this experience many times: You get to the office bright and early in the morning, you have an important call to make, you wait awhile—you want to be sure the other fellow is in—and you call and get this kind of an answer: "He ain't in yet." What do you mean "he ain't in yet?" Here you have been at the office for an hour and a half and this bird "ain't in yet." Right then and there the public relations curtain is closed. I am not advocating that we teach our people to prevaricate, but that secretary didn't need to tell everything. How much better if she had said, "Mr. Smith isn't in for the moment. May I tell him that you called?"

These are only a few examples of bad telephone techniques. Let us never forget that our telephone is a show case, the number one show case in our business. Although it is not visual, it is one of the finest instruments ever devised by man. It can portray enthusiasm or indifference, joy or sorrow, a smile, a frown or a sigh, and yet in spite of its perfection it is one of the most misused of all public relations tools.

Some of you may have heard Elmer Wheeler in his great address: "It's the sizzle that sells the steak, not the cow." Nothing was ever more true than in the use of the telephone. It's the sizzle that sells.

Your telephone company has some mighty fine films, wonderful booklets, pamphlets, on proper telephone usage. They are yours merely for the asking. They will cost you absolutely nothing. If you will use these for your people you will find that the telephone can be good public relations.

Is advertising public relations? We could spend an hour on this subject alone, but I would like to make only a few points:

Truthful, imaginative advertising, well planned and kept within a well planned budget, can be good public relations. It can help to build public recognition of your company. Poorly planned, unimaginative, untruthfull advertising is wasted dollars.

Let us look at six points that I think would be helpful to anyone who is planning an advertising program:

Number one, analyze your company's sales problem.

Number two, establish an objective. What is it that you are trying to do? If you don't know, then it is foolish to even go into an advertising program.

Determine how your advertising can be coordinated with your sales effort and how much the recommended advertising is going to cost.

Number five, and this is most important, define what is and what is not to be charged to your advertising budget.

And finally, above all, keep it factual, keep it truthful.

If we do these things we will find that advertising can be good public relations.

What about community relations? Early in the Second Century the Roman Emperor, Marcus Aurelius, wrote:

"Every man is worth just as much as the things are worth about which he busies himself."

Several hundred years later Voltaire wrote:

"The only way to compel men to speak good of you is to do good."

I define the remarks of those two great philosophers as pure and simple community relations. What I am talking about is participation in those activities which help to build a better community, a better state and a better nation in which to live. I am talking about active participation in trade associations, professional groups, service clubs, serving on juries and school boards when called upon. I am talking about giving of time as well as money to Community Chests, Red Cross, United Funds, March of Dimes, and others. With such participation and by encouraging our people and providing the

time for them to participate, we are going to be helping them to "pay the rent," so to speak, for the space we occupy in this great country which we love so much. At the same time we are going to find, if we do it altruistically, that it is going to be good public relations.

After twenty years in this field I am convinced that community relations is one of the most lasting and effective public relations of all.

Remember our first illustration, the young lady who looked at the stars? I have no magic formula for forecasting, nor do I possess a crystal ball, but like the poet I believe that "coming events cast their shadows before." I believe that we, too, can look at the stars; I believe we face a glorious future in this wonderful country of ours. Let us take a quick look at the population growth:

Over ten years ago the United States Census Bureau—and I think honestly misled by the low birth rate of the thirties — predicted that by 1965 our population would be 160 million. Today, six years earlier, we already have passed the 177 million mark. By 1965 we are going to reach 190 million or more. Every year since 1954 over 4 million babies have been born each year. The 4,300,000 that were born in 1958 are going to be in the market for goods and services over an average life span of 70 years. Let us look at a few of the things they are going to need in their lifetime, the babies born last year: 50 billion quarts of milk; 25 billion pounds of beef; a billion pairs of shoes—that is equal to the production of all the shoe factories in the United States for a two-year period; 11 million new cars; 91 billion gallons of gasoline; over 2 million new housing units; 65 million tons of paper. Yes, in their lifetime they are going to be in the market for goods and services to an unbelievable degree.

I think within the next two decades we are going to attain a standard of living that we never dreamed was possible. I am not advocating this, but I am predicting that there is going to be more leisure time, a shorter work week. There are going to be new methods of mass transportation in the metropolitan areas, commuting by helicopter from distant places, and so on. Our automobiles are going to be driven by turbine, quiet, smooth, no fumes, no smog. Instead of washing dishes the old-fashioned way, either by hand or the now modern electric dishwasher, you ladies are going to be washing your dishes through ultrasonic sound waves. The now modern refrigerator is going to be pretty much outdated in many ways because much of our food is going to be pre-preserved through irradiation—and heaven help us men, our ladies are going to be living in houses with movable walls. Instead of looking for the bed when we get home, we will be looking for the bedroom. Through atomic power, waters from the salten sea, from the oceans and from other rancid waters are going to develop arid desert areas into veritable gardens of Eden. Fantastic? No, it is not fantastic. All of these things are in the mill and hundreds upon hundreds more.

Yes, we face a glorious future if we properly use the tools to build good reputation for our companies and for our organizations. The wonderful part of it is that it is entirely up to us. I think that is well illustrated by the story that is told of an ancient sage. The story is told of an ancient sage who lived high on a mountain. It was said that he could foretell the future as well as advise on things of the present, so people came to him from miles around, the hills, the plains, the village below, to seek his advice and bask in his wisdom. There was a group of wicked boys who were envious of the esteem bestowed upon him, so they decided that they would try to discredit him in the eyes of the people. Finally they hit upon an idea. They said, "We will catch a small bird which the leader will hold in his hand and we will ask the ancient sage if the bird is dead or alive. If he says it is dead, the leader will open his hand and the bird will fly away. If he says it is alive, the leader will squeeze the bird until it is dead. Thus we will discredit the ancient sage in

the eyes of the people." So they caught a small bird and they climbed up the mountain side and they found the ancient sage sitting in front of his hut. The leader walked up and said:

"Old man, I hold a bird in my hand. Is this bird dead or alive?"

The ancient sage looked at the boy and he looked at the hand holding the bird and then he slowly said: "As thou will, my son, as thou will."

So here we are in October, 1959, and we are dealing with and dependent upon a public that is receptive — receptive to friendliness, enthusiasm, to truth, to good service, good products—receptive to good public relations practices. But at the same time we are dealing with and dependent on a public that is sensitive—I believe growing increasingly more sensitive. Sensitive to indifference, lack of enthusiam, lack of friendlines, sensitive to misinformation or lack of information, sensitive to poor products and poor services, sensitive to poor public relations practices. So I believe if the ancient sage was here today and we were discussing this subject of public relations, I believe he would say to us, "As thou will, as thou will." Thank you.

We Like Standardized Abstract Entries

CLEM H. SILVERS

Secretary, F. S. Allen Abstract Co., El Dorado, Kansas

The subject assigned to me is "We Like Standardized Abstract Entries." Let us assume that the word "we" means those of us who prepare the abstracts, and as well, the examiners.

It is probably true that uniformity exists in each particular office, but between the various abstracting offices we find anything but uniformity, although the abstracts of one office may be every bit as good as from the other office.

Is there any reason why we abstracters should not conform to such rules as might be necessary for standardization of entries? The answer is "No."

From an examiners viewpoint, one of the greatest things we could do would be to establish standardization in our abstracting, establish a uniform manner in showing our entries.

Each instrument contains certain things that are important and must be shown, and most instruments contain some things that need not be shown. For instance, in a deed or mortgage, we must show the names of the parties, the nature of the instrument, the consideration, the date, when and before whom the instrument was acknowledged, the property covered, and when and where the instrument is recorded. It is important to the examiner from a time saving angle that he knows just where to look for these important elements of an instrument. Is the date of the instrument at the top, on the left, on the right, or where? Where is the recording data? Can the examiners find these and the other important elements at a glance. If he is accustomed to examining the abstracts from a particular office he pretty well knows just where to look for what he wants. But when he gets an abstract from some other company then what? Many times it seems that nothing is in the right place, and needless to say too much time is often wasted in getting accustomed to the manner in which the abstracter has set up his entries.

Could we not do something to ease this situation, something that would save at least a little time for the examiner? I believe we can.

Perhaps there are many ways for us to promote standardization of our entries. In my home State of Kansas we are attempting to better the situation by two methods. Others of you doubtless have other ways in which you are striving to do the same.

In the first place, our State Association publishes a Title Course, which is available to anyone who wants to spend $5.00. In this booklet we show a recommended way of setting up the various entries that go into an abstract.

In addition to this, next spring we are holding our first school for abstracters, designed for the "key personnel" of the offices. Such school will be under the sponsorship and guidance of the Extension and Adult Education Division of Kansas University, with a property professor from the University Law School serving as the Dean. We will offer in this school one or more lectures on standardization of abstract entries.

Most of we bosses, for no good reason, are convinced that our present method of setting up entries is the best, and we are not about to make a change. However, if our key employees are convinced that a change should be made, and they are the ones we are striving to convince in our school, perhaps we can accomplish more toward uniformity than we suspect.

Although a discussion of abstract certificates is probably not within the limits of the subject assigned to me, nevertheless I want to mention certificates very briefly and then I will close.

A number of years ago the Kansas Title Association adopted and recommended the use of a uniform certificate, bearing our Association's seal. Most of the abstracters in our state have since used such certificates, and the examiners like them. The examiners can tell at a glance whether or not the certificate is the uniform certificate. If it is, they know what is in it, and all they have to check is the description, dates, taxes, etc. On the other hand, if the abstract does not have a uniform certificate the examiners must read the entire certificate to see that it contains all the things it should contain, and at the same time rack their brains a bit to be sure that they can remember all the things that should be in it.

The use of a uniform certificate is one easy and good way for us to ease the work of the examiner—so if your Association has not adopted a uniform certificate, I urge you to do so. I am sure your examiners will appreciate it.

Modern Abstract Methods

CHARLES B. ROE

Manager, Roe Abstract Company, Pinckneyville, Illinois

The title of this talk was originally scheduled as "The Way We Do It", but was changed to "Modern Methods in Abstracting". I am happy the change was made, for much more time than I am allowed would be spent in telling ways we do things, or how anyone else would do them. In preparing these remarks, I have had to use our own plant as a guide so I hope repeated references to our own system will be forgiven. "Modern Methods in Abstracting" would probably indicate the explanation of a title plant. Time allotted however, prohibits much discussion of our own plant. We have developed through the years many things which would be of interest to anyone who is engaged in our profession, and I shall be happy to discuss with anyone at a time outside of meetings the manner in which we handle the building of chains of title for delivery to a client. We naturally are very proud of the physical aspects of our own plant, but I can take very little individual credit for the methods used, as they were developed by a hobbyist many, many years ago. He was extremely far sighted in his practice, and as a result we have had to make very few changes in order to keep up with the increase of business and requirements. We feel that our system is unique, although I am certain

that is not true, for no individual or firm has a corner on methods or their development. In passing, I would like to say that in our organization no person is a clerk. Everyone working for and with us is a complete abstracter, able to handle every contingency. This plus the fact that our records are so complete that we could restore the information contained in the county records should they be destroyed, therefore reduces to a minimum the trips to information sources other than for final searches, makes for maximum production.

In my short span of time, instead of attempting a discussion of the actual physical aspects of a plant, I shall try to adapt "Modern Methods" to actual practices in developing a chain of title for delivery.

The matter of most prime importance in the building of a chain of title is the construction of your work from the standpoint of the person to whom it shall be delivered for opinion, whether it be an attorney or title insurance company. Too often a title is built with only a local examiner in mind, but even he is too busy otherwise to make countless trips or phone calls to the offices where information is housed in order to complete information that the abstracter should have included in the first instance. Here I don't limit my statement to the ordinary instruments, i.e., deeds, mortgages, releases, etc., but have in mind more particularly the extra information that the examiner could not secure without exhaustive search of death records, marriage or divorce records, just to mention a few. We have through the years in our own plant maintained a most complete file of all marriages, deaths, estates, divorces, etc., indexed for immediate location. This must be done in order to afford extra information for the examiner. It makes no particular difference whether the information be furnished in the form of an item added or by footnote, but an examiner, aided by such information, is able to rely on its authenticity if and only if it is backed by record substantiation.

Before I attempted to prepare anything for discussion here, I interviewed several attorneys, both local and foreign, in order to determine what was to them the most helpful information furnished by our company. In all cases, the first thing mentioned was the use of footnotes. If for instance there is no record proof of death of a deceased landowner, so state in unequivocal terms for then the examiner knows at once that he must procure such in order to complete and cure the title. If there is evidence that a divorce has been granted, or a marriage solemnized in the course of title, you must be prepared to furnish such information in order to acquaint the examiner with the true state of facts. This cannot be readily and economically furnished with a complete and adequately indexed set of records to be searched with a minimum of time and effort. The above are only a few bits of helpful information. If for instance title to one tract is of necessity dropped in favor of another, at a certain point in the chain, so state by footnote at the end of the last instrument covering the first chain, and indicate by positive statement where the chain of that tract may be again picked up. Consider the amount of time saved the examiner in not having to search for the succeeding instrument in the first chain. Do this even though an index (which is later discussed) is furnished. Too much information can never detract from a finished piece of work. Too little makes the abstract incomplete and leaves you subject to criticism on the part of the examiner.

Of second importance in my interviews, although not unanimous, is uniformity of instruments. An examiner, after he has had occasion to familiarize himself with your work, does not appreciate a curve thrown in the form of an instrument which is set up differently from those preceding it. For that reason we attempt to familiarize our abstracters completely with everything that must be included in a chain of title before he is allowed to begin even the simplest extension. He must understand just

what goes into an instrument or court proceeding, and why. Without the "why" he cannot ever be trusted to select the portions of an instrument necessary to a complete projection either as to form or legality. For this reason, in our own company only trusted employees build our books, and when an instrument is prepared for our records, it is prepared in the form in which it will be used in the future, and so filed. In that manner, only one abstracting is necessary, and books and pages may be checked off as complete unless a full exemplification of any instrument is required. For that reason we do not use photography in setting up the abstracted instrument. By this also, uniformity is assured for future use. Understand here however, that we do expect future change, either as to form or content, as the past has indicated that change is necessary. Consequently these abstracted forms are set up in such manner that they will contain any information that is or could be necessary in abstracting, present or future.

It is proper at this point to state that no examiner appreciates having to search through an instrument for information which should be exemplified in such manner that he can see at a glance that the instrument is proper in form, executed properly and acknowledged in the form prescribed by statute. By all means place such information in such systematic arrangement that it can be quickly and accurately observed. I shall take the liberty to set forth one type of instrument, viz., a Warranty Deed in the form used in our own system. We feel it sets forth in logical, easily examined sequence the content of the instrument as it is executed and recorded. Understand that this is simply a form without any extraneous clauses. Should such be found, they must be included verbatim in order for the examiner to know that the instrument is complete as he sees it.

EXAMPLE

Katharina J. Kochman and J. H. Kochmann, her husband,

To

F. J. VOSS.

WARRANTY DEED, Cons. $300.00
DATED: October 26th, 1887
FILED: October 27th, 1887
DEED RECORD 15, page 550

CONVEY and WARRANT 40 feet off the east ends of Lots 15 and 16 in Block 9, Railroad Addition to the City of DuQuoin, Perry County, Illinois.

Executed under seals by Katharina J. Kochmann and J. H. Kochmann.

Acknowledged October 26th, 1887 by Katharina J. Kochmann and J. H. Kochmann, her husband, before William Reid, N. P. of Perry County, Illinois. Notarial seal affixed.

Homestead waived in due form in the body of the instrument and in the acknowledgment.

Of third importance seems to be a matter closely allied to the matter just concluded, i.e., the ability to set out an instrument in short, concise terms without losing any required content. This cannot and must not be entrusted to any but skilled personnel. Weeks and months of preparation must go into the education of a person who is to aid in the building, indexing and maintaining of records, for upon him rests the financial responsibility of the company. If that person is careless, or is unable to comprehend the importance of this portion of practice, he is one who must be weeded out. Reliability here is of utmost importance.

Next in line appears a matter which will cause much controversy among companies. While it seems of minor importance, I can see what

goes through an examiner's mind when he makes this suggestion, viz., the matter of paper size. Frankly, I had not given this much consideration, but when one attorney spoke to me about it, he emphasized the fact that he preferred legal size paper to letter head size. I asked him what his reasons were. He informed me that difficulty in handling bulky chains of title was doubled by the use of shorter paper because of added page turning plus building up of pages already turned to the place where it was difficult to handle the pages remaining for perusal. I know that in most cases where abstracts of ordinary length are concerned, size of paper is of little importance, but where the bulk of an abstract of extreme length is increased by one third due to paper size, then it becomes an item for consideration. We use legal size paper in our own company, but I am frank to admit that it has been through luck rather than request. It has become habit through the years to use it, and since discussing the matter with the particular attorney, and seeing the reasons for his suggestion, we shall be certain to continue the practice of using the legal size paper.

Another matter brought up by almost all interviewed was the adequate use of plats. I was somewhat shocked a few years ago at our own state convention to hear a speaker just then advocating the universal use of plats. I cannot conceive any business such as ours not using all plats available for the projection of a description to be covered. Years ago, in fact at the very founding of our own plant in 1866, the first thing prepared was a complete set of plats, and when I say complete, I mean just that. Our records are complete to the last dotting of an "i" and crossing of a "t". This includes not only government plats, but plats of all subdivisions with certifications, surveys, tax record plats and plats we have prepared ourselves from existing record descriptions of lands contained within corporate boundaries and not subdivided into additions or of lands outside such boundaries but broken into tracts smaller than the original. These are all incorporated in our records for the proper picturing to an examiner of the lands or lots he is required to scan. There is no other possible way that you, an attorney, title insurance company or anyone else who happens to examine your work, can see and describe accurately within the confines of a certain tract of the land, the tract or lot with which you or he must be familiar. How else besides showing existing monuments, survey points, stations or otherwise can a tract be accurately projected? If a subdivision is described as being within the confines of a certain 40-acre tract, you must locate to the satisfaction of all concerned the corners of or other monuments within the major tract in order to assure yourself and those who follow you that you have accurately set forth the lands in question. These matters must not be left to conjecture, for if an examiner is unable to satisfy himself that you have disclosed the proper chain of title, he is wasting his time and therefore you have yours, for you will at some time or other be forced to add to the work you have done in order to complete requirements. Why not do it at the onset and save yourself and others needless time and expense.

A few years ago, we began a practice which has been well received by most examiners. If a plat is particularly complicated and requires more than usual reference, an additional plat is prepared, identical to that on the caption page plus any added information set forth on subsequent plants. That copy is affixed to the inside of the back cover of the abstract in such manner that it folds out for rapid reference. Information is given by footnote to the caption plat that such plat is affixed in order that the examiner will know it before he begins his examination. This precludes the necessity of his having to make repeated checks of the caption page, thereby reducing the time and effort in his examination. When we began this practice we affixed the plat in such manner that it folded to the right of the cov

er, but after having been asked how many left-handed attorneys we knew, we realized our error and thereafter affixed the plat so that it folded in its proper attitude to the left of the abstract. Thus the examiner did not cover it with his arm while making examination.

All in all, the use of every available plat is urged, even though there may be occasions when an issue is clouded by discrepancies. Such when they appear need clarifying, but that cannot be done until they are brought to the attention of one who will require it.

Last, but not necessarily so in importance, is the use of indices in setting up multiple chains of title for simple examining. I don't believe I need to say much on this subject, for I am certain that all here recognize the convenience of the index. I also know that many use the same system we used for years, but we have dropped the old type showing page, item number, grantor, grantee, description and date in that order across a page. This will index chains of course, but does not reduce the amount of labor to be expended by the examiner, for he must go through the index and prepare his own from that one before he can begin to follow a chain to its conclusion. We have developed for ourselves a much simplified version of the index, which is actually what the name implies, an accurate index. We have, as I know many of you have, come to disregard the actual chronological chain, and have placed instruments in logical sequence, i.e., following a cancelled mortgage by its release, a lease by its assignments or other instrument affecting it and its release thereafter, regardless of the number of intervening items by date, and placing other instruments in the position where they would naturally need to be seen by the attorney without having to wade through many other instruments in order to find what he wants. These are in turn indexed, tracing one chain to its conclusion, regardless of intervening instruments. To illustrate my point: Suppose the NE¼ of NE¼ of a certain section, township and range had shortly after its entry, been broken into three parcels, to-wit: N½ of NE¼ of NE¼, SE¼ of NE¼ of NE¼ and SW¼ of NE¼ of NE¼, but which three tracts ultimately had resolved to common ownership. If we were tracing and indexing such a chain, we would treat the N½ first, from its separation to title in the common owner, the SE¼ the same and the SW¼ the same. This would, of course, necessitate for a time three separate and distinct chains. Suppose items 1, 2 and 3 of the abstract affected the whole, items 4 through 7 the N½ only, items 8 through 12 the SE¼ only and items 13 through 15 the SW¼ only, then the whole tract resolving itself beginning with item 16 to conclusion. The index as we prepare it would then appear as follows:

INDEX TO NE¼ NE¼ SEC., etc.

N½ NE¼ NE¼ Sec. etc.		SE¼ NE¼ NE¼ Sec. etc.		SW¼ NE¼ NE¼ Sec. etc.	
Page	Item	Page	Item	Page	Item
1	1	1	1	1	1
2	2	2	2	2	2
2	3	2	3	2	3
3	4	15	8	18	13
3	5	15	9	19	14
4	6	16	10	25	15
14	7	17	11	25	16
25	16	18	12	26	17
26	17	25	16	etc.	
etc.		26	17		
		etc.			

You are able to see, that if the examiner follows the page and item numbers through the title as they are indexed, he is able to follow by page and item numbers the title to the N½ NE¼ NE¼ without having to prepare an index of his own from the one you have made. This would apply also to the SE¼ and SW¼ of said NE¼ of NE¼. We have made it a practice to prepare an additional loose-leaf index in order that the attorney may have a handy reference without having to either copy the one attached to the abstract, or make repeated references to the one inserted immediately following the plat in the complete chain of title.

In closing let me say that I know many of the things I have said here today will evoke argument, and that is good for out of argument comes progress. We don't pretend that ours is the best, but we have found that under stress and under ordinary run of business that our system has held up and proved itself. There are many, many things I would like to discuss but unfortunately time will not permit. The title "Modern Methods in Abstracting" is all inclusive, but since time is so short, only certain things can be done with it. Some months ago a questionnaire came from ATA office at Detroit asking that we set out answers to certain inquiries. We were not able to do so in many instances without writing paragraphs of explanation, for many of the things that were mentioned there had been in existence in our company for many years, and I know that our way of doing things is completely different in many respects from methods being advocated today. The only thing I can say in reply is that we have not had to revamp our system in order to keep up with changing times or changing requirements, and that many of the things we have been doing for so many many years are now the things being advocated as completely modern.

What Would Happen If We Converted From Abstracts to Title Insurance Tomorrow?

JERRY W. McCARTHY, Owner
Grand Traverse Title Company, Traverse City, Michigan

Let us suppose that the first morning after returning from this convention you called your regular customers such as the banks, attorneys and real estate offices and informed them that henceforth you would no longer prepare abstracts or abstract extensions, but would instead provide them with nothing but title insurance. Such an announcement would cause considerable skepticism in real estate circles in my home town, and perhaps it would in yours, too. Yet there are abstracters who have switched their plants virtually overnight to title insurance and as I understand it that title evidencing in the entire state of California was changed to title insurance during a very short period of time.

Your clients reaction would probably be similar to mine. "Give us a little time to think this over. Let us take a few weeks, or a month or so, to ponder the idea, and to get ourselves used to the change."

I hasten to add that I do not think that it is a good idea to force a particular type of title evidence down the throats of the public. Basically I feel that we should continue to let the public tell us what type of title evidence it wants. If the demand is for both abstracts and title insurance, as I feel it will be for many years to come, then we should be prepared to provide both. However, for the purposes of this discussion, I am assuming a rapid and complete change over in order to jolt your thinking and make you quickly visualize the problems you would have

and the decisions you might have to make.

If we in the abstract business are to stay abreast of the times and keep pace with progress it is important that we give some thought to these possibilities. There's no question in my mind that title insurance is fundamentally a more complete method of title evidencing and provides the public with a greater degree of protection than does the abstract. The primary reason our customers continue to ask for abstracts is that they have not been educated to appreciate the additional benefits that title insurance provides. The attorneys in our communities have derived considerable revenue from examining abstracts for individual purchasers and lending institutions. Most of us would be reluctant to disturb this picture by forcing a complete change to title insurance.

But let's face it. Buyers and lending institutions are beginning to ask for title insurance more and more, as evidenced by its increased use. At our mid-winter conference last year in New Orleans, Bill Gill told the abstracter's section (and I am quoting from the excellent summary of that conference published recently in Title News), "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 evidence 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, then you are going to be in a bad fix." In short, the public and lending institutions are more and more asking for title insurance and if we don't sell it to them, someone else will. If someone starts to take over providing the title services that we cannot or will not provide, our days in the title business are numbered. One way to avoid this pit-fall is to prepare ourselves for increased participation in the title insurance business by discussion here today on how total conversion to title insurance would affect our businesses, our profits, and our relations with the attorneys and the public in our communities.

A discussion on this same subject was conducted at the last Michigan Title Association convention and was ably monitored by Willard Smith of Saginaw, Michigan. In order to stimulate the thinking of the group he circulated a questionnaire. His questionnaire, with some modifications, has been reproduced for this discussion.

A State Association Training Program

MORTON McDONALD

President, The Abstract Corporation, Deland, Florida

"This is the time set aside on our program for new business. Does anyone have any item of new business that he would like to present at this time?" Thus spoke the President of the Florida Land Title Association at the 1956 annual convention held in Daytona Beach.

"Mr. President, there is one matter that several of us have been seriously considering and I would like to give our views in short so that we might have all the members thinking on this proposal." Thus spoke one of the members and he continued by saying, "We are wondering if it would be feasible to establish a chair at the University of Florida of "Abstracting of Titles." If this is not feasible, would it be possible to have a short course on abstracting, title searching and title insurance through our Extension Division of the University of Florida? We feel that we need some type of educational program that will be of

benefit primarily to the employees in our various organizations. Many of us have tried training programs in varying degrees. Most of us have felt that our training programs have been inadequate."

After considerable constructive discussion, the motion was passed that the President appoint a committee to investigate the feasibility of a training program. This committee was to report at the next annual convention. From this came the recommendation that it was not feasible at this time to attempt to establish a chair in abstract and title work. The committee did recommend that we hold a short course at the University of Florida under the supervision of the General Extension Division. This committee was continued and requested to prepare for such a course.

The proper authorities at the University of Florida were contacted and the committee met with these educators. Our problems were outlined and discussed with these men. From our explanation they recommended in general the type of program that we followed.

The cost of such a program was discussed, the time, the hours needed and the facilities available. Many hours were given by both the committee from the Florida Land Title Association and the committee from the General Extension Division of the University of Florida in setting up this, the first attempt at a short course in abstracting to be conducted by our State University or any other university, to the best of my knowledge.

I will not go into detail regarding the various discussions, the problems arising and the solutions suggested as this would take up much more time than we have to present this today. I will say, however, that it is my firm belief that the success or failure of such a program rests on the preparations made at such a time. I want to impress upon you that this is not a hit or miss proposition. The secret of any endeavor, and particularly such as this, is in the planning. The University of Florida, through their capable representatives gave splendid assistance in making this a success. This type of program was not new to them, although our particular subject was new.

The dates were set for May 1st and 2nd, 1959. The meeting rooms were arranged. We all had to guess as to the possible attendance. Certain publicity was prepared by the University and other publicity prepared by our Association. The cost was set at $15.00 per participant. This $15.00 included Friday luncheon, Friday dinner, and Saturday luncheon. It included the cost of one textbook and I might add, the textbook we used was Bill Gill's "Title Course." It also included the expenses of certain speakers. We had decided that any of the members of Florida Land Title Association who were called on to participate in the program would do so without charge. The professors from the University who were called on to participate also served without charge, this being part of the services of the Extension Division of the University. Since the University was in session at this time, rooms were not available, so we arranged for housing in various motels available in the general proximity of the University.

Each company in the Association was urged to send some of their employees to this short course. Each company paid the transportation and room rent in addition to the registration fee. We had estimated an attendance of 65 to take the course in setting up our budget. We used this figure so that we might consider that we could break even if 65 attended. We agreed with the University to reimburse them for any expenses if we did not have this number attend. When the registrations were checked, we found we had 102 registered from 33 different companies in the state.

We opened the session on Friday morning at 9:00 with the registration and a get-acquainted session. At 9:30 we started our program. We were welcomed by the Vice President of the University representing the President. The President of our Association responded to this welcome.

A short statement was made as to the purpose and plan for the two days. The first course was a two hour session on Standard Abstracting. This was a lecture for the first hour and a discussion period for the second hour. From the reaction and the many, many questions propounded during the second hour, it appeared that this session could have gone on indefinitely with a coffee break occasionally.

At the close of this first session we had a few minutes break and then went to luncheon. The luncheon was served in an adequate dining hall. The head Professor of the Real Estate Department of the College of Business Administration of the University addressed the group on Escrows. After a short intermission following the luncheon and this address, the class was re-convened.

The afternoon session was on Public Relations. The Public Relations discussion was a two hour session in the form of a panel discussion. This panel was moderated by Jim Robinson, the Public Relations Director of American Title Association. As members of this panel, we had a University Professor, a Titleman, a Realtor and a Public Relations Director of a large tourist attraction in the state. In this way we got a cross section of thinking on public relations. Many good points were brought out in their discussion. A question and answer period was held after the Panel discussion.

The meeting adjourned at 4:00 o'clock and re-convened for a banquet at 6:30. The President of the Florida Land Title Association was Master of Ceremonies at the banquet. After a fine meal ,we had an address by a University Professor. This was a continuation of our course, but in a lighter vein than during the day. There was plenty of food for thought in his humorous address.

The session re-convened at 9:00 o'clock Saturday morning. The first subject was "Liability of an Abstracter" presented by a Professor from the College of Law of the University. He gave a very interesting and informative address on "Liability of an Abstracter." This address created quite a discussion and had to be discontinued for lack of time. After a coffee break, a panel discussion was presented on Title Insurance. This was handled by a moderator and three members of the panel, all active Title Insurance Executives from various companies doing business in the State of Florida.

The closing session was the luncheon on Saturday after which our Public Relations Director of the American Title Association, Jim Robinson, gave the final talk and summarized the activities of the session.

Each participant who attended all the classes was then presented a certificate from the University of Florida acknowledging his participation and completion of this course. This course was conducted the same way any University course would be conducted with the exception that no examinations were given. Of the 102 registering, 101 received the certificate. A questionnaire was passed out shortly before adjournment. Everyone was requested to check the statements which described most accurately their personal reaction to the program. They were asked to read the entire questionnaire before checking any of the statements. I will give you a few of the statements as they appeared on this questionnaire.

"It was the most rewarding experience I have ever had." Thirty-six checked this statement.

"I hope we can have another one in the near future." Ninety checked this statement.

"It helped me personally." Sixty-two checked this statement.

"It solved some problems for me." Fifty checked this statement.

One checked each of the following statements:

"I was mildly disappointed."

"I am taking away no new ideas."

"It was much too superficial."

No one checked these statements:

"It was not exactly what I wanted."

"It did not hold my interest."

"I left dissatisfied."

"It was very poorly planned."

"I did not learn a thing."

We who had planned and worked on this program were highly pleased with the reaction we got from the participants.

Our Association expects to have another short course at the University of Florida within a year from the last one. We will probably change some subjects, but in general, it will follow the plan as used for our first such effort.

Using my office as an example, I might say that my employees who attended were very complimentary in their remarks. It not only helped them learn more of what we are trying to do, but gave them a better picture of the caliber of personnel in the various offices. It also gave them a better picture of the coverage we have in this line of endeavor. We have heard from a number who attended who have been recommending to their fellow workers that if they have the opportunity at any time to attend such a session to be sure to take advantage of it.

One of the big advantages of conducting such a course through the facilities of a university is that it adds dignity to the group and you have the guidance of experienced personnel in conducting such a teaching course. It would be my recommendation that any association interested should, by all means, avail themselves of the facilities of a university rather than attempt the program without this guidance. We, in Florida, are well pleased with the results of this, the first attempt. We highly recommend it to other state associations. Always bear in mind that you need to have the program planned well in advance and you need teachers well versed in their particular subjects.

Eureka—The Really Modern Title Plant

WILLIAM A. JACKSON
President, Southwest Title & Trust Co., Oklahoma City, Okla.

The subject, ladies and gentlemen, is not one of my origin, but is certainly appropriate. If your ATA could help you devise an efficient title plant that would enable you to reduce personnel operation, then you might justifiably feel that the money you spend in attendance has been a wise investment from which you will earn an even better yield than can be gotten from today's discounted mortgages.

According to the Dictionary, Eureka is a triumphant exclamation meaning, "I have found it." To clarify my appearance here, let me amend this definition to "We, together, can find it." One of our members alleged at the New Orleans meeting that those of us who comprise the convention delegation are the most capable group anywhere to find a solution to our need for an efficient plant. My presentation here, then, is not intended as a description of the perfect title plant but is aimed more at giving you ideas already in use by some of our members and to seek your joint efforts in designing a complete plant utilizing the experience of our many members in certain aspects of the equipment.

I would like to further admit and concede that the system we are now using is probably more archaic and inefficient than any system now in use .When I received the questionnaire from National, I was so ashamed of our index system that I refused to describe it. I feel that I am not alone in dissatisfaction with our method of indexing, chaining, and reproducing. We are using the same method that was used back in 1918. Many of you take pride in the number of years covered by your records but can you also boast of the system itself if no efforts have

been made toward modernization. If we owned a 1918 automobile today, we'd feel that we had a collector's item. The same is true of typewriters and other equipment of that period. As the first permise for a change, then, we must know and believe that our present methods are antiquated.

The next basic principle is our reason for not having made any material changes. I think it is quite simply a matter of fear—natural fear that any change we make today may not be the right decisions and that what we might consider now a modern plant will be obsolete in the near future. There is certainly no criticism to be made of those having this very normal apprehension—that is, unless we become chronic skeptics, and blinded to the acceptance of a recognized beneficial modification. One of our members told me that he knew they should dispose of their old tract book system, which practically requires roller skates for posting, but that some of the old timers had a "Sentimental attachment" to the old indexes. We are faced with the same situation as trying to clean out an old attic and not knowing what to get rid of. I think Al Achten put it very aptly when he noted the illustration of the man who bought himself a new boomerang and then damned near killed himself trying to throw the old one away.

The third and last basic principle as a precedent to our making a change is our desire. I know from experience that many of our members are conscious of the antixquity of their plants and do have an honest, earnest desire for a complete overhaul. You have been coming to these conventions these many years, studying the varied units of equipment displayed here, and have spent opportunities, I hope, in visiting plants of our members throughout the country. People in all other industries and professions have been seeking methods of improvement—then why shouldn't we? Would any of you patronize a doctor or dentist today who is operating with 1918 equipment? With the conclusion, then, that we do have an out-moded operation, and that we are interested in a vastly improved system, without the risk, however, of antiquating itself in the next decade, and that we have a mutual desire for an improved system, then let's explore together the right system for our installation.

To further incite your interest in the possibilities of the new plant, I will demonstrate how Plant E (for Eureka) will photograph, index, locate, chain and reproduce by using two employees a period of five hours each, or a total of 10 hours. For this same operation it is now taking 10 people a total of 80 hours for the same purpose.

The system that I want to propose for our consideration consists of the use of three known and proven methods of photography, indexing, and reproduction. They include microfilming for the photography, key-punch equipment for indexing and xerography for reproduction.

There should be such familiarity with the process of microfilming that it is unnecessary for me to describe it. Microfilming equipment, however, is, like all other equipment manufactured today, constantly seeking improvements but the basic principle itself remains consistent.

The method of indexing and subsequently locating items by the use of key punch equipment is probably less familiar to us but we are all aware, I am sure, of its success in many fields in which it has been employed. It's ability to sort in minutes or seconds what now requires hours to do manually is a proven factor. More and more companies, having seen its proven experience elsewhere, are making the transition.

The last unit of our Plant E consists of another proven, but considerably less known process, known as among us not aware of the revolution made in the printing industry by the advent of off-set printing, or the ability to print by means of photography. But the manner in which it has been necessary to photograph, plate burn, and adjust on the printing equipment has been slow and expensive. What a boon it would be to be able to quickly and inexpensively

print on any type of paper directly from microfilm. Such a method has been discovered and is not new to us although equipment for adapting its usages are new and just now ready for presentation. There have been a number of machines permitting us to reproduce from microfilm but they have employed a special, sensitized sheet of paper—ten centsitizer as I prefer to call it. I cannot myself become enthusiastic about a method using special paper when I can reproduce on the same paper I have been using, or on ozalid masters, or multilith plates, using paper costing less than a cent a sheet.

The process of xerography results in the printing on paper of any kind, unsensitized, directly from microfilm. It is a patented process that has been in use many years but equipment for automatically reproducing from single microfilm frames has not been heretofore available. This process consists of the cascading of a dry powder over a coated drum on which the image from the microfilm has been projected. The drum has been charged electronically to attract the powder filings only on the projected image. The image is then transferred to a high tension bar which places the image onto the paper. The paper then passes under a heating element of approximately 450 degrees which results in actually fusing the image into the paper. This not only results in a definitely permanent reproduction but the image is so fused into the paper that the image cannot even be erased. The portion of the image remaining on the drum is next mechanically removed from the drum by means of brushes and the drum is then ready for the next reproduction. This patented process is used by the Haloid Xeriox Company of Rochester, New York. They plan to introduce about the end of this year their Model No. 1824 printer which will reproduce on paper up to 18 to 24 inches from 35 mm. card mounted microfilm.

For our comparison, let's use a plant in a county where there are about 300 instruments filed per day. Naturally, if there are fewer filings per day in your county, the comparisons here will be less impressive, but if there are more filings the greater will be the efficiency of Plant E. Now, for two people, eight hours a day, or 16 together, the instruments are indexed. We are just now getting started. In today's business, we have orders that have to be chained. Two more operators take another 16 hours to chain the instruments. It develops that in the day's business we'll have to take off 360 instruments—that's 36 orders averaging 10 entries each, or vice versa, and I assume a conservative estimate. To reproduce these we will need six typists. It will take each typist eight hours to copy these 360 instruments. This is based on each girl producing 40 entries per day. Many of you will say that you have girls who are much faster, but may further admit that you've never actually kept a record. You can be sure, however, that we don't intentionally try to employ the slowest people available. Also, there is the failure in finding people trained in our profession. Efforts are being made to provide class room instruction for our industry and our hats are off to those responsible, but even with these efforts we are surely prone to admit the advantages of substituting equipment for personnel where possible. It has taken us now 10 persons a total of 80 hours on this particular day to index, chain, and copy our title orders.

Now let's process the same business with Plant E and with 2 people. Instead of wasting that good microfilm on copies for indexing only, the film itself is the record. First, however, we'll use a key punch card with a standard military opening for mounting. One operator can key punch the cards in 3 hours, including the use of an Arbitrary Tract Index. One operator now mounts the film on the cards — this takes one hour. Another 2 hours is required for verification. Another hour will be required for filing the cards. Now for todays business the title will have to be chained. With a sorting machine, two hours is sufficient to locate the cards. Now at this point, even with those who already have the

key punch equipment, we have come to a roadblock. It is now necessary to take our references on the cards and manually chain the title. Then it is necessary to pull the microfilm, locate it on a viewer, and then type or read from the viewers. This impresses me as being comparable in having a 1960 motor in a T-model frame. The operators will, instead, process our cards through the new 1824 Xerox Printer. This will require one operator only two hours for the day. The copies themselves will constitute the chain of title. They can be delivered to the examiner or they can be inserted in an abstract for the actual entries. Many will contend that the public will not accept photographed copies in an abstract. In all of the localities where it has been tried, we get reports of its success and its acceptability, especially in view of the speed with which orders can be delivered. But even conceding that you might not yet want to pioneer this use of the copies, they will be a much faster and better means of furnishing the instruments to your typists for copying. Also, when you become convinced of your ability to use these copies in a direct usage, they are already available to you. xerography. There should be few This portion of plant E is also very advantageously adaptable for joint operations. If two or more companies share in the key punching, these machines will readily prepare duplicate cards. The microfilm camera can automatically make duplicate exposures. If two companies are participating, three exposures could be made, the third copy in roll form, stored in a fireproof vault and available to one of the companies in event of destruction of their own indexes. By a mutual agreement in writing the cards could be replaced automatically on night or weekends from the undamaged cards of the other participating company.

It would be ridiculous to assume that any of you would now rush out and purchase the equipment necessary for this operation. My only intention is to present it for your study, criticism and suggestions. I have comparable prices if you are interested, but even my own statistics bore me, but many members already have components of this system. Microfilm equipment normally has to be ordered, key punch equipment may take several months. The Haloid Xerox 1824 Printer has not yet even been officially introduced. With present orders, the company advises a delivery date in excess of a year. Many of our members have already ordered this equipment without even having seen it. Scheduled for introduction this year, I had hoped that the machine could have been presented here. However, the company was not able to present it at this convention. I had also hoped that we could persuade several manufacturers to present the items comprising this proposed plant to exhibit jointly but time and prior commitments made this impossible. However, enough interest has already been generated to present the possibility that such a combined exhibit might be possible for the convention next year. Meanwhile, I hope I may have given you some ideas to stimulate your interest in Plant Eureka—and surely, with the capabilities in our group we can develop together the ultimate in a title plant.

Report of Chairman of Title Insurance Section

GEORGE C, RAWLINGS
President, Lawyers Title Insurance Corporation, Richmond, Virginia

As your Chairman, I am happy to summarize for you in this report pertinent matters that have transpired since our last annual convention and to give you some indication of the effort your section officers and committees have made on behalf of the industry during the past year.

The report you heard yesterday by Bob Maynard, Chairman of the Film Committee, is the culmination of the action taken by the Executive Committee of this Section at Seattle in recommending to the Board of Governors that an industry film be produced. This effort on the part of the Association to promote the use by the general public of our product and service is what I would hope to be an auspicious start in a continuing program of industry promotion by the Association.

During the meeting, you will hear reports from Richard H. Howlett, Vice Chairman of the Standard Title Insurance Forms Committee, as well as a report by Larry Zerfing, Chairman of the Committee on Standard Underwriting Practices. We also have a special committee, the Annual Report Forms Committee, with Percy E. Warner, Chairman. I reported in some detail at the Seattle Convention on the activity of this Committee. Since that time, some progress has been made, but no final conclusion reached with the National Association of Insurance Commissioners.

The members of these committees have devoted a tremendous amount of time and effort and, in some instances, considerable expense to their respective projects, and I commend them for their contribution to the industry.

The Executive Committee of the Title Insurance Section met in New Orleans on February 19, 1959, during the Mid-Winter Conference, and again since we have been here in New York. At the New Orleans meeting, it voted to recommend to the Board of Governors:

1. That the By-Laws of American Title Association be amended to direct the Board of Governors to appropriate to each section up to $10,000 per annum, which sum would be expended at the discretion of the Executive Committee of each section for such projects as each may see fit. The Board of Governors at its meeting in New Orleans rejected this recommendation.
2. It recommended that the Association pay, with certain reservations, up to $7500 for a study of the title insurance laws and regulations of the various states —by a group from the faculty of the Villanova University Law School. The Board of Governors approved this recommendation and increased the recommended maximum contribution to $10,000, so as to include in the study abstracters' licensing laws. This project is now underway, and later in the Convention Program you will have a report on its progress.

Various other matters of lesser urgency were discussed and considered by the Executive Committee at its meetings, some of which will, as time goes on, no doubt, develop into worthwhile projects.

In my report last year, I stated that it was the concensus of the Executive Committee that the Title Insurance Section should, within the authority prescribed by the constitution of the Association, undertake more direct and aggressive action in the interest of the title insurance industry.

I believe that the more recent activity and projects undertaken by, or at the request of, the Executive Committee clearly indicate that the Title Insurance Section is, within the scope of its authority, well on the road to the kind of aggressive action desired by most members.

During the year, two legislative matters of vital concern to the title

insurance industry came to the attention of your Chairman. One involved proposed legislation in the State of Vermont, and the other was at the National level.

At the last session of the Vermont legislation, Senate Bill 77 was introduced amending Subdivision VII of Section 9203 of the Vermont Code for the sole purpose of providing, "no company may engage in the insuring of real estate titles." With the cooperation of most of the title insurance companies qualified to do business in the State of Vermont, counsel was employed to oppose the bill. Offhand, you would think there would not be too much difficulty in defeating such a bill, but this was not the case. We were unsuccessful in defeating the bill, but did succeed in having it amended to eliminate its basic purpose. The bill, as finally passed, provided:

> "Nothing in this subsection shall authorize an insurance company to issue a policy of title insurance in this state until the applicant therefor has been notified in writing by such company of all defects in title which will be excluded from coverage under the prospective policy. Such notice shall set forth in descriptive terms the nature of such excluded defects. Upon receipt of such notice, the applicant shall have the option of cancelling his application without any liability therefor to said company."

This means that a binder or commitment to insure will have to be issued in every instance, upon receipt of which the applicant has the right to cancel the order or application. It is my understanding that at the present time all business in Vermont is on an Approved Attorney basis. Therefore, for all practical purposes, title insurance companies can comply with this ridiculous statute without serious repercussions.

The State of Vermont does not now, nor is it likely in the foreseeable future to produce any appreciable amount of title insurance business, but legislation restricting the use of title insurance in any state should be vigorously opposed by this Association. One cannot help but speculate on what prompted this legislation. Your guess is as good as mine. It points up the fact, however, that we must be constantly on guard to protect our industry from whatever source the attack may come.

The Federal legislation, which consumed a great deal of time and effort of the officers of the Association this past year, dealt with Section 415 of HR Bill 5674, known as the Military Construction Authorization Bill for Fiscal Year 1960.

When it became known through a news release that there was the likelihood of an amendment to H.R. Bill 5674 being introduced in the Senate, the effect of which would eliminate title insurance on Capehart projects, President Loebbecke appointed a special committee to meet in Washington, at which meeting a comprehensive memorandum was prepared setting forth our industry's position. This memorandum was delivered to the Department of Defense, and, subsequently, a copy of this memorandum was delivered in person or mailed, with appropriate letter, to each senator. From the date of the meeting in Washington, President Loebbecke, Executive Secretary Smith, members of the special committee, and your Chairman were in constant touch with the developments. A great number of you members were called on to communicate with your senators and congressmen. The cooperation from the members of the Association was all that could be desired. Your officers and Committee worked diligently. My only regret is that I cannot report a more successful result.

The Amendment — known as Section 415 — was inserted by the Senate Armed Services Committee and provided that the cost of title search and title insurance could not be included in the mortgage on a Capehart military housing project. The mortgage being the only available source from which the builder receives funds, it excluded the expense of title search and title insurance from the cost of the project. The Section provided that on request of the

Secretary of Defense, the Attorney General shall furnish the Secretary of Defense an opinion as to the sufficiency of the title. If the opinion of the Attorney General is that the title is good and sufficient, the Secretary of Defense is authorized to guarantee or enter into a commitment to guarantee the mortgagee against any losses that may thereafter arise from adverse claims to the title. The bill, as amended, passed the Senate and then went to conference. The Conference Committee modified Section 415, permitting the Secretary of Defense to pay for title search and title insurance out of a revolving fund established by statute for various purposes in the event it was determined that the housing project could not be financed without title insurance.

Now, inasmuch as Capehart projects are built on Government owned land, leased to a private corporation, with the Government taking over the corporation and guaranteeing the payments provided in the mortgage after the improvements have been completed, it would appear at first blush there is no particular necessity for title insurance.

The proponents of Section 415 labored long over this point and strenuously contended that the elimination of title search and insurance by a title company would result in the saving of fantastic sums. Your representatives argued that the Department of Justice and other affected Governmental agencies could not possibly perform the services rendered by the title industry as quickly or as economically as the title companies and that the guarantee of title by the Department of Defense would constitute an unjustified invasion of the field of private industry. The crux of the situation is that a title insurance policy must be issued to the lending institution before construction is commenced insuring that it has a first and paramount lien. The Government does not enter the picture, except as to the leasing of the land, until the improvements have been completed.

Obviously, Section 415 does not set forth the detailed procedure for accomplishing its purpose; however, a form of guaranty of title to be issued by the Department of Defense based on the Attorney General's opinion was available to us, and it clearly constituted the Government's invasion of the field of private business.

There has been no strenuous complaint from the title insurance industry when the Government acquires real estate based on the title search and opinion of the Attorney General. It is, however, an entirely different proposition when the Government proposes to assume a contingent liability to a lending institution by guaranteeing the priority of its lien when, historically, it has always given a quit-claim deed when disposing of property to avoid any contingent liability by way of warranty.

Our opposition to Section 415 was not influenced by the loss of premium income on Capehart projects which the industry might sustain, the amount of premium involved being insignificant compared with the aggregate premium income of the industry. Then, too, the entire Capehart program is already more than 75% accomplished. The real threat and danger is to private enterprise and particularly to the title insurance industry. With the precedent having been established, it is not day dreaming to conceive that sometime in the future someone in Congress, or elsewhere in the Government, will come up with the theory that inasmuch as the Government is guaranteeing the payment of the principal on FHA and VA loans, there is no reason why it should not also guarantee the titles, using as a springboard for its proposal the action of Congress in connection with Capehart projects. Therefore, to paraphrase the immortal Thomas Jefferson, the price for maintaining private enterprise is eternal vigilance.

It was my pleasure to attend the Atlantic Coast, Central States, and Southwest Regional Conferences of Title Insurance Executives. Later in the program, you will hear a detailed report from the respective Chairman of each region. I should like to report, however, that my attendance at all of the regional meetings for the past two years clearly indicates to me

the increasing importance of these meetings.

In closing this, my second annual report, I would be ungrateful if I did not acknowledge with deep appreciation the hearty cooperation I have received from the Vice Chairman and the Secretary of the Section, from each member of the Executive Committee, and from all of the members of the several committees.

It has been an honor and a privilege to serve as your Chairman for the past two years, and I appreciate your wholehearted and gracious support.

Geo. C. Rawlings,
Chairman, Title Insurance Section

Report of Chairman, Committee on Title Insurance Standard Forms

RICHARD H. HOWLETT
Senior Vice-President, Title Insurance and Trust Company, Los Angeles, California

Since the Richmond Convention, the Standard Forms Committee has had under consideration a proposed Owner's policy of title insurance and certain suggested changes in the ATA Loan policy. Ben Henley, as Chairman of the Committee, has expertly guided the work of the Committee and to him we are each indebted for the outstanding contribution he has made to our Association. He is not here today because of the fact that this was the only time he and Mrs. Henley could take advantage of an opportunity to enjoy a well-deserve vacation trip to the Orient.

The procedures that have been followed by the Committee during the past two years were outlined for you at our Seattle Convention. The Committee — after considering the problems encountered in the different sections of the country, the different types of coverages that are presently offered in the various sections, the suggestions of Life Insurance Counsel, and keeping in mind the requirement that the policy of title insurance to be approved must be as broad as can be afforded within the limitations of sound title practices and underwriting — now reports to you its unanimous approval of a Standard Owner's policy.

If the policy is approved, copies will be distributed to you by our National Office and for that reason the text is not incorporated in this report. The general convention will be asked to approve this policy at the Thursday session if the report now being given is approved by you.

The policy approved by the Committee is in two forms. The first to be designated "ATA-Owner's Policy" does not afford coverage as to marketability of title. The second form to be designated "ATA-Owner's Policy — Additional Coverage" affords coverage as to marketability of title.

The Committee has considered the suggestions of Life Insurance Counsel, which were reported to you at the Seattle Convention, together with certain other modifications of the ATA Loan policy which were brought to our attention during the study of the proposed Owner's policy. The Committee suggests that certain changes be made in the Conditions and Stipulations of the Loan policy.

The recommendations of the Committee are as follows:

(1) That a Standard Owner's policy in the form filed with the Executive Vice President of the Association be approved for use.
That the policy be designated "ATA-Owner's Policy," but if the coverage is to be expanded to include marketability of title in the form as filed with the Executive Vice President of the Association that the policy be designated "ATA-Owner's Policy—Additional Coverage."

(2) That general exceptions which are applicable to a given region be printed as items in Schedule B

following the caption of that schedule. If the region adopts standard exceptions to be so printed then the designation of the policy may be amended to designate the regional exceptions, e.g., Northeast Region — ATA-Owner's Policy.

(3) That the format of the policy may be modified without change of substance and still carry the designation ATA-Owner's policy. For illustration, the amount, date, number of the policy and the name of the insured may be placed in Schedule A rather than typed on page 1 and the order suggested for the items in Schedule A may be modified.

(4) If the recommended form for an Owner's policy of title insurance be approved, that the Conditions and Stipulations of the Loan policy be modified where applicable to conform to the Conditions and Stipulations of the Owner's policy, except as to the pro tanto provision and the provisions relating to coinsurance and apportionment.

(5) That paragraph numbered 5 of the Conditions and Stipulations of the ATA Loan policy be amended in the manner as filed with the Executive Vice President of the Association. The purpose of the amendment is to permit the insured to release a portion of the security for the loan covered by the policy without first obtaining the consent of the insurer, provided such partial release does not affect the validity or priority of the insured mortgage or deed of trust. This right is not included in the present policy. The paragraph is further amended to make it more concise.

(6) That paragraph numbered 8 of the Conditions and Stipulations of the Loan policy be modified in the form as furnished the Executive Vice President of the Association. The modification accomplishes first the clarification of the mechanic's lien coverage to conform to the original intent by excluding from such coverage construction of improvements subsequent to the date of the policy unless such improvements are financed by the proceeds of the insured mortgage or deed of trust.

Secondly, to amend the pro tanto provision so that the amount of insurance afforded by the policy is not reduced by a payment of a loss under the policy unless such payment reduces the amount of the indebtedness secured by the insured mortgage or deed of trust.

(7) That a new paragraph numbered 11 be added to the Conditions and Stipulations of the policy in the form as submitted to the Executive Vice President of the Association. The paragraph to be added provides the method for waiving or changing a provision of the policy by endorsement or other writing attached to the policy and executed by designated persons. The existing paragraph numbered 11 would be retained and renumbered as paragraph number 12.

The Committe considered the request that the ATA Loan policy be amended to provide coverage against loss arising out of a violation of Zoning ordinances. In some areas a limited coverage in this field is now available but the wide variance of the types of ordinances and the effect of a violation of such ordinances prevent the formulation of a standard coverage that could be used in all areas.

The Committee determined that affirmative coverage against loss arising out of a downward reversion of any guarantee or contract of insurance by a federal instrumentality resulting from an incorrect statement or omission in a policy of title insurance should not be made available. It was the opinion of the Committee that such coverage is, in fact, a guarantee that the insured loan complies with governmental regulations and outside of the scope of title insurance.

The assistance the Committee has received from Life Insurance Counsel has aided our work immeasurably.

We wish to thank them for that assistance and for their efforts which, in fact, started this project as a whole.

On behalf of Mr. Henley and myself, I wish to thank the members of the Committee for their long hours of hard work and for their patience and understanding. On behalf of the Committee, we wish to thank the Association for this opportunity to have served. The benefits each of us has received by sharing experiences and knowledge that comes only from frank and open discussions has enriched each of us more than we can describe.

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The following actions were taken by the general membership of the American Title Association in New York on Thursday, October 22, 1959:

(1) Recommendations 1, 2, 3, 4, 6 and 7 were approved.

(2) Recommendation 5 was disapproved with instructions that it be held in abeyance pending the work of the Standard Forms Committee in conforming the Conditions and Stipulations of the Loan policy with the Conditions and Stipulations of the approved Owner's policy as provided in recommendation numbered 4.

Respectfully submitted,
RICHARD H. HOWLETT
Vice-Chairman

Standard Underwriting Practices

LAWRENCE R. ZERFING
Executive Vice-President, Commonwealth Land Title Insurance Company, Philadelphia, Pennsylvania

The 1959 Midwinter Conference of The American Title Association created a Committee on Standard Underwriting Practices with instructions to create a manual.

Although this is a wide open field and the committee was not limited by the Association, the biggest problem will be to determine what part of an insurer's activities properly come within the scope of this committee. In addition, there is the problem of how far the committee's work will be effective on a nationwide basis or whether a goodly part of its work is more properly the subject of activity on a regional or statewide basis. There are bound to be areas of question, overlapping and uncertainty but the committee has attempted to confine its activities to those items which are general in nature and relate to broad operating principles.

We begin with the premise that a title can only be insured after a careful examination of the title by competent personnel and a thorough review by an experienced underwriter. Anything other is no longer title insurance but casualty, and most title insurance companies do not have charter power to assume casualty risks. Somewhere along the line there is an area of uncertainty as to where title insurance powers end and casualty insurance begins but title insurers cannot close their eyes or wander into the casualty field by merely wearing blinders and thus justify improper practices.

Risks which are not matters of title cannot be the subject of title insurance and within that class are zoning ordinances, local laws regarding use of property, insurance against subsidence of ground, insurance against damage by reason of existing pipelines or easements and so on.

High standards are absolutely essential in our industry. We protect the foundation of our greatest resource, the land, the home, the life savings of many, many persons. We are pressured to let down our guard because we are told, "If you don't furnish the coverage I want, your competitor will." Let's take that with a grain of salt. We can prove for ourselves that long continued growth and the respect of our fellow title men as well as customers can only come from honest, accurate and

prompt service founded on sound principles.

Based on this foundation the Committee is endeavoring to define Standard Underwriting Practices for the industry so that all who deal with us are confident that their affairs are handled with competence and integrity.

A limited number of standards or rules have been prepared but since this report was called for early in the program no committee meeting has yet been held. That will be done during the convention. The subjects studied thus far consist of the following:

Insurance against violation of zoning ordinances.
Insurance against existing violation of restrictions.
Insurance against future violation of restrictions.
Agents and qualifications.
Equity Insurance.
Mechanics liens insurance.
Identity of parties.
Insurance against reverters.
Affirmative insurance against loss or damage by reason of existing known or unknown easements.

These will be studied and put in final form with the expectation that the midwinter meeting can consider the revised product and either reject or approve after which, if approved, they will be transmitted to the membership for their guidance.

The committee will be greatly helped if the membership of the Association will let us know what subjects they want covered by these rules and we solicit the advice of the membership.

Jesse M. Williams
J. Mack Tarpley
George Russell
Melbourne L. Martin
George W. Piche
Albert S. Isbill
Thomas P. Dowd
W. J. Morgan
Lawrence R. Zerfing, Chairman

The Customer's Viewpoint

E. P. "STEVE" CARRIER

Counsel, Investments, The National Life and Accident Insurance Co., Nashville, Tenn.

INTRODUCTION

I am a firm believer in standard forms and procedures. By standardizing forms and procedures the investment section of our legal department has been able to handle the growth of our business over the last seventeen years without increasing personnel. In 1942 we closed 1,327 loans for $10,000,000, whereas in 1958 we closed 3,716 loans for $55,000,000.

The ATA Standard Loan Policy has played an important part in this accomplishment. In 1942 abstracts were accepted in 25% of the loans, whereas in 1958 only one loan was closed on an abstract of title. There are, however, some changes which should be made in the standard loan policy to clarify certain provisions and to eliminate unnecessary work on the part of both lenders and title insurance companies.

The need for a standard form of owner's policy that will insure marketability of title is growing. Real estate investments of U. S. life insurance companies amounted to nearly $3.4 billion at year-end 1958. This was a gain of $245 million in the year and was a continuation of the steady annual growth of real estate investments which began in 1947.[1] Outside of a few states which have adopted uniform policies, there are just as many forms and varieties of owner's policies as there are companies and even more because some title insurance companies have more than one form. This makes it necessary for life insurance counsel to examine each form of policy to determine whether it is acceptable.

This paper will not be limited to a discussion of the standard forms of policies. I shall also give you some of my views as to how services to

both institutional investors and home purchasers can be improved.

STANDARD LOAN POLICY

The recent papers by my colleagues, William L. Bramble[2] and C. H. Bonnin,[3] cover fully the advantages of streamlining and clarifying the ATA Standard Loan Policy—Revised 1946. I shall not attempt to add anything to their suggestions, three of which are now being considered by the Standard Forms Committee. I do, however, urge you to read these papers and give their suggestions thoughtful consideration.

The standard loan policy insures the validity of the lien. Therefore, the fact that interest rates on conventional loans have increased to the maximum permitted in a number of states prompts me to add a word of caution about the importance of examining the closing statement as well as the note and mortgage or deed of trust constituting the lien to be insured, in order to determine that the loan does not violate the usury law. "Aside from the easily discernible situation where a mortgage loan interest rate exceeds the maximum permitted in a particular state, the risk to a lender of a usurious transaction lies in the charges to the borrower which are not called interest, yet which the courts construe to be interest in fact. The courts recognize that the lender's superior bargaining position permits him to control matters of form. In examining any transaction for usury the names assigned to extra charges, such as expenses, discounts, commitment fees, prepayment charges or late charges, do not impress the courts. The substance governs."[4]

The same word of caution applies to FHA loans. Although the new interest rate of 5¾% on FHA loans is below the maximum rate of interest permitted in any state, the 1% initial service charge collected from the mortgagor by the mortgage banker might make the loan usurious if this charge constitutes a part of the discount at which the loan is sold to the secondary investor. There is also a possibility that the ½% mortgage insurance premium which is paid by the mortgagor would constitute usury in a state where the maximum contract rate of interest is 6%.

STANDARD OWNER'S POLICY

The Committee on Standard Forms has made real progress in drafting a standard owner's policy by proceeding on the theory that the insurance contract and the conditions and stipulations should be made identical with those provisions of the ATA Standard Loan Policy so far as is consistent with the respective coverages.[5] There is still a difference of opinion on several provisions but I think we shall be able to reach agreement on everything except the following provision which the Committee has insisted should be inserted in the conditions and stipulations:

"In the event that a partial loss occurs after an alteration or improvement subsequent to the date of this policy, and only in that event, the Insured becomes a coinsurer to the extent hereinafter set forth.

"If the cost of the alteration or improvement exceeds 20 per centum of the amount insured hereunder, such proportion only of any partial loss established shall be borne by the Company as 120 per centum of the amount of this policy bears to the sum of the amount of this policy and the amount expended for the alteration or improvement. The foregoing provisions shall not apply to costs and attorneys' fees incurred by the Company in defending or prosecuting actions or proceedings in behalf of the Insured pursuant to the terms of this policy or to costs imposed on the Insured in such actions or proceedings, and shall not apply to losses which do not exceed, in the aggregate, an amount equal to one per centum of the face amount of this policy."

In my opinion, coinsurance has no place in a title insurance policy which covers the status of the title at the time the policy is issued. The liability of the title insurance company is not increased by alteration or improvement of the property and I see no reason why the insured

should become a coinsurer for defects, liens or encumbrances which were overlooked by the title insurance company.

Apparently, the theory back of the co-insurance provision is to force the insured to increase the amount of the policy to cover the cost of any substantial alteration or improvement. It would be much better public relations to sell the insured on the idea that he needs full protection rather than to force him to purchase full protection by making him a coinsurer for partial losses.

The Committee on Standard Forms has taken the position that the standard owner's policy should not be a full coverage policy, but should contain standard exceptions from coverage in Schedule B with the understanding that 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 ATA Standard Owner's Policy.[6] In view of the fact that standard exceptions used in different parts of the country are not uniform, I think a full coverage form of policy should be approved without any standard exceptions from coverage in Schedule B. The standard exceptions to be inserted in Schedule B should be left to the discretion of the issuing company as is the case with the ATA Standard Loan Policy.

The days of the record title policy are numbered. Home purchasers are being advised to buy full coverage title insurance even though the cost is more.[7] A man purchasing a home should be able to buy the same protection as a lender making a loan on the same property. In most cases an owner's policy is issued simultaneously with a loan policy and it will not work any hardship on title insurance companies to furnish the owner the same coverage as the mortgagee. The same inspection or survey can be used to ascertain the rights of the occupants, whether there are easements not of record, and whether there are violations of any restrictive covenants; and the same waivers of liens can be used to eliminate the general exception of mechanic's liens where no notice thereof appears of record.

PRELIMINARY TITLE REPORTS

The advertising done by title insurance companies leads the home purchaser to believe he is receiving full protection against all defects of title including rights of parties in possession not shown of record, questions of survey, easements not shown of record and mechanic's liens where no notice thereof appears of record. If you are not going to give him full protection, you should take steps to bring the items not covered to his attention before the policy is issued.

There are four main types of preliminary title reports being used. I shall comment briefly on each kind.

1. The first kind is a letter addressed to the seller. It states that the following is a report on the title to the land described in the application for a policy of title insurance and is made without liability and without obligation to issue such policy, lists the name of the owner and the exceptions of record, and adds a printed statement that in addition to any exceptions shown therein, and not cleared, the policy if issued will contain stipulations and also exceptions as to matters outside its coverage which are required by the particular form.

2. The second kind is a letter addressed to the seller or purchaser. It shows the name of the owner of the property, states that its usual or regular form of policy will be issued subject to the following and lists certain general exceptions in addition to the exceptions of record. Some of this type state that issuance of the policy is conditioned upon payment of the fee shown upon the statement attached.

3. The third kind is an interim title insurance binder addressed to the purchaser. It states that title is vested in a certain person, subject only to the defects, objections, liens and encumbrances shown in Schedule B; that upon compliance with the requirements set forth under Section I of Schedule B and upon payment of its premium, the Company will issue its policy of title insurance, on the usual form, in the sum of $———, showing under Schedule B thereof

only such exceptions as appear in Section 2, Schedule B of the binder, provided no liens, encumbrances or objections intervene between the date of the binder and the date the instrument creating the estate or interest to be insured is filed for record; that the binder is delivered and accepted upon the understanding that the purchaser has no personal knowledge or intimation of any defect, objection, lien or encumbrance affecting said premises other than those shown under Schedule B of the binder, and that his failure to disclose any such personal information shall render the binder and any policy issued based thereon null and void as to such defect, objection, lien, or encumbrance; and that the binder is preliminary to the issuance of a policy of title insurance and shall become null and void, unless policy is issued, and the premium therefor paid, within 90 days.

4. The fourth kind is a commitment to insure which is similar to an interim title insurance binder except that it lists certain general exceptions.

None of these preliminary title reports gives a person who is purchasing a home for the first time sufficient information to determine what he should do to see that his interests are fully protected. It seems to me that it would be good public relations for title insurance companies to use preliminary title reports that set out not only the requirements to be satisfied and the objections to be removed, but both the general and special exceptions to be investigated by the purchaser. In fact, I think it would be well to suggest that he employ a lawyer to investigate the exceptions and represent him at the closing.

REINSURANCE AGREEMENTS

Most title insurance companies on our approved list send us their annual financial statements. Some companies send us their certificates of authority to do business in various states, but only two companies have written us regarding their reinsurance arrangements in response to the Executive Secretary's letter of March 10, 1959.

During the past month we have had two cases where a proposed form of reinsurance agreement was submitted along with the preliminary title report. Considerable correspondence was necessary to reach an agreement and the closing was delayed in each case. Delays and additional work of this kind can be avoided if the title insurance companies will submit their reinsurance arrangements along with their financial statements each year. If a company does not have an established reinsurance arrangement, it should advise its regular customers what limit it has on the primary liability retained by it and what form of reinsurance agreement is used to cover the secondary liability.

There is also another field of reinsurance where service could be improved. If one company is merged into another company, I think the holders of all policies should be notified that liability thereunder has been assumed by the company into which it has merged. A company assuming the risks of a company withdrawing from a state should also notify the holders of all policies of that fact.

CONCLUSION

I wish to congratulate the Association on the steps being taken to develop a manual covering standard underwriting practices. I hope any manual developed will stress the importance of a careful examination of the title by a competent examiner, a review of his work by an experienced underwriter, and an accurate and reliable report on the condition of the title to the purchaser or lender.

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1. 1959 Life Insurance Fact Book, p. 85.
2. **A Streamlined Title Policy — The Mortgagee's View**, 35 Title News, No. 11, pp. 21-26.
3. **Mutuality of Interest**, 38 Title News, No. 1, pp. 119-127.
4. Redfield, **Could You Lose the Principal or Interest on Your Mortgage Investments Because of Usury?**, printed by American Bankers Association.
5. Henley, **Report omf Committee on Standard Forms of Title Insurance**, 38 Title News, No. 5, p. 14.
6. Henley, **Report of Committee on Standard Forms of Title Insurance**, 38 Title News, No. 5, pp. 12-13.
7. **Changing Times**, the Kiplinger Magazine, December, 1958.

Title Insurance As Viewed from the Aspect of State Supervision

WILLIAM C. GOULD

Chief of Property Bureau, Department of Insurance State of New York, New York, N.Y.

The business of Title insurance forms an important part of the economic fabric of both the State and the Nation. It is the medium which permits the purchaser of real estate to proceed with confidence that the title to the property is sound. In like manner, where a policy of Title insurance is in effect, the individual or corporation lending money on the security of such property can be reasonably sure that there will be no question concerning the validity of the underlying title. Thus can it well be said that the Title business has played a leading role in the economic growth of our country.

It is not my purpose this morning to cover every phase of supervision relating to Title insurance. In planning today's talk I reasoned that recitation of legal requirements, or an outline of matters with which you already have a working acquaintance, would be not a little boresome to you. It therefore occurred to me that in the time allotted, I should confine my remarks to matters of current interest in the field of Title insurance. I shall also offer some comments in other areas which should be considered in a forum such as this.

State Supervision

There is a tendency in some quarters, whenever the term "State Supervision" is mentioned, to envision a form of monster ever poised to pounce upon those who transgress the provisions of the Insurance Law, or related statutes. Such a mental image overlooks completely the true nature of this important arm of the State government.

Of necessity there are times when, because of the gravity of a given situation, it becomes necessary for the insurance supervisory official to utter a word of admonition, or, in some cases, to take sterner action. But these comparatively rare occurences should not obscure the many helpful acts performed not only on behalf of the public, but for the insurance industry as well and which, in the welter of business activity, seem to go unnoticed. It would therefore be less misleading to regard supervision in its true role as a guardian with the constant aim, barring legal requirements to the contrary, of assisting, not hindering; saving, not destroying. Unless there is presented a question of law, or the public interest is at stake, the Insurance Department will never substitute its judgment for that of management.

Title Insurance Has Made Great Strides

If any of the pioneers of the Title insurance business, as we know it, are still alive, they can look back with satisfaction on a job well done. The business has come a long way from its humble beginning in Pennsylvania in the latter part of the last century. In the calendar year 1958, the face amount of Title insurance effected on a country-wide basis by companies licensed in the State of New York, aggregated approximately 10.9 billion dollars. And as one scans the horizon there is ample reason to be optimistic that there is still much ground to cover before we reach the peak.

Future Prospects Bright

Those gifted in the field of economics paint a rosy picture for the decade ahead. They predict a sizeable increase in population. Such increase, they reason, will certainly call for more housing. That Government officials, at both the State and Federal levels, are aware of such needs is evident from public utterances which are coming with increasing frequency. Then, too, we would be less than observant if we did not take note of the up-surge about us in commercial buildings and the development of new suburban areas with shopping centers and, in some instances, new

manufacturing enterprises. All of these developments would seem to foreshadow a considerable upswing in the business of Title underwriters.

High Money Cost

At the present time we are passing through a period of high money cost. Such situation is bound to have some deterring effect upon building operations, and hence upon Title insurance business. Very likely it will result in some curtailment in housing and other developments. However, the well informed seem to regard this as a temporary situation which, in due course, will correct itself, this launching us into the boom period which they have predicted for the next decade. Presumably, those identified with the Title business will be ready to take advantage of the opportunities which will be the fruits of such an era of prosperity.

Fresh Outlook Needed

Successful business enterprises invariably are founded upon sound planning at the outset. However, in order to preserve the vitality so necessary to continued success, managements must ever be on the alert to keep abreast of current events. In addition, they should make it their constant goal to develop new programs calculated to serve the consumer public better.

Supervision Must Keep Pace with Times

The need for keeping pace with current trends does not apply only to the insurance business. It applies with equal force to State supervision. In the latter connection insurers have been encouraged to develop within the framework of existing laws, new and broader types of insurance protection. This has resulted not only in improved forms of protection for the public, but also in increased premium volume for insurers.

The days in which we live have witnessed the development and perfection of electronic equipment now widely used for record-keeping purposes by insurers. To the end that insurance examiners may be equipped with a knowledge of the capabilities of such machines, and also with an ability to interpret their work product, the New York Department and, I assume, the Insurance Departments of other States have arranged for participation by examiners in special classes conducted by the International Business Machines Corporation.

Another evidence of the efforts of State supervision to keep in touch with modern developments and conditions is the constant service being performed by the National Association of Insurance Commissioners through its Committee on Blanks. It was through the labors of this Committee that there emerged in recent years the revised forms of Annual Statement Blanks now prescribed for use by Fire, Marine, and Casualty insurers. At the present time this Committee, through one of its Subcommittees (Title and Mortgage Guaranty Blank), is engaged in the task of modernizing the Annual Statement Blank used by Title insurers. I am privileged to be the Chairman of the named Subcommittee and I thought it may be fitting to take a little time here to talk of the Subcommittee's accomplishments to date.

New Title Blank

The Title and Mortgage Guaranty Blank Subcommittee has done considerable work in performing its appointed task. A number of meetings has been held which have served as the medium of discussion for suggestions advanced to the Subcommittee. A second draft of the proposed new Blank has now been developed and is presently being considered by the members of the Subcommittee. Present indications are that a further meting will be held, possibly at Miami Beach, Florida, contemporaneously with the Mid-Winter meeting of the National Association of Insurance Commissioners. Industry representatives will of course be most welcome to attend and to submit proposals for the Subcommittee's consideration. Please be assured that we aim to preserve the traditional treatment of those matters which are peculiar to the Title insurance business. Some of the major changes reflected in the proposed new Blank are these:

(a) The finished product will be a more modern instrument for reporting the business transactions of Title insurers

(b) The first pages of the proposed new Blank will reflect statements of Assets and Liabilities on the statutory basis

(c) The asset page of the proposed new Blank will be supported by a schedule setting forth a so-called gridiron arrangement of Ledger Assets, Non-Ledger Assets, Assets not Admitted, and Net Admitted Assets

(d) The proposed new Blank presents a rearrangement and expansion of the Operations and Investment Exhibit which, in the opinion of the Subcommittee, will make for a great improvement over the like schedule in the present Blank

(e) It is proposed to incorporate in the Blank a new schedule F which will set forth supporting data in respect to Reinsurance Recoverable

(f) Schedule N in the proposed new Blank will show Bank Balances in an improved form and will call for an analysis thereof as to General, Agency, Escrow, Reinsurance Reserve, and Other Segregated Funds.

Mortgage Originations and Financing

The Title insurance business is one of the few fields of insurance wherein insurers are specifically authorized to perform functions not necessarily identified with insurance, some of which are more closely akin to banking. Many of you are familiar with the powers conferred by the New York Insurance Law upon Title insurers in such connection which include, among others, the right to (a) originate mortgage loans; (b) act as agent for investors in the purchase, sale and servicing of mortgages on real property.

Properly employed, these functions can and usually do produce desirable results such as:

(1) Assisting in meeting the demands for mortgage money by the real estate market

(2) Providing temporary financing of housing developments

(3) Bringing together borrowers and lenders

(4) Providing trained servicing of mortgages

(5) Creating a new source of Title business

But imprudent use of such special privileges could present inherent dangers prominent among which are:

(1) Building or construction loans may lead to questionable and costly ventures

(2) Possible conflict of interest

(3) The pledging, against the better judgment of management, of company securities to maintain a ready source of funds for further activities in this field

(4) So-called "participating or warehousing agreements" may lead to repurchase agreements, or understandings of like nature; excessive investments

(5) In the absence of proper planning, borrowing and warehousing agreements may eventuate in a volume of activity disproportionate to a company's financial position

(6) Companies may find themselves in the real estate appraisal business, which activity is specifically barred by law to Title insurers licensed in the State of New York.

The dangers to which I have referred are not theoretical but very real, and doubtless you have noted such potentialities in the course of your own business transactions. So let the rule of conservatism and prudence be your guide in making decisions in matters such as here. If there exists a doubt as to the propriety of any given transaction, a company should seek the advice and guidance of its home State Insurance Department.

Title Rates

One of the most important elements of Title insurance operations is the consideration charged by insurers for the risk assumed under their policy contracts. In New York, and perhaps in some other States, Title

companies no longer have the last word as to the charge to be borne by the public for such undertaking. Since January 1, 1944 the rates charged by Title insurers operating in the State of New York, have been subject to the provisions of Article VIII of the Insurance Law. This means that they are subject to the same requirements in respect to rates as those prescribed for Property insurers. Therefore, every such Title insurer is now required to file with the Superintendent of Insurance its Rate Manual, if any, its basic schedule of rates and classification of risks, its rating plan, rules as to commissions to be paid, and rules in connection with the writing or issuance of Title insurance. One of the most important of such requirements, as many of you are no doubt aware, is that, before being used, the proposed rate must first be approved by the Superintendent of Insurance, who may disapprove any filing if he finds the proposed rate or rates to be excessive, inadequate, unfairly discriminatory, or otherwise unreasonable.

The New York Department regards the obligation thus imposed upon it as a sacred trust which must be administered in a manner which will be fair and equitable to all concerned. In a press release relating to Department action on a recent change in Automobile rates, Superintendent Thacher expressed a view which reflected his interpretation of the statutory intent in respect to premium rates. Such rates, he indicated, should be sufficient to cover the expense of efficient operation of insurers as well as the liabilities of those they insure, and to leave a small residue for contingencies and profit.

Now what is the obligation of management when an application for a rate change is submitted to the Department? For the answer to such question, let us go into the archives of the American Title Association and review certain comments of a member of the New York Bar, who appeared before an earlier Convention of the Title Insurance Section of the Association. In addressing comments to this very subject, this distinguished attorney had this to say in explaining the meaning of the statutory term "not excessive, inadequate, or unfairly discriminatory.":

> ". . . While this is simple as an abstract objective we must recognize that it is difficult to achieve in actual practice. I am fully aware of the relatively meager loss and expense statistics which may be available to the industry at this time. This fact, however, is not so important as is your making every reasonable effort to assemble all relevant data and to consider what interpretation and evaluation should be given to it. These efforts must be made now, not when you suddenly are confronted by public officials with a demand that you sustain the burden of proving that your rates are justifiable. If your first thinking is done under such circumstances, it perforce must be hasty and can result in your making decisions which later will be found to be as untenable as they are irrevocable. I accordingly urge upon you, not an attempt to make your rate-making a precise science (which it never can be) but at least that you assemble and digest all pertinent data so that the record is clear that in good faith you have sought to maintain rates which meet the legal standards."

That was indeed scholarly advice and it is as applicable now as it was at the time it was given. It most certainly is the obligation of insurers to demonstrate by credible experience data that any proposed new rate or modification of an existing one is justified. However, if recent filings submitted to the New York Department are any indication, it would appear that some Title insurers have lost sight of their obligation in this area.

If I were to leave you with a message in this connection this morning, it would be one of re-emphasis of the need for the maintenance of accurate experience data to be available for presentation in support of any appli-

cation for approval of a new Title rate, or change in an existing rate. And of course I need not labor to you that the major portion of the Title rate represents the cost of Title examinations and loss prevention.

Speaking for the New York Department, we must, and will, insist upon receipt of adequate supporting data before giving favorable consideration to any rate filing. This is a very important matter which merits careful study by managements.

Fine Public Service

Viewed in broad perspective, the Title insurance industry has generally performed a fine public service. Thus would it seem that those identified with it can be relied upon with confidence to continue to operate in a manner which will not only capture public confidence but also retain it. It should be the dedicated aim of all in the Title insurance field to achieve such a goal.

Report of Chairman, Central States Region

LORIN B. WEDDELL

Vice President and Secretary, The Land Title Guarantee and Trust Company, Cleveland, *Ohio, Chairman, Central States Region*

Twenty-four representatives of fourteen title insurance companies located in Illinois, Michigan, Ohio, Missouri, Wisconsin, Minnesota and Indiana met in the Drake Hotel, Chicago, Illinois, April 10 and 11, 1959. The National Association was represented by Mr. George C. Rawlings, Chairman of the Title Insurance Section, and Mr. Joseph H. Smith, Executive Secretary.

As in the past, informal discussions were held on a multitude of subjects. Those present were furnished with title insurance operating statistics of thirteen reporting firms. The information furnished was in the form of percentages of income and expense according to predetermined fixed classifications. Following discussion of the various items, it was agreed this type of report should be continued, but the reporting companies should have more than ten days to complete the report. Comparisons between companies would be more useful if an easy way of determining the size of the firm could be agreed upon. It was concluded that classification of firms could be arranged with a symbol to reflect companies with income under one million dollars; those with income over one million dollars and under three million dollars; and those over three million dollars.

Discussion then followed on an additional exhibit, "Five-Minute Survey" previously distributed to all those present. Opinions and ideas were exchanged on matters of Christmas parties, new mechanical equipment, employee awards for outstanding service and other miscellaneous employee-employer programs.

The meeting then turned to requirements of Government agencies and how these might best be met. It was noted that some requirements of Government agencies bordered on casualty coverage rather than title insurance coverage as we now know it.

Several representatives reported an increase in the number of requests for services to be performed which were incidental to the title business but did not constitute actual title work, such as furnishing free descriptions, advancing record fees and revenue stamps, and checking recent conveyances for sales prices, so as to furnish comparisons of values for appraisers. It was suggested that in view of the increased cost of operations, some of these fringe services could be eliminated or placed on a paying basis. Some members reported a substantial decrease in the demand for free services when charges were invoked.

There followed discussion on mechanics' liens, the problems involved, and in particular, the losses occasioned by this type of coverage. One firm reported that following a large mechanics' lien loss that an increased demand for owners policies resulted therefrom in his area. Ideas were exchanged on utilizing of a completion bond and/or a performance bond as possible plans to be used in complex situations.

It was noted that large users of title evidences use a variety of formulae for effecting liability limits of title insurance companies. It was also reported that certain title companies establish their own liability limits, consistent with sound business practices. Many expressed the hope that perhaps the title insurance companies themselves could come up with a safe, agreeable formula for establishing self-imposed liability limits. It was recommended that the Title Insurance Section of the National Association consider this matter.

Legislation pending or contemplated in the various states and in the Federal Government and the possible effect of such legislation on our industry was then freely discussed, including, among other things, unauthorized practice of law cases and the restrictive legislation introduced in Vermont and H.B. 5674, then being considered by committees of Congress.

George C. Rawlings, Chairman of the Title Insurance Section, reported on the scope of the new committee of the Title Insurance Section of ATA studying standardized practices. Mr. Rawlings stated that the committee would concern itself with underwriting practices rather than business practices and that the committee was working on a report for presentation at the National Convention.

Joseph H. Smith, Executive Secretary of the National Association, reported on the approval by the Board of Governors of ATA of the Villanova Project, which was underway and would result in the compilation of all laws involving title insurance companies and abstracters licensing laws. This program will get underway this summer with hopes of having it completed by late 1960 or early 1961.

Other diverse topics covered were methods of closing escrows, collections of title fees, Federal Tax Laws, public relations programs, including employee education program and methods and costs of take-off operations at the court house.

Exchange of ideas ensued on fringe benefits for employees and the outlook for business for the remainder of the year. There was the unanimous agreement that business for the remainder of the year looked promising and the overall 1959 picture would reflect increased income.

Although last on the agenda, the most gratifying and welcome item of business (at least to the outgoing Chairman) was the unanimous election of Hiram E. Stonecipher, Vice President and Secretary of Union Title Company of Indianapolis, Indiana, as Chairman of the Central States Regional Conference for the year 1960. The members of this group are to be congratulated on their wise decision in selecting Hiram.

We again extend our thanks to Chicago Title and Trust Company, our hosts, for a most enjoyable cocktail party held the final evening of our session.

To each of you representatives, my thanks for your contributions to the programs during the past two years. It has been a stimulating experience to serve as your Chairman.

Report of Chairman, Atlantic Coast Region

FRANK J. McDONOUGH

President, West Jersey Title and Guaranty Co., Camden, New Jersey

Fifty-two executives, representing twenty-five title insurance companies domiciled in eight States and the District of Columbia, attended the two-day 1959 Atlantic Coast Regional Conference held at the Mayflower Hotel, Washington, D.C., May 15th and 16th, 1959.

The jurisdictions represented by attending companies included Alabama, Florida, Kentucky, Maryland, New Jersey, New York, Pennsylvania, Virginia and the District of Columbia. Of the companies in attendance, several operated in areas outside of the Atlantic Coast region, as well as within it, and are therefore qualified to attend other Regional Conferences.

Our National Association was represented by Mr. Joseph H. Smith, Executive Vice-President, who spoke briefly acknowledging the confidence which the members of the Association had demonstrated in selecting him to fill the position formerly occupied by James E. Sheridan. Mr. Smith, on behalf of himself and his associates, pledged his best efforts to the interest of the Association and its members.

Greetings from The American Title Association were also extended by Mr. George C. Rawlings, Chairman of the Title Insurance Section. Mr. Rawlings expressed his gratification for the number of companies represented at the Conference, and stated that this type of conference meeting had become a constructive influence within the title insurance industry, providing an open forum for the discussion of ideas which may prove of general benefit, and to assist in the solution of problems affecting the general membership. As typical examples of projects which originated in the Regional Conferences, Mr. Rawlings cited The American Title Association film entitled "The Land is Yours"; the interest in statistical information submitted by member companies, and the Villanova project for a comprehensive survey of title insurance regulations in the various States.

Mr. Lawrence R. Zerfing, Past President of The American Title Association, presented the following memorial resolutions to the memory of James E. Sheridan, Executive Vice-President of The American Title Association, who departed this life on February 12th, 1959, and Russell Wood Jordan, Jr., a member of the Board of Governors of The American Title Association, who passed away February 12, 1959:

"WHEREAS, we in the Title Industry have for many years enjoyed, and have been benefited by, the association with JAMES E. SHERIDAN, whose counsel and guidance assisted in the solution of many of our problems, and

WHEREAS, JAMES E. SHERIDAN was called to his eternal reward on February 12, 1959; and

WHEREAS, his devotion to duty and the interests of his fellow title men inspired him to continue his activities and work without stint and he served as an inspiration to his many friends; and

WHEREAS, those of us who were privileged to know him acknowledge a deep debt of gratitude for his efforts and guidance.

THEREFORE, BE IT RESOLVED, that this meeting of the Atlantic Coast Regional Conference of The American Title Association, hereby places on record its appreciation for his services over the many years and expresses its sorrow at his passing.

FURTHER, that a copy of this Resolution be forwarded to The American Title Association for transmission to his widow, Maurine Sheridan.

Dated May 15, 1959."

"WHEREAS, the members of The American Title Association have, for many years, enjoyed the association and fellowship of RUSSELL WOOD JORDAN, JR., who was called to his eternal reward on February 12, 1959; and

WHEREAS, our associate Russell (Buck) Jordan earned the warm friendship and grateful respect of all those who knew him; and

WHEREAS, his advice and counsel on matters of general discussion earned him the respect and high regard of his fellow title men; and

WHEREAS, it is fitting and proper that those of us here assembled who knew him acknowledge a deep debt of gratitude for his efforts in behalf of this Association.

NOW, THEREFORE, BE IT RESOLVED, that this meeting of the Atlantic Coast Regional Conference of The American Title Association, hereby records its appreciation for his services over the many years, and expresses its sorrow at his passing; and BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to The American Title Association for transmission to his family.

Dated May 15, 1959."

On motion, copies of the resolutions were authorized to be forwarded to the families of the deceased.

The Conference opened with an address by Lyle F. Hilton, Esquire, Staff Attorney for Berks Title Insurance Company, on the subject of "Theories of Liability." The speaker discussed in detail the standard terms of the contract of title insurance and the various theories of liability which the courts have applied in ruling upon various types of claims held to have been either within or without the scope of the title guaranty.

The members of the Conference explored with the speaker a wide variety of claims, many of which have been litigated by member companies. Mr. Hilton also touched upon claims for consequential damages which could arise under leasehold insurance, and claims involving an allegation of negligence which could result in damages beyond the policy limits.

In the general discussion following this address, several of the companies reported that some claims which they have processed during the past year involved an allegation of negligence.

Mr. Gordon M. Burlingame, President of The Title Insurance Corporation of Pennsylvania, then addressed the group on the subject of "Ambiguities in the present form of The American Title Association Standard Loan Policy." The speaker discussed four situations where ambiguities might result in a loss to an insurer, the first of these involved title insurance to a foreign mortgagee; secondly, certain problems existing in Pennsylvania, resulting from the so-called "Uniform Commercial Code;" thirdly, problems caused by Zoning Ordinances and Building Regulations; and fourthly, pitfalls in the wording of various endorsements to the policy which might enlarge upon the limits of liability.

The general discussion which followed, confirmed the fact that many of the companies have been requested to assume special risks beyond the original concept of the title insurance contract.

Mr. James G. Schmidt, Vice-President of the Commonwealth Land Title Insurance Company, and a member of the Standard Title Insurance Forms Committee of The American Title Association, reported on the form and content of the new A.T.A. Owner's Policy, to be presented for approval at The American Title Association Convention in New York this year. Mr. Schmidt discussed in detail the various provisions of the policy, including those designed to provide flexibility in coping with situations which are peculiar to certain areas.

The report of the speaker was the subject of a spirited discussion with opinions divided on approval of the new form of policy. The new form was criticized as lacking in standardization of policy form, a feature which has helped sell the present American Title Association Standard Loan Policy.

Mr. Lawrence R. Zerfing, Execu-

tive Vice-President of the Commonwealth Land Title Insurance Company, and Chairman of The American Title Association Committee on Standard Underwriting Practices, reported that the activities of the Committee to date were mainly concerned with organization. It is intended that the Committee will shortly commence a survey of underwriting practices, with a view to establishing standards for the industry. The agenda of subjects to be considered by this Committee includes:

Standards to be observed in the qualification of surveyors and acceptance of surveys for insurance;
Mechanics Lien Claims;
Periods to be covered by title searches;
Agents' selection, activities and supervision;
Equity Insurance;
Loss Insurance and Uniform Title Binders.

Mr. Rawlings registered his objection to the inclusion of Agents' selection and supervision as not applicable to the functions of this Committee.

AFTERNOON SESSION

The afternoon session opened with a report by Mr. Gordon M. Burlingame, on the excellent progress to date of the Villanova project, involving a comprehensive survey of title insurance regulations in the various States. It is estimated that the total cost of the project will be $17,500.00, contributions by member companies to date amount to approximately $9,300.00. To date 177 requests for copies of the treatise have been received.

Mr. Burlingame reported that the Committee of The American Title Association had conferred with University authorities at Villanova, on May 14th, and that the project was now well under way. Several of the member companies present endorsed the project and urged the support of all member companies.

Mr. H. Stanley Stine, Chairman of the Committee on the film distribution read the report by Modern Pictures, giving the number of showings of the film and the total number of viewers. As suggested by Col. Everts of the New York Title Association, the Committee was authorized to continue Modern Pictures as an agent for service and club groups, but to take such additional measures as may be necessary to insure wider distribution of the film and possibly encourage its use as a television feature.

On motion, duly carried, the Committee will continue under the Chairmanship of Mr. Stine for the coming year, and will continue as custodian of the $1,059.00 present cash balance.

The Compilation of Reported Title Insurance Operating Statistics, prepared by Ernst & Ernst, Certified Public Accountants, was distributed to representatives of the nineteen companies submitting their operating statistics.

Discussion was limited because of the confidential nature of the reports and the fact that some of the companies in attendance were not among those included in the report. The Chairman indicated that identification charts would be furnished to each of the participating companies within the next ten days. The following significant facts were revealed by the Accountant's study:

Last year twenty-one companies submitted figures. Seventeen of them repeated this year. Four companies dropped out this year and were replaced by two others who supplied figures for the first time.

Of the nineteen companies reporting this year:

15 improved total title insurance income in 1958 over 1957;

1 reported operating deficits in 1958;

13 improved net operating income ratio in 1958 over 1957;

10 reported higher losses and loss adjustment expense ratios in 1958 than in 1957;

1 reported higher ratios of the sub-total of salaries, other compensation, employee relation expenses, commissions and production services in 1958 than in 1957.

Regulation of title insurance companies by State authorities was the next item to be considered. Company

representatives reported on regulation within their respective States. Filed rates are presently required in Pennsylvania, Maryland, New York and Texas. Some of the companies operating in these areas were of the opinion that the filing of rates was beneficial to the industry as a means against rate cutting and unfair practices. Mr. Jesse Williams, President of Louisville Title Insurance Corporation, reported that a bill known as Senate Bill No. 77 was introduced in the Vermont Legislature to prohibit title insurance in that State. Some of the member companies have combined to take measures to oppose the passage of this legislation.

Mr. Herman Berniker, Executive Vice-President of The Title Guarantee Company, New York, reported on relations with Bar Associations and Unauthorized Practice Cases in the State of Arizona, Colorado and Nevada. In every case wherein there is an allegation of unauthorized legal practice the title company has engaged in the preparation of papers and other legal documents in connection with the settlement. Mr. Berniker recommended that the member companies should discourage conveyancing as a source of revenue, and in no case to engage in conveyancing except in matters involving title insurance.

Detailed reports on the extent of activities by the title groups associated with State Bar Associations were reported by representatives of the companies in the localities affected.

The Saturday morning session comprised a discussion on Operating Procedures. Representatives of several of the companies maintaining title plants with daily take-off reported on improvements in maintenance methods, including the use of IBM equipment, microfilming and photostat.

Upon request of the Chairman, several of the companies reported on measures adopted to provide additional operating revenues. Such items included:

(1) A special form of Owner's title insurance policy issued for the full purchase price of the insured premises at an additional charge of approximately $10.00. This form of policy, issued only in conjunction with insurance to a purchase money mortgagee, contains a provision that loss shall be first payable under the mortgage title policy.

(2) Special insurance premiums for survey insurance;

(3) Closing fees in proportion to the total consideration; and

(4) A charge against the seller for distribution of settlement funds.

A discussion of accounting methods employed in the various companies revealed a lack of uniformity in closing routines; and that many of the companies were being called upon to furnish special services without compensation.

Various forms of advertising by the companies were discussed, including radio and television. Many of the companies had abandoned the practice of handouts, calendars, ballgame tickets and Christmas gifts, feeling that they were not productive of any real benefit.

Employee relationships were discussed, including a discussion of the various types of fringe benefits adopted by the member companies. The Conference concluded with a summary of methods employed by various member companies in investigating and qualifying Approved Title Attorneys. Agency arrangements were also discussed. The extent of the liability assumed in connection with the Approved Attorney plan and under agency arrangements were also included in this session.

On motion, duly carried, a resolution was adopted thanking the Washington District Title Companies for the excellent arrangements and for providing the cocktail party and entertainment Friday evening.

On motion, duly carried, Frank J. McDonough was selected as Chairman to serve for the coming year. The conference adjourned on Saturday, May 16, 1959, at 12:30 p.m.

Frank J. McDonough,
Chairman.

Report of Chairman, Southwest Region

JUNE 1-2, 1959—ADOLPHUS HOTEL—DALLAS, TEXAS

DRAKE McKEE

President, Dallas Title and Guaranty Company, Dallas, Texas

The Southwest Regional Conference of Title Insurance Executives met for its fourteenth consecutive post-World War II session in Dallas on June 1 and 2, 1959, at the Hotel Adolphus. The first eleven conferences met in Oklahoma City, with Bill Gill as Chairman, and the last three have taken place in Dallas. Bill set the pattern which has been followed year by year .Attendance at the Conference has increased gradually over the years. Forty-two title insurance executives were present in June of this year, and more states are represented as time goes by. Although the subject matter of the Conference remains substantially the same from year to year, the interest of the members is sustained and shows no signs of abating.

Our 1959 meeting began on Monday morning, June 1, and adjourned at noon Tuesday, June 2. The First National Bank in Dallas had as its guests for lunch all those attending the conference on Monday, and Monday night, at their own expense, those present entertained themselves with cocktails and dinner dancing at the Hotel Adolphus.

The subjects discussed and conclusions reached were briefly as follows:

Coverage against "all loss and damage" in cases involving violations of building restrictions is extended by some companies, and denied by others, particularly by those in Texas where it is prohibited by regulation of the Insurance Department.

Equity title insurance was condemned, and there was no evidence among those present that it is being offered although various agencies of the United States continue to request it.

The reinsurance problem of the smaller title companies was discussed, and it was suggested that the American Title Association, through its committee on forms, consider proposing a standard form of reinsurance agreement.

It was reported that the Supreme Court of Arkansas had for consideration a suit by the State Bar Association of Arkansas against one of the Little Rock title companies. Other pending litigation of that character was discussed, and a report was made of the activities of various state bar associations in Arkansas, Ohio, and Florida in the formation of bar association controlled title insurance companies.

Report was made on the status of the Villanova study with respect to state regulations of title insurance, and the members of the Conference expressed interest in receiving copies of the report when it is completed.

General discussion took place on the subject of payment of loss to maintain good public relations when the title insurance company has a good defense. All companies reported that they engage in this practice to some extent, and that claims, particularly in connection with new construction, are becoming more frequent.

Representatives of the Texas companies asked for discussion of methods of reporting unearned premium reserves, and representatives from other states gave information on this subject. A statute patterned after that in a number of the other states was adopted in Texas effective as of January 1, 1959.

Mr. Joseph H. Smith, of American Title Association, handed out statistical reports provided by members of the Conference and led a discussion of them.

A brief report was given as to the methods of advertising presently being employed by each company; and the subject of commissions to realtors and others for originating title insurance business was discussed.

Commissions are paid to attorneys, lenders, and real estate agents in some areas, and the practice is forbidden in others.

Several topics having to do with employer and employee relations were discussed with respect to training programs, employee benefits, payment of employees during illness, deferred compensation contracts to entice management type personnel. Most members of the Conference brought information with respect to these subjects with them, and all were very generous in explaining the practices of their companies with respect to these subjects. All of the companies reporting have a form of hospitalization and group insurance plan; a few provide major medical coverage; and about half of those present have various types of pension and profit-sharing plans in operation. Those who do not have such plans are undertaking to adopt one or the other. It was evident that those who are operating under pension and profit-sharing plans are not fully satisfied with them and are considering modifications. No one expressed a desire to abandon them. 15 companies had pension plans, 14 had hospitalization, 9 had major medical, and all had group insurance.

Several of the companies keep cost statistics with respect to the operation of their closing or escrow departments, applying the cost of each closing unit to the volume of business closed by each unit, and these statistics were made available to those present.

Some of the companies reported that when preliminary binders are issued, the entire premium for the ultimate policy is charged to the customer and invoice mailed with the binder. Others reported that a binder fee is charged, and the premium for the ultimate policy collected at the time of issuance of the policy. Local custom prevails as to this matter.

Mortgagees holding deeds of trust with powers of sale have begun to inquire about the exercise of the power of sale for the payment of delinquent installments without having declared the entire indebtedness due. It was reported that this covenant appears in deeds of trust in use in some of the states and that it is not an unusual procedure.

The same problems arising in connection with the issuance of title certificates to the United States have persisted, and the companies reported that they are uniformly refusing to guarantee specific mineral estates and ownership of water rights.

The operation of joint daily take-off employed in Houston and Dallas was explained in detail. In Dallas all nine companies draw from the same daily take-off, sharing the expense at substantial saving to each company. Each company pays about $425.00 per month with daily filings averaging 700 instruments.

Subdivision financing by title companies was discussed. A difference of opinion exists on this subject, some companies taking the view that it could lead to the ultimate insolvency of the companies, and other discounted this possibility. Most companies engaged in this business do so through subsidiary companies formed for that purpose and without subjecting the assets of the title insurance company to the possibility of loss beyond the extent of its investment in the subsidiary company.

The members of the Conference were warned against the practice of delivering mortgagee's title policies to mortgage brokers prior to the disbursement of the proceeds of the loans to the borrower. Frauds perpetuated by mortgage banking firms in Los Angeles and in Detroit were described as examples of the exposure to loss that might be sustained by the title companies.

All companies operating through agents reported that a limitation as to the amount per policy which can be issued by the agent without prior approval of the insuring company is stipulated in the agency contracts, and one company reported that it prints on the policies sent each agent the amount above which the company will not be liable.

One national company reported that it had begun to exercise closer

supervision over its agencies; that it maintained a regular audit of policies and binders shipped to each agent requiring an accounting, and that it found that it was receiving more premiums from its agents inasmuch as some of them were inclined to issue policies and binders without reporting them promptly.

All companies reported that with few exceptions lenders are authorized to send loan funds to their issuing agents and closing attorneys payable to said agent or closing attorney, and that they have given letters of indemnity to the lenders against loss due to fraud or dishonesty on the part of its agent or closing attorney. None of the companies gives authority to its agents and closing attorneys to endorse checks on behalf of the company.

The requirement of Equitable Life Assurance Society for an amended form of indemnity letter was discussed. Most of the companies had taken up the matter directly with Equitable and had furnished the letters of indemnity which meet its approval.

A representative from each area was asked to report on economic conditions for the first five months of 1959 and to predict what might be expected for the remainder of the year. All companies reported substantial increases in business over the same period of 1958 and expressed optimism for the remainder of the year.

The Chairman was re-elected, and plans will be made to hold the fifteenth annual post-World War II conference in Dallas at a date to be announced in 1960.

Respectfully submitted
DRAKE McKEE, Chairman

A Look at Title Losses and Liability Assumed

RICHARD H. HOWLETT, *Senior Vice President, Title Officer*
Title Insurance and Trust Company, Los Angeles, California

When asked to make a talk before the Title Insurance Section, I was glad that the request carried with it an assigned subject—losses. However, I have a fairly good memory—and that subject has been covered at previous conventions—by panels, by statisticians, and by humorists. The approach has varied from trends in experience to an analysis of the ratio of losses to premium income. We have learned that a good loss is good advertising material — that a claim well handled is the best public relations tool our business possesses. These talks are all available in the Title News summary of the proceedings of our past conventions—I recommend that you refresh your memory by some quiet reading.

In review there remains little to be said on the assigned topic, however, I do believe that a review of our losses might serve to point up some of the responsibilities of our industry. As insurers we expect losses. If we do not assume a liability—then there is no need for our product to be in the form of a contract of insurance —a certificate would do just as well. That brings up the first type of loss —one we usually refuse to discuss, but we cannot avoid it any longer.

Title insurance is a service industry. We are proud of the service we render. We sell the service of examining the title to real property, we insure the accuracy of that examination and in proper cases will insure against loss arising out of a defect in or encumbrance on the title covered. Our industry, as is true of all service industries, cannot sell its service unless it meets a need in the community. We have met the basic title needs of lenders—and to that portion of the community we owe our greatest growth. The ATA Loan policy covers both the record and possessory title— that coverage is uniformly afforded by all companies—for lenders—why not owners? We will insure the lender that the title is marketable—why are we reluctant to

give the owner the same coverage? The owner needs to know if his title is marketable—that is his need—and to sell your service you must meet that need. That is your most important loss—the loss of business by denying the coverage and a service that meets an actual demand.

The California companies have afforded marketability coverage almost from the time of the issuance of their first policy. We have the problem of lost or destroyed records resulting from fire and earthquake, complicated by Spanish Land Grants, Public Land Surveys — resurveys — dependent and independent; mining districts and their inadequate records; political pressures as to tide lands and other potentially valuable properties. No California company has ever had a loss under marketability provisions of the policy that it would not have sustained if that coverage had been omitted. If we look at losses to see what coverages should be omitted—the actuarial experience would indicate that marketability coverage can be properly afforded owners—and meet an actual need, which until met will rightfully mean a further loss of business. Can we afford that loss?

Losses are more than claims resulting in cash payment to an insured. During a recent month the Claims Department of our Company considered 642 inquiries about errors or potential claims. The majority were technical errors—transposition of figures in a map reference, improper execution of an instrument, errors in descriptions, and like clerical mistakes. These errors were found shortly after the deal was closed and we could get new instruments recorded if necessary. Of that total only 125 actually resulted in claims, and in these cases nearly one-half were handled without a formal claim being filed. The handling of the 517 inquiries that did not result in a claim took almost fifty per cent of the time of the Claims Department, and a good deal of the time of attorneys, title officers, and others who were consulted. This is a loss of earning time and a direct loss and should be considered as a loss as well as our cash outlays.

But in this area there is a more important element of loss, not only to ourselves but to the industry as a whole. As title insurers we represent ourselves as the most qualified examiners of title, that reputation makes our product acceptable. If a company persists in the issuance of evidences of title without meeting proper examination standards — not only will the customers of that company come to distrust the work of that company but will doubt the ability of the industry as a whole. A loss of reputation, the value of which cannot be measured.

A quick look at some of the claims in excess of $500 handled by our Claims Department during the first nine months' of this year is rather revealing.

When selling title insurance in competition to abstracts and attorney's opinions we talk about the coverages of the policy as to forgery, delivery of instruments and competency of parties. I wonder if your experience is the same as ours? During that nine months' period we had 3 claims based on forgery, with an aggregate liability of $136,700.00. One claim turned out to be an actual forgery involving a liability in excess of $50.000.00. As a result of that claim the coverage on our bond, which had a $25,000.00 deductible provision, has been cancelled. We have not yet completed all of the actions required by the bonding company—so we have not had any recovery—in fact the bonding company will not admit it is on the risk until we have a judicial decree that the instrument was forged. The alleged forger is long gone—and I am afraid he is a necessary party to the action.

During that period only 2 claims involved the competency of a grantor, and only 1 claim involved a question of delivery.

Nine claims involved errors in descriptions, and in 32 cases matters that appeared of record were not shown in the policy. All were clerical errors—all resulted in cash losses—

all would have been avoided by careful work.

In 3 cases claims arose under coverages specifically afforded after considering the facts of the cases. In this area my Company has an underwriting committee—a title committee —that passes upon exceptional risks; to date we have not sustained a loss on a risk assumed by that committee. We have had to defend some lawsuits and prove we were right—and so far have been successful. This committee meets everyday for better than an hour—and averages about a dozen cases a day.

This summary does not include claims under mechanic's lien insurance issued based upon an indemnity arrangement, nor those that require our appearance in court in defense of an insured title — the attack being primarily on a basis outside of the coverage of our policy.

What does this summary of claims mean? It does not mean that risks have not been assumed, to the contrary — we are constantly reminded by others in the industry that the California companies have offered too broad of coverages and cite as proof the CLTA 100 Indorsement, and our willingness to insure the title to oil. Actuarily, those coverages are good business.

This leads to the consideration of a potential loss arising out of the lack of certainty of the liabilities assumed in the issuance of policies of title insurance. We like to think of our contract as being certain — but did you realize that "loss" is not defined in the ATA Loan policy?

What representations do we make in the issuance of the policy? Is there a representation of the nature of the examination? If there is such a representation—is there a liability in the nature of an abstractor's liability over and above the liability of an insurer under the terms of the policy? There is a line of cases that such a liability exists. (See Hawkins vs. Oakland Title Ins. & Guaranty Co. 165 ACA 151).

If we are faced with that liability then the ATA Loan policy will require not only a record examination but an actual examination of the possessory title. That is the coverage of that policy. Assume that an ATA Loan policy is issued without disclosing a possessory matter missed because no inspection was made. Since the lender acted in reliance by acquiring the loan—has the insurer accepted a liability not covered by the contract of insurance? You may have assumed a liability if the FHA insurance or VA guaranty is rendered invalid because of that possessory matter. I do not want to give the impression that the law is settled in this respect—but the trend is definite and should be evaluated now so that the proper examination and a factually correct representation will be made.

In the settlement of claims a liability outside of the policy— and not limited by the face of the policy— can be assumed. If an insured is sued within the coverage of your policy— and in your opinion you can successfully defend the title—what is your liability if you refuse to accept a compromise offered by the plaintiff? There is authority (Communale v. Traders, etc., 157 ACA 666) that if the plaintiff is successful in the action you are liable for the full amount of the recovery against your insured, even the portion of the judgment in excess of the face of your policy. In my opinion, this imposes on us a higher duty than we have believed required by our contract or the law in the handling of the defense of our insured's title.

Let us always remember that we are a service industry—that if we intend to stay in business we necessarily must meet the needs of our communities—or face the loss of our business to those that will meet those needs. More important—if we represent we are performing a given service—perform that service—not only because of a potential liability or loss beyond our contract, but because the reputation of the industry is judged by the conduct of each one of us.

Customer Relations

Moderator, JOSEPH D. SHELLY
Vice-President, Chicago Title and Trust Company, Chicago, Illinois

PANEL: Jack B. O'Dowd, P. I. Hopkins, Jr., Marshall H. Cox

JOSEPH D. SHELLY: Gentlemen, we realize the hour is a little bit late, so we are not going to hold you too long. We hope, however, that you will endure with us—I might say that the members of this panel have made some real sacrifices to be here. We had a little rehearsal meeting at eight o'clock this morning, and two of the members of the panel came direct from the Copacabana. So this is a turnabout, and we hope that you will stay with us, because we have tried very hard to be here with you.

This will be a rather informal presentation, having no relationship to the fact that these men came from the Copacabana, but they will remain seated when they make their presentations.

Now, you have heard the names of the members of the panel. I think you all know them. This is Mr. Hopkins on my left, and Mr. Marshall Cox on my right, and Mr. O'Dowd next to Mr. Cox.

By way of introduction to the subject, I think we all recognize that in a consideration of the subject of customer relations we are concerned with how we impress those with whom we have some occasion to do business. Our principal contacts, as you all know, are with realtors, lawyers, mortgage lenders, and the builders. Beyond that we think of our community, on which we depend for the success of our business enterprise, and more particularly we think about those citizens who will become the active buyers and sellers of real estate now and in the future.

All of us recognize, I'm sure, the importance of the direct customer. We know that the lawyer exerts a controlling influence on his client when he suggests a certain form of title evidence. The choice of title evidence preferred by a mortgage lender, who is frequently supplying the major part of the purchase money, is usually persuasive with the buyer.

These factors augur in favor of the very obvious conclusion that we must have good relationships with these direct customers. But if we aspire to achieve a depth penetration of our market, present and prospective, it is desirable to have an understanding of our service and on acceptance of our company in the community that we serve.

Ultimate business success, then, seems to depend upon forging together a good relationship with these trade and professional groups, and also a favorable identification of our company in the community. The presentation by this panel will concern itself with both of these elements of customer relations.

Now we have a presentation which concerns itself mainly with our relationships with our direct customers. This presentation is entitled "An Age-Old Principle." It will be presented by Mr. P. I. Hopkins, Jr.

MR. P. I. HOPKINS, JR.: Thank you, Joe.

I'm forced to make an observation with regard to Joe's first observation with regard to the Copacabana. I can assure you that even though this morning I might have felt like I just came from there, nevertheless I was not one of the two who did come from the Copacabana. So from there you can draw your own conclusions.

When I was assigned this topic of "Customer Relation," and I'm sure that my thoughts were the same as many of yours, and as many of you are thinking now: Namely, that this is the same subject, about the same things that we have discussed hundreds of times before, both at our conventions and personally in our sessions here. I know you have been thinking that it's been discussed so thoroughly on so many occasions that the only thing we can do is dis-

CURRENT ECONOMIC TR
A QUARTER CENTURY
Billions of Dollars; Quarterly Dat

	Item	1933 (A)	1939 (B)	1955 (C)	1956 (D)	19 (
1	**GROSS NATIONAL PRODUCT**	56.0	91.1	397.5	419.2	4
2	Personal consumption expenditures	46.4	67.6	256.9	269.9	2
3	Durable goods	3.5	6.7	39.6	38.5	
4	Nondurable goods	22.3	35.1	124.8	131.4	1
5	Services	20.7	25.8	92.5	100.0	1
6	Gross private domestic investment	1 4	9.3	63.8	67.4	
7	New construction	1.4	4.8	34.9	35.5	
8	Residential nonfarm	0.5	2.7	18.7	17.7	
9	Other	1.0	2.1	16.2	17.8	
10	Producers' durable equipment	1.6	4.2	23.1	27.2	
11	Change in business inventories	-1.6	0.4	5.8	4.7	
12	Net exports of goods and services	0.2	0.9	1.1	2.9	
13	Exports	2.4	4.4	19.4	23.1	
14	Imports	2.3	3.5	18.3	20.2	
15	Government purchases of goods and services	8.0	13.3	75.6	79.0	
16	Federal (less Government sales)	2.0	5.2	45.3	45.7	
17	National defense	n.a.	1.3	39.1	40.4	
18	State and local	6.0	8.2	30.3	33.2	
19	**GROSS NATIONAL PRODUCT IN 1958 DOLLARS (1)**	140.4	209.4	434.9	443.6	4
20	Implicit price index for GNP, 1958=100	39.9	43.5	91.4	94.5	
21	**PERSONAL INCOME**	47.2	72.9	310.2	332.9	3
22	Less: Personal tax and nontax payments	1.5	2.4	35.7	40.0	
23	Equals: Disposable personal income	45.7	70.4	274.4	292.9	3
24	Less: Personal consumption expenditures	46.4	67.6	256.9	269.9	2
25	Equals: Personal saving	-0.6	2.9	17.5	23.0	
26	**NATIONAL INCOME**	40.2	72.8	330.2	350.8	3
27	Compensation of employees	29.5	48.1	223.9	242.5	2
28	Proprietors' income (2)	5.6	11.6	42.1	43.7	
29	Rental income of persons	2.0	2.7	10.7	10.9	
30	Corporate profits (before tax) and inventory valuation adjustment	-2.0	5.7	43.1	42.0	
31	Corporate profits before tax	0.2	6.4	44.9	44.7	
32	Corporate profits after tax	-0.4	5.0	23.0	23.5	
33	Dividends	2.1	3.8	11.2	12.1	
34	Retained earnings	-2.4	1.2	11.8	11.3	
35	Net interest	5.0	4.6	10.4	11.7	
36	**PER CAPITA**					
37	Current dollars					
38	Gross national product	446	695	2,405	2,493	2
39	Personal income	376	556	1,877	1,979	2
40	Disposable personal income	364	537	1,660	1,742	1
41	Personal consumption expenditures	369	516	1,554	1,605	1
42	Constant (1958) dollars					
43	Gross national product	1,117	1,598	2,631	2,638	2
44	Personal income	898	1,212	2,003	2,079	2
45	Disposable personal income	870	1,171	1,772	1,830	1
46	Personal consumption expenditures	883	1,124	1,659	1,686	1
47	Population, in thousands (3)	125,690	131.028	165,270	168,176	171

(1) Line 1 divided by line 20. (2) Includes noncorporate inventory valuation adjustment.
Sources: U.S. Department of Commerce. The Conference Board.

S & THEIR IMPLICATIONS

NATIONAL ACCOUNTS

asonally Adjusted at Annual Rates

	1955	1957			1958			1959		
958 (F)	3rd Qtr. (G)	3rd Qtr. (H)	4th Qtr. (I)	1st Qtr. (J)	2nd Qtr. (K)	3rd Qtr. (L)	4th Qtr. (M)	1st Qtr. (N)	2nd Qtr. (O)	
441.7	403.4	447.8	442.3	431.0	434.5	444.0	457.1	470.2	484.5	1
293.0	260.9	288.2	288.1	287.3	290.9	294.4	299.1	303.9	311.2	2
37.6	41.4	40.9	39.7	36.9	36.7	37.1	39.8	41.3	44.1	3
141.9	126.1	139.7	139.0	139.5	141.5	143.1	143.6	145.3	147.7	4
113.4	93.4	107.6	109.4	111.0	112.7	114.2	115.7	117.4	119.4	5
54.9	65.4	67.9	63.2	52.4	51.3	54.2	61.3	69.8	77.5	6
35.8	35.4	36.2	36.1	35.5	34.6	35.4	37.3	39.7	41.0	7
18.0	18.9	17.0	17.1	17.1	16.9	18.0	19.9	21.9	23.1	8
17.7	16.5	19.3	19.0	18.4	17.7	17.4	17.4	17.8	17.9	9
22.9	24.4	29.0	27.7	23.8	22.6	22.2	23.2	23.9	26.0	10
-3.8	5.7	2.7	-0.6	-6.9	-5.8	-3.4	0.8	6.1	10.4	11
1.2	1.3	5.1	3.5	2.0	1.2	1.6	0.2	-0.9	-1.8	12
22.6	20.0	26.6	24.9	22.2	22.3	23.1	22.7	21.5	22.1	13
21.3	18.7	21.5	21.3	20.2	21.1	21.5	22.5	22.4	23.9	14
92.6	75.8	86.6	87.4	89.3	91.1	93.8	96.5	97.4	97.7	15
52.2	45.3	49.7	49.1	50.1	51.3	53.1	54.2	53.8	53.9	16
44.5	39.2	44.9	43.9	44.0	44.3	44.5	45.3	45.8	46.2	17
40.5	30.5	36.9	38.3	39.2	39.2	40.8	42.2	43.6	43.8	18
441.7	439.9	454.2	447.2	433.2	435.4	444.0	454.8	465.5	477.8	19
100.0	91.7	98.6	98.9	99.5	99.8	100.0	100.5	101.0	101.4	20
359.0	313.8	354.5	352.8	352.2	355.0	363.4	366.3	317.8	381.1	21
42.6	36.2	43.1	42.9	41.9	42.1	42.9	43.4	44.4	45.8	22
316.5	277.7	311.5	309.9	310.3	312.9	320.4	322.9	327.4	335.3	23
293.0	260.9	288.2	288.1	287.3	290.9	294.4	299.1	303.9	311.2	24
23.5	16.8	23.3	21.8	22.9	22.0	26.0	23.7	23.5	24.1	25
366.2	335.0	371.1	364.3	355.8	358.9	369.5	380.4	389.4	n.a.	26
256.8	226.8	258.1	256.0	252.5	253.2	258.5	262.9	269.9	278.9	27
46.6	42.6	45.3	44.5	46.1	45.9	46.8	47.4	46.9	46.6	28
11.8	10.6	11.5	11.7	11.7	11.8	11.9	11.9	12.0	12.0	29
36.7	44.4	42.7	38.5	31.5	33.8	38.0	43.5	45.5	n.a.	30
37.1	46.6	44.0	39.4	32.0	33.6	38.3	44.6	46.5	n.a.	31
18.9	23.9	22.5	20.2	16.3	17.1	19.5	22.7	23.8	n.a.	32
12.4	10.9	12.8	12.2	12.7	12.6	12.6	12.0	12.8	13.0	33
6.5	13.0	9.7	8.0	3.6	4.5	6.9	10.7	11.0	n.a.	34
14.3	10.6	13.5	13.8	13.9	14.1	14.4	14.7	15.1	15.4	35

Dollars; Quarterly Data, Seasonally Adjusted at Annual Rates

										36
										37
2,538	2,435	2,609	2,566	2,491	2,501	2,545	2,608	2,670	2,714	38
2,062	1,894	2,066	2,046	2,035	2,044	2,083	2,090	2,111	2,156	39
1,818	1,676	1,815	1,798	1,793	1,801	1,837	1,842	1,859	1,897	40
1,683	1,575	1,679	1,671	1,660	1,675	1,687	1,707	1,726	1,760	41
										42
2,538	2,655	2,647	2,594	2,503	2,507	2,545	2,595	2,643	2,703	43
2,062	2,022	2,097	2,067	2,039	2,041	2,085	2,084	2,103	2,145	44
1,818	1,789	1,845	1,816	1,797	1,800	1,838	1,837	1,852	1,887	45
1,683	1,681	1,705	1,688	1,664	1,673	1,689	1,702	1,719	1,752	46
4,064	165,663	171,612	172,393	173,054	173,705	174,460	175,253	176,104	176,778	47

nnual data, as of July 1; quarterly data, as of middle of period. N.A.—Not available.

cuss for one more time the dry principles of our relations with our fellow man.

I have the advantage of having been assigned this topic that before today I have had the opportunity for a little more reflection as to whether what I have just said is actually the case. I believe that it is not. I am of the opinion that, while a subject so close in relation to profit and loss in our business could become trite, it should nevertheless be discussed from time to time, upon the outside chance that we just might possibly come up with some new approach.

There are a few things, I believe, which are so basic that they cannot be improved upon. Discussion coupled with action in so many cases brings a rewarding improvement.

I think we should feel with this subject somewhat like the lady who rushed into the police station, ran up to the desk sergeant, and in an excited voice said, "I've been raped!"

The desk sergeant looked at her and said, "Madam, how old are you?" She said, "Seventy."

"Why, that's ridiculous!" he said. "A woman your age? When did this happen?"

She said, "Fifty years ago."

He said, "What are you reporting it now for?"

She said, "I just want to talk about it."

So I believe there is a relation.

We are, so many of us, prone at these conventions to have ourselves jogged to the realization that we have been lax in certain aspects of the operation of our business at home. We make new resolutions to correct them upon our return, and always with good intentions; but when we arrive back at the office, we are suddenly faced with the same f a m i l i a r surroundings, the same tasteless problems, and with only half the time necessary to accomplish the many tasks forced upon us by what we think is an unappreciative public. If any good is going to come to us as a result of the convention, we must shock this age-old human failing, and be a little firmer in our resolve to put new ideas into practice when we return home.

There are, as you are well aware, a multitude of approaches to customer relations. Time permits me to cover only a couple, but with these I shall attempt to provoke your thinking, and I hope to give you a new idea, a new approach to take home with you which will in some manner increase the effectiveness of your business.

The first idea which I would like to present is one of conditioning your own mental approach toward your customer. We are too often so concerned with our own internal problems, both personal and businesswise, that we consider the customer only an incidental necessity, and one which only adds to our already much too burdened existence. Let's try a new approach, and face up to the fact that if it were not for him we would have no title business, and in all probability would be looking for a job with our competitor down the street.

Let's look at him not in the light of what treatment we wish to relegate to him, but to the treatment which, if we were in his position, we would like to receive from an owner or an employee of a title insurance company.

Let's take a typical case of a real estate broker. For the purpose of discussion, let's temporarily discard the trials and tribulations of our own title company, and take on those of a real estate broker.

We immediately recognize that the details of the business, while similar in some respects, are far divorced in others. The broker is only concerned with those matters which befall him in bringing a buyer and seller together, getting the contract signed, and consummating the deal. Title insurance is only one of the details with which he is concerned, and to him it is one among many. He is not concerned with the troubles we might have in keeping our plant up to date or the many reasons we might have for finding it impossible to close his deal within a minimum of time.

We must realize that this fellow is, contrary to some thoughts I have heard, human just as we are. He burns his tongue on his morning coffee just as we do. His secretary irritates him sometimes, just as ours does, and, in effect, he purchases his tranquilizers at the same corner drug store as the rest of us do.

His problems and troubles, while not necessarily the same as ours, are worse than ours as far as he's concerned, and they are worse because they are his. In bringing the parties to a transaction together he has had to deal with a difficult seller, an impossible purchaser, and has probably had to rewrite the contract at least five times to satisfy all the parties on both sides; but now he has them on the dotted line. He heaves a sigh of relief and walks into your office for the purpose of ordering the title insurance, expecting that it will be a downhill road the rest of the way in.

From that point on the ball is in our hands. We can either fumble it and watch him close his next transaction with our competitor down the street, or we can come up with a good, satisfied customer and look forward in the future to a profitable relationship.

Now, on the contrary, he might possibly have had some of the treatment that some of us are guilty of from time to time, and he might come in with a chip on his shoulder, expecting that we are going to throw an impossible title objection in his way which will kill his deal just about as dead as the New York Yankees' chance of winning the 1959 World Series—and I might go further to state even the American League flag.

The solution to better customer relations at this point is actually relatively easy, but it's easy only if we will take the initiative to accomplish it. Give him the courtesy and the attention you would want if you were in his position. He wants you to appreciate the fact that he brought the piece of business to you which he could have taken to the competitor down the street. He wants you to be friendly and show a personal interest in his transaction without unnecessary delay, and to complete it as quickly as possible so that he can pocket his well-earned commission and go about his merry way.

If you consider this, actually not too much is being asked of us. I might put it in other words, in that if we do not do everything within our power to close the time gap between the signing of the contract and the closing of the transaction, we are not doing our job as title men.

Now, these same standards, placing ourselves in the position of our customers and looking at it from the angle of what he expects, can be applied not only to the broker, but the investor and the builder and the attorney and everyone else with whom we do business.

I would like to cover just hurriedly one other item which I think is extremely important with relation to our customer relations; that is, the closing table. I believe that we can do a great selling job over the closing table. If you handle your business there in a pleasant way, you are interested, you are businesslike, you have everything prepared when they come in, you add a little personality to it, you make the buyer and the seller and the broker feel at home, you give them a chance to settle questions in their minds, they leave with a much better attitude, and not the attitude that they walked in with, the idea that they were doing something they knew nothing about, that they were going to be taken somewhere along the line, they didn't know where, and they walked out still thinking they had been taken, and still not knowing where.

I do believe that that is very, very important to all of our businesses, and I think it's something that we should always keep in mind.

I have spent several minutes presenting to you in a devious and roundabout way an age-old principle. I think maybe by now some of you have recognized it. Some of you may think that it's trite—maybe so. But this principle is simply this: "Do

unto others as you would have them do unto you."

MODERATOR SHELLY: Thank you very much, Percy, for those remarks.

You have heard, gentlemen, some ideas and thoughts concerning our direct contacts and relationships with our customers. Now our next presentation will concern a little more of this, and also some ideas and thoughts concerning the matter of influencing our customers, and also the general public in a more extensive way than just the matter of personal contacts, and I'll ask Marshall Cox to talk to us about that.

MR. MARSHALL H. COX: Thanks, Joe.

I'm hiding around behind this box here. Maybe you can hear me even if you can't see me over in this corner.

I feel this morning just as Abraham Lincoln felt when on his death bed he turned to his wife and he said, "You and your theatre parties!"

Whether the title is "Customer Relations," "Business Relations," or "Business Promotion," all of us have the same problem, and all of us know that the subject matter is more or less the same. All of us have the same commodity for sale—personal service—not shoes or sugar, but personal service. All of us do the same kind of promoting to get our customers, and then to hold our customers: Entertainment at baseball games and hockey games and football games and golf parties and dinners and dinners and dinners, until sometimes you can't look one of them in the face.

All of us have our business promotion men, and other officers and associate members of real estate boards, banking asosciations, mortgage bankers' outfits, building and loan leagues, members of service clubs, Kiwanis, Lions, Rotary, and all the others, and all of us have our business promotion men and other officers taking a more or less active part in civic and community affairs as speakers, as committee workers, and otherwise.

As an example, our W. J. Morgan Chief Title Officer, has been Chairman of the Real Property Section of the Ohio State Bar Association for the past two years, and for nine of the past eleven years; and several other attorneys in our organization are active in Ohio Bar Association committee work.

We at Land Title have been doing several things to bring our name before the general public, and to keep it thereby continuing publicity, or whatever you may wish to call it.

First, outdoor advertising, or billboards, continuously since 1920 — and we have been told that it is the longest continuous outdoor advertising by any title company.

We have had billboard advertising. We have twelve large painted boards in our county which are changed a little more frequently than the 18 or 20 paper poster boards which we also have. The painted billboards are changed every six months, and I have copies here of the present painted board and the one immediately preceding, of you are interested in seeing it.

We distribute between 7,000 and 8,000 calendars each year, and we began this distribution in 1922. They are small enough to hang in between window space, and are rather expensive, as through the years we have shown photographic views of real estate locations as of 30 or 40 or 50 years ago, and as of now—kind of a backward glance and a forward look. I have a copy of this year's calendar here, too, so you may see what I mean.

People like it, as the TV ad says, and frequently some old customer will come in, or he will phone in, and he will tell us that he has a copy of every one since we began to issue it. That's better than our office, because we are missing three or four copies, and I know one year he doesn't have it for, because we discontinued it for one year.

Then, too, in one locality we are trying out placard advertising in city buses. We have tried in years past the idea of pocket folders and pads

and blotters and similar media, but we have discontinued these items. Frequently customers were overlooked, who did not hesitate to tell us about it.

Our newst advertising — and we have been doing it now for more than three years — is a five-minute radio program on one of our largest and most powerful stations in Cleveland, WGAR. This program, "Point of Law," is put on through the cooperation of the Cleveland Bar Association and the Cuyahoga County Bar Association, and comes on the air at five minutes to six in the evening, just after a music program and just before a news and sports program.

With your permisison I am going to run a tape of one of these programs, as this is a new approach—at least to us.

You will note, gentlemen, that this advertising not only advertises our product—service—but it also plugs one of our customer groups, the attorney. "See your attorney. Contact your attorney."

After all, gentlemen, the attorney is a very important customer of ours, and of yours. There are very few real estate transactions — and there should be none—in which the attorney is not an important figure.

We have two other services for the attorney which we believe are helpful. We send letters from time to time, at no scheduled release date, covering new legislation and covering the recent decisions. These letters are prepared by our title officers, who, I assure you, do not render opinions on the matters discussed.

Around 10,000 letters go out, all to Bar Association members of our 88 counties and Ohio State Bar Association members each time a letter is mailed.

We send legal publications, brochures on timely legal matters, from time to time, which are also prepared by our title officers. If and when these brochures become out of date because of legislative acts or court decisions, they are brought up to date and amended when necessary.

Before we send these brochures we write to the attorney and enclose a postpaid card for him to return to us if he wishes a copy. This last brochure which has just been mailed, is going to almost 10,000 Ohio attorneys.

Very briefly, one more aspect of our customer relationships, and the most important, is service to the customer—not just plain service, but a happy service, a pleasing and willing and cooperative service. We are eternally striving and trying to have our employees remember this. We have a pamphlet which some of you may have seen, distributed to all of them on "Who Pays Your Salary?" This brochure points out quite clearly and fairly, I think, the triangular relationship between the employer, the employee, and the customer, with the customer receiving the first consideration.

Within the past month we have had a Bell Telephone representative come into the office with a film entitled "For Immediate Action," and everyone in our office who answers the telephone has an opportunity to learn what to say and how to say it. The telephone voice can win friends, and can lose them.

Gentlemen, not only must we give service, it must be friendly and cooperative service, and every member of our organization from the messenger boy to the president is speaking for the organization, and the same applies to you and to your organization.

MODERATOR SHELLY: Gentlemen, you heard Mr. Cox say that that program comes on at five minutes to six. I knew we were late, but I didn't think it was quite that bad. (Laughter). I don't know how he happened to have it come on right now.

Seriously, there is one point that Mr. Cox made that I would like to amplify briefly, and that has to do with this matter of the so-called dual purpose advertising to the public, and at the same time encouraging the public to use the services of our direct customers.

We have used some of this type of

advertising for a number of years, and while it pleases all of our direct customers, I think it's especially satisfying to the lawyer, the reason for this being that he is prohibited, as you all know, under the canons of legal ethics from advertising his own services himself. We know that in recent times Bar Associations have begun more and more to advertise on behalf of the legal profession as a whole, and one of the things that they have tried to do is to encourage the public to see a lawyer for what they call "Preventive Purposes"—not just after some conflagration has occurred, to put out the fire, and so forth, but rather to encourage the public more and more to use the services of the lawyer beforehand.

We know in many states that lawyers feel that their traditional position in the closing of a real estate deal is threatened or jeopardized as title insurance becomes more popular. One of the reasons for their resentment is the feeling of unfair competition. This feeling of unfair competition, in their opinion, exists because of the fact that title insurance companies can and do advertise directly to the public.

We have had the experience in Illinois of running a series of advertisements explaining the services that a lawyer performs in a real estate transaction, encouraging the public to consult him, and pointing out that his service and ours afford the public the maximum protection in a real estate transaction.

This advertising has resulted in several resolutions being passed by the local Bar Associations and by the Illinois State Bar Association commending the Company for its contribution toward a better public understanding of the function of a lawyer.

Now, this, of course, is not to say that all lawyers accept with enthusiasm the growth of title insurance in our state, and it would certainly be a gross oversimplification of the whole lawyer problem to indicate that by such advertising you solve the problem. I merely mention this as what I believe to be a progressive and constructive step toward our relationship with lawyers.

And now you have heard Mc. Cox's presentation. We have a paper now which again concerns itself primarily with the development of good relationships, not only with the customer groups, but also with important segments of the public, mainly through the avenue of personal contact, and this presentation has a title called "The Guest Hour," and Mr. O'Dowd is ready to tell you something about that.

MR. JACK B. O'DOWD: Thank you, Joe.

Everyone else had an opportunity to deny having been at the Copacabana last night. Now, I wasn't there, so that leaves Joe and Marshall very definitely as the two people who were out on the town last night.

At a convention of the American Title Association some years ago I fell into a discussion with a fellow title man. In his instance, he was just starting a business in an area that was predominantly an abstract territory. Recognizing the high cost of advertising by radio, newspapers, direct mail, and other devices, which have a high cost but a tremendous degree of efficiency, we discussed the idea of bringing friends and potential customers into the shop to introduce to those people the new product, and to lift the veil of mystery surrounding the subject of title insurance.

As the discussion progressed, the enthusiasm rose, and since we have tried the concept in our office. We like it. It has become known as the "Guest Hour," and it is the subject which Joe asked me to outline briefly today.

Generally speaking, our "Guest Hour," which has developed over the last eight or nine years, commences with a short discussion in the conference room by an executive or other officer of the company. Somewhere in this introductory period we hope to arouse the curiosity and the interest of our customers. Depending on the makeup of the group of guests, the material is adjusted to appeal to the interests of the particular group.

As an example, here is the way we vary the program, depending upon the main classification of guests. The

second year law students at the University of Arizona, which is located at Tucson, are invited through the faculty in two groups of approximately 25 students each, or 50 students a year, which is 400 or 500 students over the course of our use of this "Guest Hour." The law professor teaching the particular course in real property or titles usually accompanies the class, and incidentally checks the roll.

We concentrate on our discussions in this instance on matters touching on title examination, the functions of our Trust Department, and to a lesser degree the facilities of the escrow closing section.

Twice a year, in groups of approximately twenty each, we have classes in real estate from the University of Arizona Business College. This is likewise by arrangement with the professor in charge, and he accompanies the students. Here the emphasis is placed on the escrow closing section, in order to familiarize the students with the modern method of closing a real estate transaction, which they will probably use in their business in the immediate future. Of course, the Title Department and the plant facilities, as well as the Trust Department are covered to some extent, but the main concentration is upon what we consider to be the matter of most interest to them, the escrow closing process.

We have invited and conducted through out shop 200 brokers and their sales staffs over this period. The average size of such groups may vary as low as three or four; the average is eight. The maximum is 26.

Here the escrow closing process is the closing point.

There are eight or ten engineering firms in our community who express and show a great deal of real interest in our Engineering Department, as well as our title plant, and again I refer to the mapping system. The engineering firms and surveyors are good customers and excellent leads on such business.

At least once a year we invite the trust officers and loan officers of respective banks and savings and loan institutions and all their staffs. Suffice it to say, we do not mix up the groups, but invite one company at a time. Here the concentration is on the escrow closing section and the trust fund. In both instances they are extremely interested in our method of closing their loans and the personnel involved in closing their loans.

Subdivision, or a holding trust, as we have developed it in our part of the country, which is neither profitable nor practical for either the savings and loan institutions or the banks to operate, but which gives a natural for the title industry, intrigues them with many interesting questions, oddly enough.

But of particular interest, as always, is another group: The ladies. We have several luncheon clubs—these are small, c o m p a c t ladies' groups consisting of fifteen or twenty persons and, being ladies' organizations, are most interested in everything, and, again, ladies talk—in other words, advertising.

We couldn't possibly handle such groups as Rotary, Lions, et cetera, because of the size of the groups. Besides, the ladies are more attractive.

We recognize, and I t h i n k we should all recognize in this industry, that 80 per cent of the total private purchases of this nation are made by ladies, including land and mortgage investments.

There are many groups, naturally, that you can think of in your home community who may be added to this list, and the subject of a "Guest Hour," but this is the coverage which we have found is most successfully reached and treated as guests.

I'll interpolate here the point that we tried to interest the lawyers, but they are very difficult to pin down on any time schedule.

The key to this concept is the guest relationship, and this must be created and maintained through the visit.

What are we trying to accomplish? Well, we are right back to the original idea, to sell the products and the services of the industry to a group of the people who buy the bulk of those services and products; and,

secondly, to remove the mystery surrounding our business. In removing the mystery, we are acquainting them with our people and bringing them inside our company.

Many—too many—title companies are built like and look like forts or prisons. Inside these bastions, however, we know, are nice, friendly, courteous people, and even possibly a neighbor or two. Our people are one of our best assets in the continuance of a successful business, and we like to introduce them to our guests.

After the explanatory tour, our guests return to the conference room, where they are served a cup of tea, coffee, or light refreshments — no liquor — and an informal, sociable hour that stretches from 4:00 p.m. to 5:30 p.m. in the afternoon, although we try to say "goodbye" around 5:15 p.m.

A few details from our experience: We find that the hours from 4:00 p.m. to 5:15 p.m. are the best, at least so far as we are concerned. The welcome is in the conference room from 4:00 p.m. to 4:15 p.m., with our offices being closed after 4:30 p.m. to the general public. This is a good time to bring our guests through them. Under these circumstances there is a minimum interference with our daily routine. It gives our people a chance to lay down their tools and be pleasant, or even to join in the tour, if a friend or neighbor or business acquaintance is among the group.

Because Mondays and Fridays are hectic in our business in our part of the country, we find that Tuesday, Wednesday, and Thursday are our best days. Tea, coffee, and soft drinks, yes; liquor, absolutely no!

We find these "Guest Hours" very good for our business in our locality, and as a byproduct we feel that it is good for the title industry generally, and what's good for it is correspondingly good for us.

Like advertising, the success of this program is difficult to measure in dollars. The test of the success of it is, if you feel you have made your guests welcome, it very probably has been successful. Perhaps you would like to give consideration to the "Guest Hour" yourself. Thank you.

MODERATOR SHELLY: Thank you very much.

I regret that Jack speaks so disdainfully of liquor. What a fellow to talk that way! You know where he was last night.

In conclusion, gentlemen, I would just like to make one brief point.

We said at the outset that a favorable business environment is particularly desirable if a company seeks a depth penetration of the market. There are, of course, many ways of contributing to this development, such as financial contributions to worthy causes, active participation by company officers in civic and welfare endeavors, and certain kinds of advertising that are prestigeful to the company and in the interests of the public.

I'd like to tell you just briefly about a documentary television show which I think falls into this category, which we sponsored last summer. It was a performance attendant to the opening of the St. Lawrence Seaway and the visit of Queen Elizabeth to Chicago. It covered the dedication ceremony, participated in by President Eisenhower and the Queen, and toured the route taken by the royal yacht through the St. Lawrence and the Great Lakes. The program was participated in by the Governor of Illinois and the Mayor and leaders of industry, who reviewed the significance of this event to the city and its people.

We felt there was considerable public service involved in our sponsorship of this program, because it dramatized the significance and importance of this waterway for a great many citizens who had only a vague or meagre notion of its meaning.

The commercials on the program related to the service of the Company to the widening of the channel, the deepening of the harbor, and the location of substantial industrial plants in the harbor facilities. In an unobtrusive way our services were effectively linked with the completion of these exceedingly valuable public and private improvements, which are of great benefit to our community.

All of us want our companies to be known in the community and be understood and liked. These are meritorious endeavors, but I think we should always have in mind one further thing, and that is that our business is largely financial. We are essentially financial institutions. As such, our reputation must be bolstered with the qualities of integrity and prestige which help to identify our companies as being worthy of public confidence and respect. We need to achieve these qualities if we are to enjoy a favorable business environment.

A factor in this achievement stems from our recognition of a social obligation—that is, our willingness to give back to our communities a helpful measure of cooperation and support. By being responsive in this way, we will feel more confident in justice, as well as in the hope, that our companies will continue to grow and prosper in proportion to future opportunities and developments.

That concludes our panel. We thank you very much.

JACK B. O'DOWD
Executive Vice President, Tucson Title Insurance Company
Tucson, Arizona

THE GUEST HOUR

At a convention of The American Title Association some years ago, I fell into discussion with a fellow title man who was just starting business in an area that was predominantly an abstract territory. Recognizing the extremely high cost of advertising by radio, newspapers, direct mail and the other devices which have a hard-to-measure degree of efficiency, we discussed the idea of bringing friends and potential customers into the shop to introduce to those people the new product, and to lift the veil of mystery surrounding the subject of titles. As the discussion progressed, the enthusiasm rose and since we have tried the concept in our office; we like it—it has become known as the "Guest Hour" and is the subject Joe has asked me to outline briefly today.

Generally speaking, our "Guest Hour", which has developed over the last eight years, commences with a short discussion in the Conference Room by an executive or other officer of the company, explaining the history of the company, our place in the community, the general title process, and a short history of the colorful titles of the land encompassed by the Gadsden Purchase. Somewhere in this introductory period we hope to arouse the curiosity and the interest of our guests.

Depending upon the make-up of the group of guests, a slight variation in each program is adjusted to appeal to the interest of the particular group. As an example, here is the way we vary the program, touching upon the main classifications of guests:

The second year law students of the University of Arizona (at Tucson) are invited through the faculty, in two groups of approximately 25 students each or 50 students per year. The Law Professor teaching the particular course in real property or titles, usually accompanies the students, (and incidentally checks the roll to see that they are in attendance). We concentrate our discussions in this instance on matters touching with title examination, the functions of our trust department to a lesser degree, the facilities of the escrow closing section.

Twice a year in groups of approximately twenty each, we have the classes in Real Estate from the University of Arizona Business College; This is likewise by arrangement with the Professor in charge and he accompanies the students. Here the emphasis is placed on the escrow closing section in order to familiarize the student guests with the modern method of closing a real estate transaction. Of course, the title department and the plant facilities, as well as the Trust Department, is touched upon but the main concentration is upon what we consider to be the matter of most interest to them—the escrow closing process.

We have invited over 200 brokers and their sales staffs over the period of eight years. The average size of each such group is seven to eight salesmen and rarely exceeds 20. Here, the escrow closing process is the focal point. Some time is spent in the title department showing them the use of our arbitrary map system and the availability of information relative to ownership of specific property and other such information affecting their practical working needs, as such brokers and salesmen.

There are eight or ten engineering firms in the community who express and show real interest in our engineering department as well as our title plant and our arbitrary mapping system. The engineering firms and surveyors are good customers and good leads for future business.

At least once a year we invite the Trust Officers and the Loan Officers of the respective banks and savings and loan associations and all their staffs. Naturally, we do not mix them up but invite one company at a time. Here the concentration is on the Escrow Closing section and the Trust Department. In both instances they are extremely interested in our methods of closing their loans. The subdivision or holding trust which is neither profitable nor practical for them to handle but which is a natural for the title industry, intrigues them into many interesting questions.

A field of particular interest is the ladies. We have four luncheon clubs in each of which we have a lady member of our office: The Pilot Club, Soroptimists, The Insurance Women of America, and the Business and Professional Women's Club. These are small compact groups consisting of 15 to 20 persons each and being ladies organizations, are most interested in everything, and again, being ladies—talk—i.e. advertise us. We could not possibly handle such clubs as Rotary, Lions, Kiwanis, etc. because of the size of those groups; besides, the ladies are more attractive.

We must recognize that 50% of the private wealth of the nation is in the hands of the "dear ladies"; 80% of the total private purchases of the nation are made by the ladies.

Some years ago Valley National Bank in Tucson offered a three day symposium entitled "Ladies Only", directed at just the group that I have mentioned, as an assistance and counselling in matters of investment, etc. I talked on title insurance and in a weak moment, invited all who cared to, to meet me at my company offices at 8:00 that evening to show them the workings of a title plant. Out of the 350 registered at the symposium, 75 interested, alert and attentive ladies showed up. This group is a top-grade potential source of business.

Naturally, there are many groups that you can think of in your own community who may be added to this list but this is the coverage which we have found is most successfully reached and treated "as guests".

The key to the concept is the "guest" relationship which must be created and maintained throughout the visit.

What are we seeking to accomplish? Well, we are right back to the original idea: To sell the product and the services of the industry to people who buy the bulk of those services and products. To remove the mystery surrounding our business. In removing the mystery we are acquainting them with our people and bringing them inside our company. Many, too many, title buildings are built like and look like forts or prisons. Inside these bastions, however, we know are nice, friendly, courteous people and even possibly, a neighbor to our guests. Our people are one of our best assets in the continuance of a successful business and we like to introduce them to our guests.

Our guests, after the explanatory tour, return to the conference room where they are served a cup of coffee or tea or light refreshments and an informal question and answer period naturally follows. Usually our "Guest Hour" stretches from 4:00 p.m. to 5:30 p.m. in the afternoon tho we try to say goodbye around 5:15 p.m.

A few details from our experience: We find that the hours from 4:00 to 5:15 are best. The "Welcome" is in

the conference room from 4:00 to 4:15 p.m. with our offices closed to the public after 4:30 p.m. This is a good time for bringing our guests through them. Under these circumstances there is a minimum interference with our daily routine — it gives our people a chance to lay down their tools and to be pleasant, or even to join in the tour if a friend or a neighbor or business acquaintance is among the group.

Because Mondays and Fridays are "hectic" in our business in our part of the country, we find that Tuesday, Wednesday and Thursday are the best days.

Tea, coffee and soft drinks, yes. Liquor—no. We know; we've tried both.

We feel that these "guest hours" are good for our business in our locality; as a by-product we feel that it is good for the title insurance industry and what is good for it is correspondingly good for us.

Like advertising, the success of this program is difficult to measure in dollars. The test of success is "if you feel you have made your guests welcome, it is very probably successful."

Perhaps you would like to give consideration to the "Guest Hour."

P. I. HOPKINS, JR., *President, Palm Beach Abstract & Title Company*
West Palm Beach, Florida

"AN AGE-OLD PRINCIPLE"

When I was assigned this topic, "Customer Relations", I'm sure my thoughts were the same as many of you are thinking now, namely: that this is the same subject about which the same things have been said hundreds of times. That it has been discussed so thoroughly on so many occasions that we can only discuss for one more time the same dry principle of our relations with our fellowman.

Now I have the advantage in that before today I have had the opportunity of more reflection as to whether what I have just said is actually the case. I believe that it is not. I am of the opinion that even while a subject so in relation to profit or loss in our business could become trite in theory, it should nevertheless be discussed from time to time upon the outside chance that we just might possibly come up with a new approach. There are few things so basic that they cannot be improved upon. Discussion coupled with action in so many cases bring a rewarding improvement.

We are, so many of us, prone at these conventions to have ourselves jogged to the realization that we have been lax in certain aspects of the operation of our business at home. We make new resolutions to correct them upon our return and all with good intentions. But when we arrive back at the office we are suddenly faced with the same familiar surroundings, the same tasteless problems and with only half the time necessary to accomplish the many tasks forced upon us by an unappreciative public. If any good is to come to us as a result of this convention we must first shuck this age-old human failing and be a little firmer in our resolve to put new ideas into practice.

There are, as you are well aware, a multitude of approaches to customer relations. Time permits me to cover only a couple but in these I shall attempt to provoke your thinking and, I hope, give you a new idea to take home with you which will in some manner increase the effectiveness of your business.

The first idea which I would like to present to you is one of conditioning your own mental approach toward your customer. We are too often so concerned with our own internal problems, both personal and business wise, that we consider the customer only an incidental necessity and one which only adds to our much too burdened existence. Let's try a new approach and face up to the fact that if it were not for him we would have no title business and might be seek-

ing a job with our competitor. Let's look at him not in the light of what treatment we wish to relegate to him but to the treatment which if we were in his position we would like to receive from an owner or employee of the title company.

Let's take a typical case of a Real Estate Broker and for the purpose of discussion temporarily discard the trials and tribulations of a title company and take on those of a Real Estate Broker. We immediately recognize that the details of the business, while similar in some respects, are far divorced in others. The Broker is only concerned with those matters which befall him in bringing a buyer and seller together, getting the contract signed and consummating the deal. Title insurance is only one of the details with which he is concerned and to him it is one among many. He is not concerned with the trouble we might have in keeping our plant up to date or the many reasons we might have for finding it impossible to close his deal within a minimum of time. We must realize that this fellow is, contrary to some of our thoughts, human just as we are. He burns his tongue on his morning coffee just as we do, his secretary irritates him just as ours does and he buys his tranquilizers at the same drug store we do. His problems and troubles, while not necessarily the same as ours, are worse than ours to him because they are his. In bringing the parties to a transaction together he has had to deal with a difficult seller and an impossible purchaser, has had to rewrite the contract five times to satisfy both parties and now that he has them on the dotted line he heaves a sigh and walks into our office to order the title policy expecting a down-hill ride the rest of the way in. From that point on the ball is in our hands and we can either fumble it and see him close his next transaction with our competitor or we can come up with a good satisfied customer and look forward to a fine and profitable relation in the future. On the contrary, he might possibly have had some of the treatment before which some of us are guilty occasionally of subjecting our customers and he comes in with the expectation that we are going to spring some impossible title objection on him which will kill his deal as dead as the New York Yankees' chances of winning the 1959 World Series.

The solution for better customer relations at this point is actually relatively easy if we will but take the initiative to accomplish it. Give him the courtesy and attention you would want if you were in his position. He wants you to appreciate the fact that he brought you the business which he could have taken elsewhere. He wants you to be friendly and to show a personal interest in completing his transaction without unnecessary delay and to complete it as quickly as possible so that he can obtain his commission and be on his way. If you consider this, too much is not being asked of us. I might put it in other words in that if we do not do everything within our power to close the time gap between the signing of the contract and the closing of the deal, then we have not done our job properly.

These same standards can be equally applied to our relations with Investors, Builders or anyone else with whom we might do business. The problem and solution is exactly the same.

I might cover one other matter which I feel we should all realize. The closing table is one of the most important places for us to sell ourselves to our customers. By being considerate, pleasant, interested and businesslike in the closing you can sell your personality and business to those involved. Never lose this opportunity.

Now I have spent several minutes presenting to you in a devious and round-about way an age-old principle of customer relations which you might say, as I mentioned earlier, was trite and over-discussed. That principle is simply "Do unto others as you would that they should do unto you."

MARSHALL H. COX
Vice-President, Land Title and Guarantee Company, Cleveland, Ohio

Whether the title is Customer Relations, Public Relations or Business Promotion, all of us have the same problem. And, we all know that the subject matter is more or less the same.

All of us have the same commodity for sale: personal service, not shoes or sugar, but PERSONAL SERVICE.

All of us have the same customers. You may list yours under three classifications, our Moderator, Joe Shelly, may list them under five classifications and I may list them under seven classifications. But, all of us have the same customers.

Mr. Shelly talked with me and suggested maybe, if we had any new and bright ideas which we are using to get customers and hold them, maybe I should finish up this panel discussion by telling you—all what we are doing . . . . in a time limit of seven minutes.

His statement as to new and bright ideas "floored" me, but his statement as to a seven minute time limit saved the day: just like the bell at the end of the round.

All of us do the same kind of "promoting" to get our customers and to hold our customers, entertainment at baseball games, hockey games, football games, golf parties and dinners, dinners, dinners.

All of us have our business promotion men and other officers as associate members of real estate boards, banking organizations, mortgage banking organizations and building and loan leagues and as members of service clubs, Exchange, Kiwanis, Lions, Rotary, etc. And, all of us have our business promotion men and other officers taking a more or less active part in civic and community affairs, as speakers, committee workers, and otherwise.

As an example, Mr. W. J. Morgan, our Chief Title Officer, has been Chairman of the Real Property Section of the Ohio State Bar Association for the past two years and nine of the past eleven years, and several other attorneys in our organization are active in Ohio Bar Association committee work.

We at Land Title have been doing several things to bring our name before the general public and to keep it there, by a continuing publicity or whatever you may wish to call it.

First: outdoor advertising . . . "bill boards". Continuously since 1920, and we have been told it is the longest continuous outdor advertising by any title company, we have had "bill board" advertising. We have twelve large painted "boards" located at strategic points and 18 or 20 paper-poster "boards", which are changed more frequently than the painted boards. The painted bill boards are changed every six months, and I have copies here of the present painted "board" and the one immediately preceding, if you are interested in seeing them.

We distribute between 7000 and 8000 calendars each year and we began this distribution in 1922. They are small enough to hang in "between windows" space and are rather expensive, as thru the years they have shown photographic views of real estate locations as of thirty, forty or fifty years ago and as of now: a backward glance, a forward look.

I have a copy of this year's calendar, so you may see what I mean. People like 'em, as the T-V ad says, and frequently some old customer will come in or phone in to tell us that he has saved them from the beginning. That is better than our office, as we have three or four years missing.

Then, too, in one locality we are now trying out placard advertising in city busses.

We have tried in years past the idea of pocket folders, pads, blotters and similar media of advertising, but we have discontinued these items. Frequently customers were overlooked, who did not hesitate to tell us about it.

Our newest advertising, and we

have been doing it for more than three years, is a 5 minute radio program on one of our largest and most powerful stations, WGAR. This program, Point of Law, is put on thru the cooperation of The Cleveland Bar Association and the Cuyahoga County Bar Association, and comes on the air at 5 minutes to 6 (PM, not AM), just after a musical program and just before a news and sports program.

With your permission I am going to run a tape of one of these programs, as this is a new aproach, at least to us.

You will note, gentlemen, that this advertising not only advertises our product, SERVICE, it also "plugs" one of our customer groups, the attorney: see your attorney, contact your attorney. After all, gentlemen, the attorney is a very important customer of ours . . . and yours. There are very few real estate transactions, and there should be none, in which the attorney is not an important figure.

We have two other services for the attorney, which we believe are helpful. We send letters from time to time (at no scheduled release date) covering new legislation and covering recent court decisions. These letters are prepared by our title officers, who I assure you do not render opinions on the matters discussed. Around 10,000 letters go out to all local bar association members of our 88 Counties and Ohio State Bar Association members, each time a letter is mailed.

We send legal publications, brochures on timely legal matters, from time to time, which are also prepared by our title officers. If and when these brochures become out of date because of legislative acts or court decisions, they are brought up to date, amended, when necessary.

Before we send these brochures we write to the attorney and enclose a post-paid card for him to return to us, if he wishes a copy.

This last brochure, "Service of Process in Ohio", which has just been mailed is going to almost 10,000 Ohio attorneys.

Too, we have the usual brochures and pamphlets discussing escrow services, fee policies, leasehold policies, mortgagee policies and title guarantees. Our title guarantees guarantee or insure as to record title matters only and many of our competitors, who do not issue title guarantees, do issue Limited Policies of Title Insurance guaranteeing or insuring record title matters only. A rose by any other name is just as sweet, or as the famous Gertrude once wrote: A rose is a rose is a rose.

Very briefly: one more aspect of customer relationship, and the most important, is SERVICE to the customer. Not just plain service, but a happy service, a pleasing service, a cooperative service.

We are eternally striving and trying to have our employees remember this. We have had a pamphlet, which some of you may have seen, distributed to all of them, "Who Pays Your Salary?"

I have a copy here. It was prepared from a book, "Personal Salesmanship" published by The Williams Company in Des Moines, Iowa. This brochure points out quite clearly and fairly, we think, the triangular relationship among employer, employee and customer, with the customer receiving the first consideration.

Within the last month we have had a Bell Telephone representative come into the office with a film entitled "For Immediate Action" and everybody in our office who answers the telephone had an opportunity to learn what to say and how to say it. The telephone voice can win friends . . . and, lose them.

Gentlemen, not only must we give SERVICE, it must be friendly and cooperative service, and every member of our organization from the messenger boy to the President when he speaks, is speaking for our organization: and, the same applies to you and your organization.

ATA Group Insurance Program

MORTON McDONALD
President, The Abstract Corporation, DeLand, Florida

The ATA Group Insurance program is now well under way. At the annual meeting of the trustees held in Chicago on July 24, we examined the auditors report and the report of the administrator. We found we had had a very successful first year. We are proud to report:

1. The premium on insurance was reduced from $1.25 per thousand to 99c per thousand.
2. We have re-paid to the American Title Association the $4,000.00 advanced to get this program under way.
3. We have invested $20,000.00 of reserves in Government bonds.
4. We paid a 10% dividend to the policy holders.

We paid three claims during the first year totaling $13,500.00. Our experience will not be as good this year for we have already had claims totaling $22,500.00.

This program was designed primarily for the small companies. Since the larger companies could qualify for group insurance, we felt that the American Title Association could render a service by making group insurance available for the smaller companies. This does not preclude any of the larger companies participating and certainly the rate is now competitive enough to be attractive to the larger companies. We feel that many more companies should take advantage of this splendid program.

To all of you who own your own companies particularly, I must say that you are foolish if you do not have a group insurance plan. It is not necessary that you participate in this plan, although I do not think you can beat it. To the managers who are not the owners of small companies, I must say you are foolish if you do not present a plan to your directors and urge them to adopt such a plan. Again I say, it is not necessary to present this plan but I again repeat that I do not think you can beat it.

We are now able to offer this insurance to members in every state in the union. We are studying further benefits for the future but have no further recommendations for increased benefits at present. Let me urge all present who are not properly covered with group insurance to contact our Counsellor, Mr. Clifford F. Gould or the representative of our Underwriter, John Hancock Mutual Life Insurance Company before you leave the convention. You cannot afford to be without this protection and fringe benefits.

Report of Committee on Abstracters Liability and Bond Coverage

A. F. SOUCHERAY, JR., Chairman
Insurance Committee—Abstracters Section, American Title Association

1959 REPORT

Our arrangement with the St. Paul Fire and Marine Insurance Company and the St. Paul Mercury Insurance Company, who are our approved carriers for abstracters' professional liability insurance, is moving along on a very satisfactory basis. New premiums are being reported, and a resume of our experience will indicate the premiums and losses are in a satisfactory ratio. The liability experience figures by years are given as follows:

Year	Written Premiums	Losses	%
1958	$110,107	$ 38,385	34.9
1957	103,294	45,160	43.7
1956	100,253	40,264	40
1955	88,138	45,712	51.86
1954	75,173	11,528	15.3
1953	64,033	55,433	86.6
1952	56,847	8,873	15.6
1951	44,961	18,704	41.6
1950	31,862	8,220	25.8
1949	12,398	2,008	16.2
	$687,071	$274,287	40

In my 1958 report, I gave indication that there was an increasing demand for some type of coverage for the abstracter who, in addition to his abstracting activities, is also an agent for a title insurance company. All of you are aware that errors or ommissions occur in the issuance of a binder or title insurance policy. In other words, the binder or the title insurance policy is not issued in its proper form and in accordance with the application. Attorneys' reports, or certification, or other supporting papers as well as violation of instructions given by the title insurance company offer additional areas in which errors can be made by the agent in his capacity as a title insurance agent rather than in his capacity as an abstracter. The Abstracters' Liability Policy does not provide protection for the errors or omissions which may be committed in the title agent's professional capacity. With the increasing trend of the local abstracter and attorneys to specialize in the title field and to establish themselves as title agents, it naturally follows that the insurance carriers have received many inquiries concerning the extension of their present Abstracters' and Lawyers' Professional Liability Policies to cover the exposure of the title insurance agent.

Your Insurance Committee and other members of our Association have been in constant contact with the St. Paul Fire and Marine Insurance Company in an effort to design a policy which will appeal to title insurance agents. Very shortly a new Title Insurance Agents' Errors and Omissions Policy will be available through the St. Paul Fire and Marine Insurance Company and the St Paul Mercury Insurance Company through their many authorized agents throughout the country. I believe a few remarks about this new coverage are in order.

Title Insurance Agents' Errors and Omissions coverage will be available either by endorsement to your existing Abstracters' Liability Policy or through the issuance of a separate policy. The Company will require your Abstracters' Liability coverage if you perform such functions in addition to your being a title insurance agent. This will be a legal liability policy designed to pay damages caused by a negligent act, error or omission of the title agent in the performance of his professional services for others and in his capacity as a title insurance agent; and only for the specified title insurance company or companies which will be shown on the policy.

Requests for coverage will be through the submission of an application, and in some instances it will be necessary for the title insurance agent to submit a copy of his agency

agreement to the St. Paul Fire and Marine Insurance Company in order to procure this coverage.

All policies will be subject to a deductible, the minimum of which will be $250. The deductible will apply not only to each claim but will also apply to costs and expenses in connection therewith.

I should point out that coverage applies to claims, suits or any other action arising during the policy period and that there is coverage for errors which may have occurred prior to the policy period so long as the claim is brought during the policy period.

There are, of course, some limitations in which insurance protection of this kind can be provided. Principally, these limitations or exclusions apply to fraudulent, dishonest or criminal acts and to the ownership, maintenance or use of property or the conduct of any business enterprise owned and operated in whole or in part by the title agent. This latter protection can normally be provided by standard public liability policies and should not be considered a part of the professional liability policy to be provided title insurance agents. There are also exclusions applicable to activities as an escrow agent and the claims which may arise out of the Federal Securities Act of 1933. Though the policy is not intended to cover agreements in which the title agents have contracted to pay a fixed amount or participate in any claim under their policy, we believe this new errors and omissions policy for title agents is an answer to a real need among our membership.

This report is not intended to give the complete details as to the protection provided under this new errors and omissions policy. I know you have been anxious to learn of the availability of protection along this line and will welcome this announcement. Agents of the St. Paul Fire and Marine Insurance Company and the St. Paul Mercury Insurance Company have been informed of this new policy, and I would suggest that if you have further questions concerning the coverage that you contact your local representative or feel free to write the insurance company, who will be glad to acknowledge your inquiry and put you in contact with someone in your community.

Report from National Headquarters

JOSEPH H. SMITH
Executive Vice-President, American Title Association

Honored guests, President Ernie, Fellow Officers, Ladies and Gentlemen of the American Title Association. A lot of water has gone under the dam since the Mid-Winter Meeting and some big decisions have been made, vital decisions for all of us.

Tomorrow in this very room, you, the members of ATA, will be asked to approve the decision of the officers of this association; that is, to move the ATA headquarters to the nation's capital, Washington, D. C. Last night in talking to my wonderful wife, Rita, she asked, "Are you going to give your acceptance speech tomorrow?" I pondered this for a moment and replied, "I really never thought of it that way" and I hadn't right up to that moment.

It would be with pride mixed with humility; confidence mixed with hopes, and faith mixed with prayers that I would be honored to accept your command to journey with our staff to Washington, D.C. and there to open new headquarters for your association. If you think of it for a moment, what a challenge this would be, what a monumental exciting challenge! On this eve of promise it seems appropriate to steal words from an old show: "Mr. Smith (indeed) goes to Washington."—if you say so .

Quoting Oliver Wendell Holmes:

"The great thing in this world is not so much where we stand but in the direction we are moving." Well, my friends, if we are all moving,

Jim Robinson, Joe Smith, and others of our staff (I hope) we would not be the only ones going to the nation's capital. Every member of this Association, every member in this room, would be going with us. The ATA would go to Washington.

In making preparations for such a move of course we plan to leave some furniture and perhaps other things behind, but our very best assets we take with us. We would take the limitless contributions of time and devotion of the many, many men right here in this room and also the fruits of countless committee meetings in all-day sessions, Sunday meetings, at night, and before breakfast. We take the sacrifices you have made to forge ATA into the promising organization it is today. This will be our most coveted possession should you send us to the nation's capital.

If we analyze for a moment we realize that we would have to take some other things, too. We cannot walk away without our problems. We cannot just turn our backs and hope that they will disappear. No. We take our problems with us, but these are really our strength. These are the matters that keep us strong, alert. Our disagreements, our good, healthy differences of opinion, sharpen us for the task ahead. We want our problems with us.

The other afternoon I overheard a remark—and I have heard this before—that there seems to be some danger that some of our difficulties cannot be overcome because of a strong difference of opinion on how certain segments of our business should be run. You know, this reminds me of an incident in the life of a favorite character of mine and I know of yours, Charles A. "Boss" Kettering, who passed away a year ago last April. Once an expert on railroads told Mr. Kettering that it was impossible to run a locomotive 100 miles an hour with power from the front wheels.

"But we are doing it," protested Kettering.

The expert persisted. "I have the formula in my portfolio that says you can't do it."

"For heaven's sake," said Boss Kettering, "don't let the locomotives know about it."

On another occasion Mr. Kettering was trying to perfect a cheap, spring-driven register and scoffers said it was impossible, since springs were too undependable.

"What time is it?" Kettering asked the skeptic.

The man pulled a watch from his pocket and Kattering remarked, "You don't mean you tell time with that thing."

And the skeptic replied, "Well, it hasn't lost a minute in years."

"Oh," said Kettering slyly, "then let's see what makes it go."

We can't work together? Of course we can. We have been for fifty-three years. That is what makes us tick. We work together, make progress together, strive together, we struggle together. We keep looking for the best available means and methods of serving our customers and helping each other.

"Worry ends where faith begins" and I have all the faith in the world in our Association and in the friends of our Association to solve all of it's problems.

Washington, D.C., is the nation's capital, the center of the world. If you decide to relocate there, perhaps before we go we should formulate some great purpose, goal, or objective. Our greatest objective is to provide the best, safest and the most progressive title evidence available. Perhaps it is even more. Let me tell you of an incident:

Our Vice President over there, Lloyd Hughes, was at the Missouri Title Association Convention last month and he thought he would make a quick survey and he inquired at their Convention how many in the room had visited the national headquarters in Detroit, Michigan. Four or five hands went up. He then asked how many would visit the headquarters if it were located in Washington, D.C., and almost every hand in the room went up. Now, if this is actually true, perhaps we should have a sign over our door at our office in Washington, wherever it may be, blazoned with these words "Enter at

your own risk." Do you know why? Because if you visit us we are going to ask you to go to work for us. We will need the help of every member in this room and every member in our Association. If you visit us in Washington you will enter at your own risk because we want you to be prepared to contribute something more worth while to the success and the additional achievements of your ATA. By seeing what we do you will know us and your Association better and knowing it better I sincerely believe this will encourage you to lend your efforts more to the organization's success. We will all be part of what all of us hope and pray will be an audible and effective voice on behalf of our business, on behalf of all good government, in the capital of our nation. What a majestic, wonderful challenge this is. It is your decision, however, and your office stands ready to obey should you command it.

Report of Committee on Title Plants and Photography

OTTO S. ZERWICK

President, Dane County Title Company, Madison, Wisconsin

COMMITTEE:

Gerald W. Cunningham, *Partner,* Black Hawk County Abstract Co., Waterloo, Iowa
David Fogg, *President,* Tacoma Title Insurance Co., Tacoma, Washington
Art Wade, *Vice President,* Land Title Guarantee & Trust Company, Cleveland, Ohio

Ladies and Gentlemen, Fellow Members of the American Title Association and President Ernie: Thank you very much.

If you are prepared to learn in the next twenty minutes what the perfect title plant is made of you will be disappointed. If you expect me to ladle out a prim list of don'ts for the title man who wants to increase his efficiency, you will be disappointed. Your expectations, if such, remind me of the story of the abstracter who had reached middle age. One day he dropped into the local bookstore for a browse among the stacks and suddenly he spied on the top shelf a large tome, "How to Hug." Glancing furtively about, he waited for a customer across the room to make his purchase, reached up and took the book, paid for it with a red face and departed. Later that night, when his wife had given up and climbed the stairs, he turned down the light to a romantic level, retrieved the new book from its hiding place, rested his tired limbs and settled down to an evening of the kind of romance which is in store for most of us daring Lotharios. He opened his book and with a stifled groan discovered that he had brought home Volume VI of the Encyclopedia Britannica.

President Ernie was at the Convention last year and heard my remarks then and early in the year when he asked me to carry on the job he announced to me calmly but with finality that we were going to do better this time. He thought that if I brought up the other members of the Committee that maybe the report would be more exciting to you, so each of these men who have worked with me during the year is going to present some little angle of the title business which we think may be of particular interest to you, something that we think is new and different and they are here to help me to answer the questions which we hope will come to us from the floor.

During the course of the week you have had an opportunity to see some twenty exhibits of the replies which have been made to our questionnaire which was sent out to all of you. These were representative answers among some 105 that we have received to this date. Some of them, as you can see, are monumental efforts in plant analysis. They simply staggered me, the amount and volume of work that was done in their preparation and the study that must have gone into them. Others simply illustrate what a careful study of a

plant can produce in the way of answers. I think they en masse have created a litle gold mine for the American Title Association and I know our Joe Smith feels that way. It will provide him with many answers to the type of inquiries which come to him each month of the year asking about what this person is doing, where they can find an example of that kind of operation, and so forth, but there is a large task ahead of us in analyzing this information and so far I have only scratched the surface.

I can give you a few things which seem to be indicated by those answers, but I can't give you anything absolutely definite. As I mentioned last year, I think we are creating certain criteria which can act as red flags, as warning to you, as indications that perhaps your operation is not as efficient as it should be in some departments—or perhaps it is one of the outstanding ones.

Thus, in taking your records from the Court House, it would appear to me that if you can get your records off in less than three hours or for a cost of less than $5 per 100 instrument, you are doing an outstanding job. If you are running in excess of twenty-five hours and maybe $30 or $40 cost per 100 instruments, you are on the high side. In comparing the answers received from many of you, we don't find that the man who has an expensive take-off is making up for it in quick posting or in quick search. The man who seems to have an efficient take-off system seems to have an efficient posting system and though the answers on the chaining were not particularly complete and I shouldn't attempt to form any deductions from the little that we have, it hasn't been borne out that there is anything but a comparable relationship there again. If you are an economically minded man, if you are an efficiency expert, it seems you are accomplishing that job all the way through your plant.

In the posting operation we find some who claim that they can post 100 instruments in as short a time as an hour and others are running in excess of fifty hours. Now, those are just simply incompatible answers. Perhaps in careful analysis and in going back and finding out additional information, we will find that those answers were based on different criteria, that they aren't truly comparable. But there they are and I would say that if you are taking fifty hours for 100 instruments you should be concerned. If you are doing it in less than three or four hours, I think you are among the top doers.

We also included a sheet on the general index. Perhaps you refer to it as your name, or miscellaneous index. There was more similarity in the answers there. From two to five hours per 100 items of miscellaneous in getting them into your records and from eight to twelve hours for searching 100 names seems to be somewhere near an average.

Now, I told you a little last year about how I got into this game. Our company was interested in finding out if there was some way of seeing what the other fellow was doing and getting some ideas from him which we might incorporate, alerting us to any excess expenditures that we might be making in maintaining our title plant. We were faced then with competition from people who were doing away with their plant. The public records were being made so complete that, particularly in the field of title insurance, sufficient evidence could be gathered, apparently, to compete with us with no plant at all.

One of the other interesting things we would like to know, is where is that breaking point? Where is it uneconomical to maintain your own plant? Where are you willing to give it up for a search of the public records? We don't have that information available yet but I think it is still there and if I could, I would urge the incoming President of the Association to appoint to this Committee a group of men, experts in analysis, to take these interesting questionnaires that have been completed and find out from them a lot of answers which I think would be of use to all of you.

Now I am going to call on a few of the members of my Committee. I believe I will wait on the questions, giving you a chance perhaps to note them and direct specific questions to these men as they present their part of the program.

First I am going to call on Gerald W. Cunningham, who is a partner in the Black Hawk County Abstract Company, at Waterloo, Iowa.

MR. CUNNINGHAM: Thank you, Otto.

I won't take much of your time. Otto has assured me that he will post on the bulletin board at some time during this Convention this short little procedure in regard to new plats. If you are interested in quantity plats to put on an abstract, or for other use, I might suggest one little method that we use very satisfactorily.

First of all we have arranged with our engineers and land surveyors locally to borrow their original draft of the plat. You may say, "Well, that is an impossibility." I thought it was, too, at first, but I found that a nice Christmas present and providing him with a few plats at the end, he was happy, we were happy, we have always opened up our office to him and so we have no trouble on that score.

We borrow his original plat, we take it to a photographer, he reduces that plat to a legal size, or to your abstract size photographically producing a negative. It is then delivered to our multilith operator and he puts it on a multilith plate. From that he can run as many copies on our abstract sheets as we desire—50, 100, 200, whatever you desire.

It provides one other little thing that you can do with it in the way of service. If your subdivider of a new addition desires to use these plats for publicity purposes or advertising, you might provide him an extra two or 500 copies, whatever he desires, for a very nominal figure.

I am not going to attempt to quote you costs, because that is going to depend a great deal upon your photographer and multilith operator, but we find that we can get in our community, let's say, 100 to 500 for not exceeding $7.50 to $10. That may seem very reasonable to you but I think possibly your figures might be comparable.

One other little suggestion: in the event you cannot get the engineer's copy of this plat, which is new and which will produce an excellent negative, or for the addition that is old and you have nothing but an old blueprint, we give that to our drafting department, they draft a new one to a scale that will fit our legal sheet, or at least not to exceed twice the legal sheet so that it could be opened, we reduce that photographically to a paper negative and then in our own photo-lab reproduce those in quantity from the paper negative. We file the paper negative for future use or if you are setting up a system of arbitraries in your own track books you will find it very useful in that respect.

As I say, it may not be enlightening to many of you but it is a system that works, it is cheap and inexpensive. I leave the rest open for questions. Thank you, Otto.

CHAIRMAN ZERWICK: Now we will go on to David Fogg, President of the Tacoma Title Insurance Company, of Tacoma, Washington.

MR. FOGG: Thank you, Otto.

When Otto wrote me a month or so ago to come up with some little idea that we had inaugurated during the present year, I thought that I probably should look around and see if the ones from the past year were working yet.

Several years ago we noted that, probably as you all noticed too, that the typing of title insurance policies and reports involved one of the biggest expenditures in your office. We had heard in the past that several companies in the Chicago area and in Southern California were using automatic typing. This is a machine made by the American Automatic Typewriter Company, known as a Robotyper, I believe. The Autotypist is the one that we chose. For those of you who are not familiar with the machine, it runs on a vacuum basis with a comparatively high-speed perforated roll that works on the same principle as a player-piano. This ma-

chine will then drive a typewriter at from 100 to 135 words a minute and up to 100 preselected paragraphs that are used quite often in the business can be selected at will in any sequence desired.

Well, to get back to our own operation, we have had one of these machines now since 1953. The machine was set up to be amortized for tax purposes over a period of five years. We like to write them off that fast and sometimes we find that we can get another year or so free ride out of it. This machine apparently was a handle on the wall back at the factory, because when the five years was up it fell apart. With that in mind we bought two more. They are very, very successful and efficient machines. The service on them in some areas is not as available as it should be, however, the machine is very trouble free as a whole.

We acquired two machines just recently, last March. One of them is the straight Autotypist machine, which has the single IBM typewriter on it. We use this machine to type reports and occasional policies, but it is used almost exclusively on reports. The other machine is the same basic Autotypist machine and it is used in conjunction with an IBM master-slave input-output typewriter. This output is very efficient for the purpose of producing what we call simultaneous issue policies, or double-headers, as they are called in some areas. It eliminates, of course, the necessity of great amounts of comparing and it eliminates the duplication on the typing of the simultaneous policy where you have many identical items in Schedule B. The machine will drive the two typewritters at over 100 words a minute and the preselected materials allows the girl to put on her lipstick, play with her fingernails and go get other forms, and one thing and another, while the policies are being produced.

That is the basis of the operation. As to the success of it, I can say that it will be successful in 'most any operation if your forms are adaptable to it. In Washington a committee of our Association did produce a new title insurance policy form, which unfolds. The whole policy is made on one sheet so you are not faced with inserting various schedules and at the present time a different committee of our Association has brought out a standard report form, which will be very advisable to use with these machines. However, it would be no disadvantage to use them without it.

As to the increase in production, I can explain that in our plant, through the use of these new forms and the use of these two machines, we have been able to eliminate three typing stations for the purpose of typing policies and reports. That, we think, is a step in the right direction because, as you all know, the acquiring, training and keeping of competent title typists is quite impossible.

CHAIRMAN ZERWICK: Thank you, Dave.

Now I will call on Art Wade, Vice President of the Land Title Guarantee and Trust Company, of Cleveland.

MR. WADE: Chairman Otto, Ladies and Gentlemen: It will take less than five minutes to acquaint you with a new machine development in which a few of us are very much interested. We feel that many of you would be interested, too, if you knew of the possibilities. The development is not earth-shaking, by any means, but is, in my opinion, very practical for many title people.

Most of your operations include the obtaining of documentary tax stamps for customers and affixing them, before or after filing, to deeds. The majority of you who perform this service will agree that it is a nuisance and if you will analyze it, it is actually a costly operation. To provide this service you either have a substantial inventory in loose stamps in many denominations to supply the various needs each day, or you use the slower method of purchasing stamps at the local post office or Internal Revenue branch for each transaction requiring stamps. Regardless of how you ob-

tain the stamps you must paste them on the deed and I am sure you have all had the experience of not finding sufficient space, open space, on deeds for all the stamps required. This lack of space is more apt to happen in smaller communities than in larger cities because the smaller post offices do not usually carry the larger denominations and you wind up with a long string of physically large stamps of small value to cover the tax required for even a modest consideration in these days of inflation.

Loose stamps are not easy to handle and are very easily lost. If you would each collect from your customers all of the money you have spent for stamps each year, I can assure you you are doing better than we do. Granted the loss is comparatively small, it is still money down the drain.

To alleviate this over-all revenue stamp problem several of us in Cleveland have wanted meters similar to the familiar postage meters most of you have in your offices. The product of the meter we visualize would be a mucilage-backed tape of modest size that could be affixed to the margins or to any open space on the deed. The size of the tape should not vary from the smallest printing of 55 cents to the largest amount up into hundreds of dollars. In recent years several postage meter salesmen were unimpressed with our problem but last month the Cleveland branch manager of Pitney-Bowes Incorporated took things seriously and forwarded my letter to his home office at nearby Stamford, Connecticut. I received the most encouraging reply from the sales manager and have his permission to quote from his letter today:

"For some time we have been working with the Bureau of Internal Revenue concerning a syste wherein equipment could be used for disseminating documentary tax stamps. We have made good progress and feel that our equipment will definitely provide benefits to organizations who are affixing tax stamps and also to the Bureau.

"In order to determine our potential for this equipment, our Market Research Division has made an extensive survey. I agree with your statement that a substantial number of title companies, brokerage firms, and other organizations could use our equipment to great advantage. In fact, we have received encouraging letters on this subject from organizations who are interested in equipment that would provide them with more efficient means of disseminating and accounting for documentary tax stamps.

"As you can well realize, we must first obtain necessary Internal Revenue Bureau aproval before we can proceed with the sale and distribution of our equipment on a national basis. Any new system involving Government revenue must be thoroughly analyzed and new regulations must be established. The Bureau of Internal Revenue has certainly been cooperative in investigating this proposed system.

"I can assure you that our proposed equipment is quite a bit more versatile than our standard postage meter machine. If our equipment receives approval from the Bureau, I am sure that organizations will find it quite adequate for their needs.

"Although our equipment price and meter rental have not yet been established, I can assure you that our prices will be reasonable.

"As soon as we obtain the necessary approval we intend to field-test our equipment at a nearby location. In the interval, until necessary new regulations have been established and field-testing has been completed, I feel that we must mark time."

In answering my letter requesting permission to quote him today, he admonished me to not leave the impression that these machines would be on the market tomorrow or just around the corner.

I feel—yours truly feels—that we can cut down this marking of time and hurry the development program considerably if we of the ATA who

want this sort of business tool in our offices will write to Pitney-Bowes and tell them so. The title business is such a small industry that we are not ofen thought of by most manufacturers. When something we need is found to be on the drawing board, I feel that it only proper to speak up and let the responsible parties know that we are potential customers.

Several of my competitors—just to prove the co-operation in Cleveland—several of my competitors, and I can't see them at the moment, have form letters in the aisle addressed to the sales manager of Pitney-Bowes for you to mail in. In fact, we will pick them up again after you fill them out and mail them for you. We are determined to let this manufacturer know that there is a big market in our business for this sort of machine. They know of a large number of customers, purchasers, in other fields but they never think of us, so please get behind it and fill in the letters. If you put up your hands these men will pass them around. Thank you very much.

CHAIRMAN ZERWICK: Thank you very much, Art.

One of the gadgets that might be of some interest to you that we use—it is not strictly a gadget but a rule-of-thumb—one of the interesting answers we got to our questionnaire, to the question "What per cent of available business do you get?" Several people wrote back, "That is what I would like to know." Others gave us down to the fractoin of a percentage. I would like to know what others use as a rule-of-thumb. In our own county at one time we furnished nearly all the title evidence in the county and we determined then that we could count on about 48 orders for abstracts or title insurance for every 100 instruments recorded in the registered deeds. We had a suspicion that the number of available orders per 100 instruments is less now than it was at that time. There seems to be more miscellaneous documents recorded than there used to be.

That leads me down to a few remarks about some of the variables that we ran into in our questionnaire. LaVerne Herbruck suggested to me earlier in the game that I was going to have a lot of trouble because he thought the problem of descriptions in the different portions of the country presented a very lage, perhaps an insuperable, barrier to comparing title plants with each other. At first I thought he was crazy, but I think I have come around to his way of thinking. Unless we can get enough examples of the type of work being taken off and posted and chained to make compensation in our figures....

Another huge variable, of course, is people and I think we have had the experience in working on our plant on this questionnaire, the research job our Board of Directors gave me, which Western Electric ran into many years ago. Perhaps all of you are familiar with that. I think it was in the 20's that Western Electric, one of the early companies to engage in cost analysis, time and motion studies, was making such a study to determine the best way of running their outfit. They studied and analyzed and probed and added and subtracted, just as I have been trying to do, and they discovered that first one way of doing things would bring a better result and then when they had made a change to that, another change would bring better results and suddenly a light flashed, they tried to go back to one of their very old methods which they had abandoned, and they discovered that that brought better results. They finally discovered that the variable they were dealing with was people and perhaps in some ways that will negate much of what we are trying to learn in this questionnaire, but on the other hand I think this very thing is a by-product which should be of interest to you in your determination whether or not to carry out the job of answering this questionnaire in your own plant, whether or not you have sent it in to the national Association. Perhaps some of you have and perhaps some of you will take the time to present the problems that we have outlined here to your personnel and carry out some

of the work necessary to answer these questions—and some of the questions take a lot of work. Many of the answers came back, "Haven't got time to do this," and I think that is a valid answer unless in thinking about it you can appreciate the importance of this variable that it gives you an oportunity to go to the people that after all are winning the profit for your company and by working with them and analyzing themselves get them to take the kind of interest in their own jobs which Western Electric discovered many years ago their probing did to their people and they came up with the fact that no matter if you find the best way, the fact that you are constantly searching for a better way somehow seeps down into your organization and affects the balance sheet. I think that is an important, a very valuable by-product and I think many more of you should embrace the opportunity of gaining that by-product and at the same time assisting your Association in this analysis which we are attempting to do, which is fascinating and which has been to me very rewarding, both personally and from the ideas we were able to pick up and the things we are trying to do in our own plant.

Now, where do we go from here? As I told you, I would be naive as well as conceited if I thought this Committee represents the last word in title plant recommendations. I do hope that we can contribute to the reservoir of information available to its members through the American Title Association, render a few ultimate statistics which may make many of us question a lot of things we are now doing and perhaps pique the interest of some better brains than ours that in due time may present us with a lot of better answers, no doubt based upon a lot better questionnaire.

Finally, all of you have seen the questionnaire. More of you have elected not to work it out than have elected to do so. Why? Naturally you didn't do it because you didn't think it would help you or your Association, one or the other or both, yet none of us, I am sure, believes that our industry is static or that one way of doing a job is as good as another. There must be better ways. This questionnaire is just one of the possible ways of finding out. Won't those of you who didn't think this was the way to do it lend your thinking as to how the job should be done and send your suggestions in as to how it could be done and above all, if you are interested in helping analyze what we have been furnished or of carrying on the activities of this Committee, why not write our new President and tell him of your interest and offer your services on this Committee?

It is time to close. I did want to add that if you haven't had time to answer your questionnaires, don't worry. It came out in a busy time of the year and many have asked if they may not have more time and you certainly may. We aren't going to hurry the analysis, it is a huge job, and the more we have of you that will take the time to accurately answer those questions the nearer we think we can come up with something of interest to all of you. Thank you very much.

Report of Committee on Advertising and Public Relations

JAMES W. ROBINSON
Public Relations Director, American Title Association

Well, President Ernie and all of you wonderful people in the title business, as genial, relaxed George Rawlings would say, I am just a bashful, barefoot public relations man from Detroit by way of Chicago and you wouldn't expect much eloquence from me. The truth is, there have been times when I have overdone it just a litle bit with my oratory.

I was honored to be invited to the 50th Anniversary of the Ohio Title Association last month in Cleveland and I brought along with me my violin and tears and I talked to these people about human values. I called my talk "The Magic Mirror" and I told them about the search that mankind has for a sign of recognition. I suggested to them that these people who wait on them in restaurants and the cab drivers and elevator operators are human beings too. I suggested, "Next time you get on an elevator look right at the elevator operator, say 'Good Morning. How are you?' and so on." Well, I am sure that everybody went home just filled with enthusiasm—they were going to be different human beings. I got a letter not long ago from one of the men who had attended. He said, "Jim, you did quite a job at Cleveland." He said, "We have got the happiest bunch of elevator operators in any city, but we are not doing any business." So no eloquence this morning.

However, occasionally it is difficult if not impossible to maintain a completely objective editorial attitude toward something that touches your life so very intimately as the title business has touched mine, so I am sure you will understand a brief personal reference to my experience in the title business.

It was just a little over twenty-four years ago that—during the depression—I began pounding a typewriter in the tax department of one of a certain large, well known title company in this industry. I was immediately impressed by the men with whom I worked. I was impressed by their sincerity, by their skill, their training, their devotion to duty. I recognized immediately that they were dedicated public servants and I came to realize that title men are a unique breed of men. Now, I wasn't the only one who was impressed by those things. They were, too. I discovered also that these men, who had so much to offer, could offer a great deal to me. I used to sit and talk with the title officers and they would tell me stories that were fascinating, stores that were filled with human interest. Unfortunately, I soon learned that when I asked one of them to get up before more than three persons and say the same thing they became tongue-tied. They didn't like to talk about it.

Well, at the company I represented I guess I talked so much about the business that they got tired of listening to me and they sent me out to talk to the public about it. I was thrilled every time I walked down the street and I saw a new building because I knew that my company had had a hand in the development of this great city. I remember when the Haymarket Theatre was being torn down to make way for the new Northwest Highway. I looked up the record and I found that it had a wonderful story, a romance, written in our tract books.

I thrilled to all of those things because I knew that my company was intimately involved. There weren't enough people in this industry to tell about it, so as I went out and talked to people I learned that they, too, were interested in real estate and their homes and their titles.

Now, after twenty-four years, I have been given an assignment to serve you people as your Public Relations Director and as of Sunday also your Secretary. I am deeply honored. I appreciate it and I promise you I will do my best.

I have been asked to make a very brief report — an accounting of my stewardship for this past year. Here

is a copy of the report made to the Board of Governors last Sunday:

"The objective of the staff since the inception of the Public Relations Department on November 10, 1958, with respect to the development of a Public Relations program, has been twofold:

To encourage and promote increasing interest among Association members in a more effective program of public relations with the general public, as well as with related professional groups.

To provide the tools necessary for such a public relations campaign and to conduct, on a national basis, a program of public relations calculated to achieve a greater understanding among all segments of the real estate buying and servicing public.

This report deals with specific activities promulgated by the Association staff during the past year. Various promotional ideas for expanding the ATA's public relations program are submitted for the Board members' consideration in a separate memorandum.

Title News

A determined effort has been made to discover more interesting ways of exchanging industry information through the pages of Title News. The liberal use of photographs together with a limited amount of art work, cartoons, messages from industry members, and special features has, according to many indications, awakened a new interest in the national magazine.

Newspaper Publicity

Every major Association event has been announced by realeses from the Association office to the appropriate news media including metropolitan dailies, rural weeklies, and trade publications. State Association officers were circularized with the offer of assistance from the Director of Public Relations in promoting attendance at state Association Conventions. As a result of the encouraging response from these officers, a total of 2,383 newspapers received publicity releases regarding Association affairs. Special releases complete with photographs were sent to local newspapers on the occasion of the Mid-Winter Meeting, the Annual Meeting and other important activities within the industry. The local newspapers in the cities and towns of all registrants at the Annual Convention and the Mid-Winter Conference received personalized notices regarding the attendance of industry members at those meetings.

Portrait of a Title Man

In recognition of the character of James E. Sheridan's contribution to the Title industry, a special commemorative pamphlet was published entitled "Portrait of a Title Man."

A Bedtime Story

As an aid to abstracters throughout the country, many of whose operations are modest in character, a pamphlet entitled "A Bedtime Story" was published and offered for distribution to realtors, lending institutions, lawyers, sub-dividers, and to the general public. To date, 31 companies have ordered a total of 13,150 for distribution.

Film Committee

As a member of the film committee, your Director has worked closely with the chairman and other members in the development of a title film, "A Place Under the Sun." It is expected that the film will be ready for showing at the 1960 Mid-Winter Meeting.

Visual Aid

For the use of Association members in fulfilling speaking assignments, a visual aid (a model home with removable parts) has been designed and purchased. A typical speech to accompany this visual aid has been prepared and is available to all members. This visual aid is on display at the 53rd Annual Convention.

Point of Sale Material

Also on display at the hotel during the 1959 Annual Convention are eight different point of sale pieces which can be made available at cost to members for placement in bank windows and real estate offices.

Miscellaneous

In the field of Public Relations, your Director has been active in attending State Association meetings, furnishing materials to newspaper editors for feature articles, lecturing to employees of member companies and responding to special requests for suggestions on public relation matters from among the different members."

Respectfully submitted,
JAMES W. ROBINSON
Director of Public Relations

We feel that this first year was a period of exploration, moving slowly to learn what you gentlemen need in your businesses to help you.

We also prepare for the Board of Governors a report which was called "Considerations for a Public Relations Program for 1960." I will read merely the sub-headings, because they indicate suggestions that have been made for study by a committee that is to be appointed by the new president after the election tomorrow. I will be working very closely with that committee in the development of some of these things that are approved and presented to our Board.

We suggest that it is important that the Association shall have literature that was originated in the Association office, to be written to appeal to people on a nationwide basis. It can take many forms. The script and the art work will all be presented to the committee for any substantial sums to be expended. We want you to know that we are thinking of title insurance brochures, little fliers, give-aways, envelope type of advertising and so on. We will have samples to submit and your committees will have an opportunity to review them.

Most of you have visited the registration area, and have seen the sample point-of-sale material that is on display. There are eight different kinds, four for the abstracters and four for the title insurance companies. They are merely ideas. We want you to know that we have a world of ideas and if you can use them we can make them available to you.

There has been a suggestion that in order to bring closer together the relationship that exists between the lawyers, the realtors and lending institutions, the home builders, we might take a more active part in their shows and their conventions. We have available for the committee's inspection a detailed sketch of a booth that can be prepared in the matter of a month, or a month and a half, and loaned out to you, if you wish for your use at your local home shows.

There has been some talk of a commercial film, a two-minute television film, which can be prepared by the national office and sent to you. The script is already written and so is the visual aid to go with it and that, too, will be presented to the committee.

There is in this country a National Personal Affairs Institute. The purpose of that Institute and their objective is to encourage the public to review their personal affairs, their wills, their deeds, their insurance policies, and we feel that it might be important for us to take part in it. I have an appointment with the Chairman of that Committee for this year's campaign and I will give you a complete report on it quite soon from the national office.

One of the suggestions that was made as I took this job almost a year ago was that we should have a public relations manual. It was our feeling that the first year was premature that we should experiment, we should get your ideas. When we do turn out a public relations manual that can be used by everyone in the Association, it should be a quality job, so your suggestions will be appreciated.

We are considering a mat service which can be available only at a moment's notice.

I have been talking about things up to now, about techniques, avenues of getting publicity, and so on. That isn't the most important. You are the most important factor in your public relations program and I want you to know that the staff is going to do

everything in its power to assist you in your business. We look to you for guidance.

Ernie, you know how I love to talk about real estate titles and about my job. I also have been in your position often enough so that I hate a speaker who runs overtime. I have just exactly one minute. Let me use it to say I am so grateful. It has been such a pleasure to be here, and please write to me. Thank you very much.

The Highway Program—Problems of Right of Way Acquisition

DEXTER D. McBRIDE

National Secretary, American Right of Way Association and Supervising Right of Way Agent, Division of Highways, State of California

Introduction

In the Code of Ethics of the American Title Association is this statement: "The foundation of the American heritage of personal Freedom is the widely allocated ownership and use of the land. Upon the furtherance of that heritage, depends the survival and growth of free institutions and of our civilization."

As a reflection of high ethical concept, this expression is unusual; few organizations declare this fundamental thought in their formal Code.

Yet, what a struggle men have made for "widely allocated ownership and use of the land"; how delicately balanced is the "survival and growth of free institutions and of our civilization" upon the sharp edge of private ownership of land.

A true appreciation of property ownership concepts, related to use and allocation, is necessary if any worthwhile commentary and analysis is to be made concerning our nation's present vast Highway Program; problems in right of way acquisition, related to this dynamic undertaking, must be seen in the perspective which your Code of Ethics provides. Let us, for a moment, look at some of the "high spots" in the historical emergence of real property concepts.

Ethnologists and historians have stressed that one of the basic distinctions between so-called "primitive" cultures and "civilized" cultures lies in the concept of land ownership. In a primitive society land is owned by the total community: it is tilled in common and the fruits shared in common. In Melanesia and Polynesia, in Borneo, among the North American Indian tribes, ownership of land was in common. In inner Liberia it is true today. In Samoa the sale of land was unknown prior to the coming of the white man.

Perhaps the most striking example of this primitive culture-concept is an expression attributed to the Omaha Indian tribe of this hemisphere: "The land", said the Omaha, "is like water and wind, for it is that which cannot be sold." What a pure, poetic, (and in our eyes naive) statement!

The more "advanced" cultures are characterized by concepts of land ownership which permit ownership and private use to the individual within the society. We know, for example, that the oldest legal document in the world (resting in a British museum) is a brief presenting to the Court a complex case in inheritance; this case arose in the 5th Dynasty of Egypt, 2965 B.C., yet land ownership in Egypt was never freed of original ownership in priest and king, in Church and State. Similarly, the Jewish people bound up private property with religion and sanctified the concept as the Eighth in their magnificent series of Commandments. Theoretically, the land belonged to "Yahweh."

Greeks and Romans knew the concept; yet how difficult even for them to comprehend the abstractions of ownership and alienation of land. For example: the Greeks, when they wished to make a public record of a mortgage on the land, would erect a stone post for all to see: it was the Mortgage, it was the Weight, or the

burden of the indebtedness. One removed the Mortgage when one removed the post.

In similar representational fashion, the Roman method of sale long required that a clod of earth be handed over in exchange for a coin in the presence of witnesses to transfer ownership; some of the land itself had to be exchanged.

As a parenthetical, consider the words "insurance" and "title", so important to your profession; these words are derived from Roman usage and concepts, and are quite revealing. "Insurance": The base words are **se** (without) and **cura** (care), and thus, "insurance" means "without a care." The word "title": the root is **tuere** (to protect); so "title" reflects "protection." Literally, "title insurance" means "protection without a care!"

There is no need to slight the other part of the title family, the Abstracters. Here, semantics and derivations play an almost unbelievable trick. "Abstract" is compounded of two Latin sources—**abs** (away) and **trahere** (to draw); thus, to "draw away" or "draw out." Notice in this connection a quite surprising coincidence: **trahere** is also the root for Old English word which meant "way" or "path" or "route": the word "trace." In England and Canada and even in some parts of our southern states the word "trace" is used to describe a right of way. One of the most famous in our southern staes is the Natchez Trace, which extended from Nashville to Natchez, then capital of the Mississippi Territory. The Natchez Trace was opened about 1800 and I have always found it interesting to reflect upon the differences in the right of way negotiations which took place with the Chickasaw Indian Tribe and Choctaw Tribe; negotiations with the Chickasaw cost the United States government $702.21, but the right of way men representing the Choctaw Indians were seemingly more efficient in their negotiation, because they finally agreed upon a consideration of $2,000 in goods, together with three sets of blacksmith's tools.

So, it is interesting and curious that the abstracter and the right of way man had an early identity.

Perhaps one of the most advanced concepts of property use and property alienation was that which was developed in the Western Hemisphere. Some of you will recall the efficiency of the great Inca empire, in Peru. Not only were the Incas builders of great roadway systems, and skilled practitioners in the realm of Arts and Crafts (their tapestries are among the finest in the world and their practices in animal husbandry are still recognized to have been wonderfully advanced), but additionally, they had clear concepts concerning the ownership, allocation and use of property among the individuals in their society.

Many of you know that the entire Inca empire from the viewpoint of real estate was divided into three parts; one portion or approximately ⅓ for the Sun, a second portion for the Lord Inca, and the third portion for the people. One can understand the need for a portion for the Sun for the proceeds from the Sun lands furnished revenues for the Temples the Priests, and the related necessary religious ceremonies which were cornerstones of the Inca society. The second portion which went to the Lord Inca provided revenues for the "kingly" estate and for the required administrative processes of government. Most fascinating, however, is the 3rd portion. The lands of this section were allocated on a per capita basis. One must remember that Inca law required that marriage be entered into at a certain age and at the required marriage ceremony the community furnished a house and lot for the man and wife. An additional piece of land was allocated for every child born of the marriage. (Allocation for a boy-child was twice that for a girl child). Every year, the Incas re-apportioned or divided the lands that belonged to the people and this re-apportionment increased or decreased according to the number in the family. Each Inca had a lease for a one year period and the lease was terminated every year. During the

year's term, the possessor had no power of alienation.

So far as I presently know, there is no parallel to this land economic system (which worked so well and efficiently) except one: that is the concept which the Jewish people originated in a process that they called "The National Jubilee." Every 50 years, during Jubilee, the lands reverted to the original proprietors.

Even from such a short review of the development of concepts of ownership, alienation and use of land, we can see how impressive is our own achievement and how strikingly the Code of Ethics of the American Title Association emphasizes one of the most fundamental and dynamic characteristics of our own culture and heritage.

We can see quite clearly that the concept of land ownership moves from a tribal or community use into some variant of State or Church ownership and thence into our own concept of individual and private ownership. The word "realty", so often used, comes from Latin base roots which mean **kingly,** and in the formative periods of our own ownership concepts, the land was indeed the land of the "King." With our developing awareness of the dignity of the individual, we have taken the kingly word "realty" and have applied it to every citizen of our land who becomes, so to speak, the king of the land which he owns.

"The Federal Highway Program: General Scope"

Professionals in real estate work such as representatives of the Title profession, the Right of Way profession, Legal profession, etc., are perhaps more keenly aware of the significance of the present Federal Aid Highway Program than are most citizens. The professional realizes that the construction of a vast 41,000-mile Interstate Highway network, superimposed upon the already existing mileage (which constitutes the greatest roadway system that any culture has produced) will have a powerful effect upon the land uses and land values of this country. It is well known, of course, that of this 41,000-mile system approximately 75% will be on virgin land, requiring perhaps more than one million additional acres of right of way. On the 25% which is not virgin alignment, it will be necessary to widen the existing rights of way, thereby affecting thousands of parcels with perhaps the vast majority being placed in the category of "partial acquisitions." Vast sums of money are involved in the over-all total Federal Highway Program which can be estimated in terms of some 42 billions of dollars; surprisingly, approximately 20% to 35% of this vast sum will be spent for the rights of ways themselves.

Perhaps the Title man and the Right of Way man are most interested in the picture of land use: the Right of Way man must appraise the fair market value of the property involved; he must negotiate and acquire the property, and must manage these Rights of Ways in the interim between negotiation and construction. The Title man is cognizant of the fact that the efforts of the Right of Way man will come to naught if the public's money, when spent for these thousands of parcels, does not sucessfully secure good, sound merchantable title to the properties required. Thus it is that the Title man and the Right of Way man have been brought into an important cooperative working arrangement in connection with the Federal Aid Highway Program.

It is logical that this tremendous Federal Aid Highway Program, linking the great majority of important cities (important in terms of population of 50,000 or more) and connecting all principal manufacturing complexes and defense areas throughout the U.S., would have captured the imagination and attention of the public and encouraged the professionals who must achieve the program to work in a spirit of cooperation. It should not go unnoticed, however, that in the next 10 years it has been estimated that total highway programs in this country will probably cost in excess of 100 billions of dollars: Right of Way and Title activities are integral portions of so vast and dynamic a program.

Permit me to digress and speak from my own experience to illustrate the practical effect in my own State, of the Highway program. Basically, the Division of Highways Right of Way staff which I represent has a responsibility of appraising, acquiring, and managing approximately 10,000 parcels per year; the present (1959-60) fiscal year budget for right of way acquisition alone is in excess of 151 millions of dollars. The staff of some 450 right of way men who are skilled and efficient in right of way practices and procedures will be responsible for prudently handling the real estate affairs for this program in a fashion which will show a sincere concern for the directly affected financial interests of some 70,000 persons in the State of California. In truth, the California Right of Way Department exercises a most responsible public contact program, in which the primary concern of each Right of Way man is the fair and equitable settlement of every right of way transaction.

You will be interested to know that our Rights of Way Department achieves all of its title and escrow services through the title companies in the State of California. Each fiscal year the State enters into a contract with the accredited title companies; this year we have approximately 110 such agreements. It is our concept that good title reports and good title insurance are indispensable to the sound operation of an efficient Right of Way agency. Practical, friendly, and cooperative liaison between a Highway Right of Way Department and the Title companies should be considered a "must."

The 110 agreements above referred to recite all terms and conditions of title service to be rendered to the state. For a fixed fee, title company furnishes, on each parcel: preliminary title report insuring state in sum of $3,000.00 that title is correct as set forth; agreement to issue subsequently at no extra fee standard-form policy of title insurance in same sum vesting title in state; preliminary report to state vestee, date and previous recording reference, IRS, names of all parties necessary to clear exceptions, report on all municipal and county bonds and liens, complete legal description of larger parcel; etc.

It is my thought that this brief commentary upon the scope of the nation's present highway program will emphasize the increasing importance of both the Title profession and the Right of Way profession to the American public. It is obvious that Right of Way and Title practitioners must understand the several, and joint, responsibilities of each profession, to the end that an harmonious, cooperative program will permit full utilization of the talents of each.

"Problems Facing the Federal Interstate Highway Program"

Informed citizens know that our existing highway plan (though unsurpassed by other nations) has dangerous deficiencies. An annual highway death toll of 40,000 persons, with an additional permanently-maimed list of 100,000, with 1,400,000 total accidents is a pathetic pyramid of statistics.

It does not help to be told that these data represent a cost to the nation of over five billion dollars each year.

Such a record forced the 1956 Federal Highway Bill (Public Law 627). Congressional action was virtually unanimous.

Why, one asks, was there such seeming indecision and vacillation in Congress just a few months ago when our legislators faced the problem of re-establishing a financial pattern to continue the interstate right of way and construction program?

Here, I am convinced, appears the greatest problem now facing the Federal Interstate Highway Program the problem of **Public Acceptance**. Why was there so little public reaction to the financial dilema these past few months? As one national publication editorialized (ROADS AND STREETS, September 1959): ". . . an apathetic public failed to make its wants felt in Washington. The mail bags were heavy with letters from

construction industry people, but few wrote in as ordinary citizens . . . We haven't found a way recently to set people on fire over the road program. The program is too big, too impersonal."

Since this is a people's program, on a pay-as-you-go basis, it is patent that continued financing must be based on **Public Acceptance.** The citizens know the roads can be built; the program is a planning and engineering possibility. The citizens know the several major needs: the need for Safety, for increased Commerce, for Community and Regional Integration for National Defense structure.

Why then an "apathy"? Why a reluctance to express demands for a continuation of the program and its financing in these recent months?

It is my belief the roots of this problem (the problem of Public Acceptance) grow in several 'soils":

A. Confidence
B. Understanding
C. Clear Objectives

Public Acceptance: the factor of Confidence

When doubts arise as to the true purpose and probable effects of a vast program like the Federal Interstate Highway System, confidence wanes. Many citizens are asking, and they have a right to ask: what will be the economic impact of the new highways (controlled-access facilities) upon adjacent lands, homes, businesses, communities? What is the economic pattern **before** a controlled-access facility is constructed and what is the economic pattern **after?** Do land values rise or fall? What are the true economic data?

Too few states, thus far, have included in their excellent planning and engineering and construction data a right of way program for developing and analyzing the facts on these very important economic results. Perhaps I should make it clear that some states are doing all in their power to achieve such data through their highway departments; for example, in California there has been a continuous land economic study program for the past 14 years within the right of way department, and major emphasis has been upon gathering, analizing and disseminating the 'Before" and "After" data which reveal the true economic effects of controlled-access facilities upon adjacent properties and communities.

I am convinced that one of the reasons California's program has been successful thus far may be attributed to a sound consideration of engineering and right of way problems and procedures during every step of the development of our program. A tribute to the effectiveness of the California program may be recognized by the fact that on September 18, 1959, Senate Bill 480, (Chapter 1062, Statutes of 1959) became effective, establishing California's forward freeway and expressway system. This new California plan is predicated on a 20-year schedule; it will cost the citizens about ten and a half billion dollars, and it takes the now-accepted concept of access control and applies it directly to 12,414 miles of State highway. Surely, public acceptance of this vast program, which actually exceeds one-quarter the size of the Federal Interstate Highway Program in both mileage and dollars, is an indication of high Public Acceptance in the State of California.

Public Acceptance: the factor of Understanding

A program as vast as the Federal Aid Highway Program will have a high level of acceptance if the basic facts are understandable. If factors and therminology become too complex, confusion can arise. I am convinced that greater and greater confusion is being generated over many terms now in current use, especially the terms "economic benefits" and "community values." As we have just discussed, it is my belief that too little has been accomplished throughout the nation by the state highway departments in clearly and succintly documenting the economic benefits and disbenefits of controlled-access facilities upon adjoining properties. But, in addition, the term "community values" has now arrived on the scene to haunt engineers and right of way men. It is especially popular as a slogan to groups dissatisfied with

any portion of the vast highway program. Those who would wish to see the seemingly inexhaustible highway funds diverted to other channels, those who wish to participate more directly in the financial benefits, those who have self-serving interests in route locations, together with a multitude of conscientious people who are misled by the simplicity of the term, are beginning to employ "community values" as both shibboleth and bludgeon.

"Don't destroy community values" (by constructing a freeway in, near or too far away from a community) is a slogan which appears so right that it gains a multitude of adherents who may not have a clear understanding of the meaning of the term and its application to the development of a highway program. What do "community values" mean? Let me quote in part one newspaper editorial; this quotation is illustrative of the elusiveness of the term:

> "Community values are not self revealing mirco organisms easily isolated under the lens of a microscope; they are part of the warp and woof of a community's life and its history and its traditions and have an integrity born out of the fuse whole."

The problem is one of understanding the true meaning of the term and applying it to the developmental patterns required if a dynamic community is to continue to expand and serve the citizenry. How long should the intangibles, described in the editorial passage quoted above be contempleted before the community constructs a fire station, a schoolhouse, a hospital, a residential subdivision, a manufacturing complex, or a freeway?

"Community values", unless clearly defined and vigorously pursued, is a will-o'-the' wisp phrase. If a generic term like "community values" is used as a mere delaying tactic or to hide self-serving interests, I am convinced that confusion is created and a well-meaning citizenry will lose basic understanding so necessary for its program of vigorous action to solve a national highway crisis. And, without confidence, and understanding, Public Acceptance cannot be sustained.

Public Acceptance: the factor of Clear Objectives

The clarity of the goals set before our citizenry contribute much to total Public Acceptance. It is my belief that goals which are removed too far in the distance and which are multiplied to the extent that they appear interchangeable and interwoven with a complex of other goals destroys perspective. It is in this realm I feel that the protestations of planners prove impeditive to the vigorous execution of the national highway program. Many planners urge a period of delay so that additional plans can be made and extended into a web that embraces the whole community complex. To illustrate this point it may be helpful to quote three paragraphs from a newspaper article which illustrates the problem. This article, taken from a leading California newspaper, quotes a prominent industrial economist in part as follows:

> "Too little coordinated, integrated research is being carried on between highway engineers, urban development planners, and city and regional legislators and administrators in determining the total economic, social, and even political effects of more or improved routes and the resulting snowballing of traffic."
>
> "I am in favor of conducting the comprehensive economic, technical, political and financial investigations necessary to help us learn ahead of the problem rather than as at present, merely struggling to keep reasonably close behind it."
>
> "We must think further ahead than 10 or 20 years if we want to be able to go anywhere in California by then."

Such statements appear quite reasonable until one considers a few the environing factors.

First, this man is a senior economist doing business in the state of California and directing his comments to the California community. Scarcely a month prior to the time

he made these comments (he spoke in October, 1959 at the State Capitol in Sacramento) the citizens had achieved a bold new freeway and expressway program in California which exceeds ¼ the total size of the present total national interstate effort previously described. As far as I know, no other state has committed itself to so vast a highway program and financial burden. And, at the present time, the citizens of the state are threshing out in the community forum the problem of whether we are able, technically and financially, to simultaneously initiate a huge 25-year water development program which will cost in excess of two billion dollars.

Citizens in California have not balked at their vast new highway program to be effected in the next two decades, and they are "threshing out" the many factors in the huge water development and conservation plan now proposed for the next quarter-century. To ask this citizenry to go far beyond such efforts is simply not realistic, either in terms of money, politics, patience or public acceptance.

And to tell such citizens that there is too little coordinated, integrated research in a field such as highways is simply not truthful. The New California Highway Plan received the cooperation and endorsement of the state legislature, after more than a year and a half of study involving national and state research organizations, requiring 23 separate meetings participated in by 730 county representatives and representatives of 280 cities of the state. Planners, engineers, consultants in many professions assisted in the consummation of the plan, designed to serve every city of 5,000 population or more within the state in 1980, and premised on the estimate that this vast state highway plant would save the mortoring public approximately $20 billions, which approximates twice the initial cost of the program.

In the face of such well-known factors, imagine a planner stating that too-little coordinated research is characteristic of the highway program, and that the citizens are not projecting their endeavors far enough into the future! For my part, this plea is erroneous, and is self-serving; some planners want all of our efforts put on paper, not into cement or blacktop. Such voices, emanating from seemingly "high authority", destroy Public Acceptance of projects already underway as well as those proposed.

Perhaps this all-too-hasty examination of the importance of Public Acceptance for a gigantic public works program may be best concluded by relating the problem to another recent, graphic example. Some of you will recall the name of the great Swiss bridge designer and builder, Robert Maillart. His contributions to modern bridge design are world-renowned: elimination of all non-functional members with hollowed-out girders; establishment of the concrete slab as an active building factor of initial tension; solution of the problem of torsional strain for a reinforced concrete structure on curving alignment. Most of his bridges were built across remote Alpine chasms; they were beautiful, inexpensive, stark, lean and eliminated all emphasis on supports. They were, because of the new design, seemingly fragile, taut, web-like arch spans.

The notable fact is that few of his bridge structures were put to use during his lifetime: the people in the cantons refused to go over them, believing them to be too fragile, too flismy. As one Swiss canton leader stated: "It is a puff-paste bridge, and it can't be safe and we won't use it." Though his bridges were among the finest ever designed, the problem of Public Acceptance had not been successfully solved. The new concept in bridges was ready, but the people, in terms of Public Acceptance, were not!

The American Title Association and the American Right of Way Association: Cooperative Participants in the Highway Program

The American Title Association, composed of approximately 2,400 members, represents title people in every county of every state in the

Union; at this, your 53rd annual meeting, you can survey your accomplishments in coordinating title abstracting and insuring procedures with feelings of satisfaction. Despite basic differences between the two fields of abstracting and insuring, your long range single objective has been ". . . that all members of your association conduct themselves ethically, give good service, and follow sound title practices." It is my understanding that, at the time of your organizational initiation 53 years ago, there was little or no title insurance written, although many companies were issuing guaranteed certificates of title at that time. The concept of title insurance has developed tremendously with the passage of the years, and it is used universally in California, and nearly so in Arizona, Nevada, Oregon and Washington. In such states as Texas, Colorado, Utah, Florida and eastern seaboard and major midwestern states title insurance is also used to a considerable extent, although the abstract is still used in those areas. In some states, such as Iowa, Nebraska, Minnesota, Kansas, the Dakotas, and the New England states, the abstract is extensively used.

It is obvious that the right of way practitioner will use the type of title service that custom dictates in each particular area, and he will expect the practitioner to be expert in the field and therefore in a position to give the best and least-expensive service in connection with all right of way acquisitions. Thus, it is clear that the Highway Program, and all citizens, benefit from whatever successes are achieved in our two fields in terms of efficiency and cooperation.

As many of you know, the American Right of Way Association, now in its 25th year, is composed of some 7,000 right of way men throughout the United States and Canada; the members are associated through 30 chapters and 3 club affiliates at the present time. Each member subscribes to a Code of Ethics which requires strict adherence to the highest concepts of professionalism and community service.

The right of way man, in fulfilling his responsibilities in connection with the highway program, must work under legal requirements which differ in the several states. For example, about 45% of the states acquire fee title to highway right of way; some 20% acquire easements only; approximately 35% acquire either fee or easement.

Regarding the type of title service obtained by the several jurisdictions for highway right of way purposes: approximately 40% of the states **do not** obtain commercial title company service (securing title information from members of their own staff, from private attorneys, etc.); 25% obtain certificates or abstracts of title but no title insurance; about 35% obtain title insurance.

It must be obvious that, in our complex structures and patterns of land ownership, use, and allocation, that members of both the American Title Association and the American Right of Way Association can gain immeasurably through cooperative planning, interchange of ideas and integrated practices and procedures. Equally, from such cooperation, the American public will gain immeasurable benefit.

There are many states in the Union where our two organizations can achieve a much closer liaison than now exists; there are states in which we can strengthen already existing ties of professional friendship. The American Right of Way Association is proud of the practical partnership which is now in existence between our two organizations, and we will do everything within our power to make that partnership more effective. We are extremely proud that many of your members are also members of our association; we hope more and more of your members, concerned with right of way problems, will join with us and contribute to an improvement of our concepts and practices. We are exerting, and will continue to exert, every effort to reinforce our mutual interests and programs and professional ties.

Conclusion

We have reviewed the fundamental concepts of land ownership, allocation and use in our culture, and have stressed the importance of a true understanding of these concepts which represent the full flowering of our efforts as a people to use the land well and wisely.

Reviewing the present Federal Interstate Highway Program, we noted the major problems which that program faces today: Public Acceptance. Because it is a people's public works program, on a pay-as-you-go basis, and is one of the most vast of its type ever undertaken by any society known to us, Public Acceptance (in terms of Confidence, Understanding and Clear Objectives) is of paramount importance. I am convinced that public Acceptance for the Federal Highway Program is less certain and vigorous than it was two years ago, and I am convinced much work must be done if Public Acceptance is to be reinforced and sustained.

A quick look was given to our own two organizations: the American Title Association and the American Right of Way Association; cooperation and interdependency were found to be characteristic. One of the most hopeful factors noted was the area in which we might foster further programs of professional reciprocity, in terms of improving practices and procedures and in membership exchange. Implict in our analyisis was the assumption that both of our Associations are founded upon the concept of Service.

You will recall the story of a mendicant, who lived in a large city in India. Each morning he went into the crowded streets, begging for whatever might be given him by passers-by. One day, in the busy market area, a large chariot approached him; the chariot was pulled by a beautiful white horse, and in the chariot was a handsome prince dressed in the finest clothes. The begger thought this was indeed his lucky day, and ran to the chariot, and held out his hands to the Prince for alms. The prince descended; instead of extending coins or gifts, he asked: "What do you have to give me?" The beggar was bewildered by such a question, and was embarrassed; what sort of a joks was this that he, a beggar, was asked to give to a prince? But the prince held out his hand, and waited. Hesitantly and reluctantly, the beggar reached into his leather pouch and drew out a handful of corn. Then slowly, he picked out a single grain and gave it to the prince, who smiled, returned to his chariot, and drove away.

That night, when the beggar poured out his grain on the mat, he found in the little heap of corn a single grain of gold! Then suddenly he knew; knew that he had given too little of his substance and himself.

I believe that this is the story of Service, and the story of the giving of the Self. We have much to give. Such a concept is both a challenge and a goal.

Report of Chairman of Judiciary Committee

F. WENDELL AUDRAIN

Chief Counsel, Security Title Insurance Company, Los Angeles, California

The Judiciary Committee has continued its endeavor to bring interesting, perhaps useful information to the attention of the readers of Title News. Inasmuch as most of us like to have our information to be reasonably current, I want to express my appreciation to those persons in the association office who are responsible for Title News, for their accommodation of this committee's materials in the issues between these conventions. I would have some reluctance about reporting today on the case that was recent in February of this year.

May I again recommend a continuous and enlarged reading and study program to the lawyers and senior

men who are mostly concerned with what some members call the the technical side of our business. By technical, I mean the knowledge of the law that bears on our insurance contracts which is found in our statutes and in the decided cases.

Part of the enlarged study and reading program in my office has meant, for example, the subscribing about four years ago to the "Oil and Gas Reporter", which brings about 100 to perhaps 200 pages a month of case and comment from all the states on oil matters. Even if the title company in a state does not insure oil leaseholds, that title company has to pay attention to oil ownerships, especially upon division of surface and the oil fee or the numerous interests which are created and based on oil and other hydrocarbons.

When these pages first started coming to my office, I saw much therein arising from states whose oil law is substantially different from the California oil law. However, this soon proved to be knowledge of value, because we regularly encounter documents of record or proposed to be recorded or other programs as to California lands which are put together by investors and developers who are based out of California and who are advised by lawyers unfamiliar with California law. We often know quite soon on examining the documents that they are not fashioned in confusion or ignorance, but that they represent the efforts of able men practicing in another state. Thereafter by our letters and telephone calls to those distant states, that lawyer in Houston or Tulsa recognizes that we know something about his law and practices and that our comments are based on obviously informed comparison of California law with the law of another state.

Now and then we find a significant case dealing with a matter not decided in California but as to which we have heretofore had only our best speculation to use in making a decision. For example, in the July 1959 sheets of this publication we read an Oklahoma case by the Supreme Court of that state, decided in April this year, and after the text of the decision the discussion note lead off immediately with these two paragraphs:

> "The principal case is one of extreme importance to title examiners and conveyancers. It involves a question which has caused considerable difficulty in other jurisdictions and which has caused considerable concern among lawyers in Oklahoma. The question is whether or not an exclusive leasing power may be separated from full mineral ownership and whether or not a lease granted pursuant to such power is valid. A perpetuity problem is presented.
>
> "When a royalty interest is granted, or reserved, the exclusive leasing power is necessarily separated from the right to receive royalties. Because the absence of the leasing power is inherent in such interest, it has become known as a 'nonparticipating' royalty interest, and no theoretical perpetuity problem is presented as to the validity of the leasing power. In case of a full mineral interest, however, the power to lease is inherent in such interest, and the separation, from such interest, of an exclusive power to lease which may be exercised beyond the period of perpetuities does present the perpetuity problem. See discussion notes, 8 O&GR 861 for a collection of references."

As the discussion proceeded, it dealt with a prominent California case and with Law Review articles which were so important that we had acquired these issues of the Reviews some time earlier. Now this can be disquieting to some of our people. A few years back one of our men retired who enjoyed a good reputation in California for thirty years. He was a good title man. His relationships with the public and with other title men were the very best. One day, in the 29th year of his reign, he asked me about fissionable materials as referred to in a series of deeds of government land. Cabinet officers in Washington by law and by executive

orders and by a series of Federal Register items passed around authority to make deeds of federal land interests with a freedom that was out of pattern with our usual notions of formality and rigidity in dealing with federal lands. I said that we would not endeavor to secure assurance that all these departments and officers had the authority they apparently exercised. We wouldn't succeed in any such effort. We would just insure. My man said, "I'll sure be glad when I retire. It's much too complicated. I liked it back in 1926. Things were stable then."

I now take up another matter which comes to my attention as a part of this program to be currently informed. We have found ways to see what articles appear in the law reviews of the law schools about the country. We purchase those issues bearing articles of interest. We have them from schools in Texas, Michigan, Virginia, Florida, Georgia, Ohio, Connecticut, Illinois and other states and regard them as important additions to our library of relevant materials. The articles are by informed practical writers and they are by law school professors of varying degrees of information and assorted purpose and objective. Most of you would be surprised at the amount of law review writing which has touched upon title examining customs, methods of title insurance and the range of advocary these writers state in their materials. In the main, it is hostile. A considerable tendency is found by these writers to relate back to earlier critical articles which perhaps, reviewed retrospectively, spoke of practices by title people which warranted criticism as of 1939.

In the May, 1959 issue of the Yale Law Journal, I found and read several times a 72 page article by one or more writers whose approach to title companies is wholly hostile.

The article reluctantly moves into its main theme, which is to find methods of making titles more marketable by a form or forms of quiet title actions to cut off ancient claims and burdens, know and unknown.

As with those social, economic and political ideologies which I am opposed to, but as to which I should be informed, to better keep my aim on working toward those ideals and values I prize, so I draw an analogy to the title insurance business. I believe in it. It has made a useful contribution to our society, to an orderly, expeditious commerce in land. This business has been good to me as an employee. It has enabled me to gain in my professional status as a lawyer. As an employee and as a stockholder, I have had the income to acquire my homes, raise and educate children and have other values I cherish. There are other men here who feel the same way. Therefore, when we come upon open, frank hostility, which is nothing new, we should search it out and find out wherein it is in error and wherein the critic has touched upon matters which warrant criticism. As in every other arena of economic conflict, the ardent often effective protagonists never stop to become nicely balanced and informed. The broadsides are always indiscriminate and if some of you say, "This does not apply to me" you are wrong. It does apply to you. You are part of the whole class that is raked by the broadside of criticism. This criticism of title companies and abstractors overlooks many factors. But if it paused to be specific, selective, wholly informed, the impact of an attack on some phases of the subject of getting titles to be more marketable would not get off the ground. Here I have to acknowledge the need of extremists for those of us in the middle are seldom effective advocates for desirable change. Such useful gains as are made in our society generally emerge from the forge of heat, strength and the blows and resistance of moving and static forces. But in the heat of this process we must be watchful observers and articulate when opportunity exists to be heard.

To illustrate the hostility of this article I speak of, I quote several footnotes:

> "For a scathing analysis of the waste and inefficiency involved in title examinations under pre-

sent recording systems, see Russell & Bridewell, Systems of Land Title Examination."

"It is a terrible indictment of our boasted jurisprudence if it is incapable of inventing or enduring any improvement on the system which has enabled title guaranty companies and abstract companies all over our land, and often several in the same city, to put by millions in surplus, after paying immense dividends, salaries and clerical expenses, all extorted as a tax on land titles and transfers, for what has been somewhat sarcastically put as insuring against everything but loss."

I'm not going to try here for the reply I might like to make to some of the statements in this article. As a working lawyer for a title insurer whose time is mostly characterized by making land transactions close, I haven't had, and won't have, time to study what the title examination problems and practices are in 50 states, nor will I have need or occasion to search out problems, laws, and practices so as to make recommendations for improvements. Having noticed the initial and basic hostility of this article, I then on my reready of the article, related the comments to my own state, its laws and the title company practices concerning which I am well informed. This article gave a backward look to the land registration (Torrens) system and reluctantly acknowledged the problems attendant upon this system and notes one reason, badly out of date in my state, by saying, "More intense is the opposition of vested interest groups—notably title insurance companies, professional abstractors, and some attorneys—who thrive on and would perpetuate the confusion which current recording systems create."

As the officer who states the standards of practice for my company and having done so for many years, I can unqualifiedly repudiate this statement from the point of view of a company that has ample experience upon which to afford a basis for an informed statement. One of the reliable and predictable constants of mankind, corporate or personal, is to look out for and try for those working methods which minimize confusion, if confusion has the peril of financial loss. We are in a business where, if there is confusion as to interest in land and we get caught with it in our contracts, the universal rule is to construe what we have done or written against us. With this ground rule, with its inevitable economic loss to us, our best interests constantly incline us to avoid confusion. For some of us a better reason could be stated, and I know and believe in such better reasons to avoid confusion, but by taking the most universal reason, i.e., to avoid financial loss, I'll sweep most title men into agreement with me that a business purpose to perpetuate confusion as to land titles is a ridiculous premise upon which to assert that title men resist improvement in methods which expedite land commerce and which would achieve greater clarity. The economic welfare of my company and the best interests of our insureds call for the maximum stability and absence of disturbance of that insured's interest or estate.

In the framework of an active life work as a lawyer for a title company with ample experience, I state that it is a false statement that there is merit in having or perpetuating a confusing system. I'll go further. For 17 years I've been a member of a legislative committee of the California Land Title Association, one of the oldest and most important of our assocation committees. Year after year, one of the significant purposes of this committee is to watch proposed legislation to avoid that new law which could ultimately introduce uncertainty as to some segment of land titles, or to recommend law changes or additions which bring certainty where uncertainty existed. This course of action by an active title association is a continuing repudiation of the statement I have quoted.

No system now extant is the perfect system. There will not be any.

So long as any system is administered by people of widely varying skills and motives, there will be inequities, delays, and mistakes. As I read this article, I could not help but wonder how many of the specific experiences which gave rise to harsh criticism were typical of those seeming injustices which come to our attention from time to time. I say seeming because we rarely have all the facts needed to form an opinion as to a claimed injustice. This legislative committee I mentioned observes proposed laws which arise out of one lawyer's experience. Usually the organized bar which carefully watches proposed laws will take care of this man's proposal. If it's bad, he usually won't succeed. If good, he may.

I work in a state where, in the main, the dominant effort of title companies is to find the way to enable the title order to close successfully. This motivation was not so strong twenty years ago. We were a more conservative, cautious people then. But we were not then out of tune with the atmosphere of the society about us, particularly our legislature and our courts. Hence, a 1959 criticism based in part on the writings of critical observers of 1938-1939 has a significant weakness. Writers hostile towards title companies do not know that the public which wants our service is not of the common mind, generally thought to exist. The range of customer demand includes those who want serious and obvious burdens ignored. There are other customers, some of them the largest and best informed in the United States, who want title men to adhere to rigid standards of care and reporting, which those companies have made known to title men.

I am not informed as to the applicability of the criticisms found in this article to your state, to your companies, and to your practice. I do not know how many of you would adopt substantial changes, representing your ideas of better service to your community, if you were free to do so, but you can not do so because of other influential factors that are not responsive to or subject to constructive criticism. I do commend to each of you that you read material of this sort, so that you know how you look to others, so that you can think about and plan for gains that may some day be made in a more favorable setting in your state. I am able to state that I came to an even greater appreciation of the usefulness of the title companies to the welfare of my state for having read and carefully studied this article.

As to the main theme of the writer, the elimination of old burdens which interfere with a more free movement of land and with marketability, that is a subject peculiar to each state, and of course the problem differs widely in the states for reasons not here calling for narration. I measured the writing and recommendations by my knowledge of the matter in California, and again I speak with information for, more than any other man in my company, I state the steps to bring about a result enabling the kind and content of policy desired by prospective insureds. Our quiet title statutes and proceedings work well, expeditiously, and have long afforded a reliable basis for title insurance. It is a fact that there are titles as to which no kind of quiet title decree, even based on the most ideal statute, would enable title insurance. Nothing wrong with the law or the decree or the proceeding. But in every state there are people whose known interest in some properties is so frought with peril for the future, and whose apparent immunity to every known penalty or consequence is so long demonstrated as to make foolish the action by any title company to become involved. Fortunately, the frequency of these situations, while colorful and usually a nuisance, is so slight as to be no factor and, again fortunately, most such situations arise as to lands whose absence from easy circulation is no economic loss to the community.

To the extent that the article in the Yale Law Journal makes a useful contribution toward greater freedom of safe and prompt movement of land titles, the article is worthy of attention. My interests in it do not take

me across my state lines. I am busy in part with what 50,000 new California residents bring each month into California from your states. My effort is to help my company be better able to take care of some of these people. Meantime, read this article on a Sunday afternoon.

I have previously recommended to the lawyers who represent title companies that they subscribe to the publication, Unauthorized Practice News which is published by the American Bar Association Committee on Unauthorized Practice of the Law. That committee has other publications and compilations on the subject which should be in your files. The laymen, officers and employees of your companies need your advice and direction increasingly in connection with this subject. You have a responsibility to have your people informed and I can state that the officers and employees do appreciate being informed. Within a week after the article about the Florida Lawyers Title Guarantee Fund appeared in the August 1959 Fund appeared in the August, 1959 issue of the American Bar Association Journal, I saw that a copy of that article was in every branch office of my company and in the office of every underwritten company which writes our policies, with my comments as to how they should be ready to respond to inquiry or comment directed to them by readers of that article. My men appreciate being informed and I am sure that you would find the same response from your people. This is simply another form of good communications. Such communications make their substantial contribution to our welfare.

Report of Legislative Committee (State)

GORDON M. BURLINGAME, *Chairman*
President, The Title Insurance Corporation of Pennsylvania, Bryn Mawr, Pennsylvania

The Legislative Committee makes this report on its activities during the period commencing with our last Convention.

Due to the extremely large size of the Committee, it was decided that regular meetings would not be held, but that each member of the Committee would report to the Chairman on any legislation affecting the evidencing of titles.

Of the 50 states now constituting the United States, 13 reported legislation of interest. These were California, Colorado, Idaho, Illinois, Indiana, Kansas, Minnesota, Missouri, Oklahoma, Oregon, Pennsylvania (where the Legislature is still in session), Vermont and Wisconsin. 10 states reported that during the sessions of their legislatures, no legislation of particular interest or effect on our industry had been enacted. 27 states sent in no report.

Rather than take the time of the Convention in reading a report by states, the Committee Chairman prepared and has available at this time for distribution to those interested, a compilation of the laws reported to the Chairman with the names of the Committee members of each State. The Chairman is sure that the members of the Legislative Committee for each State will be able to answer questions relating to the legislation adopted more intelligently than he, the Chairman, would.

Of particular interest to the title insurers is the legislation adopted in Vermont.

The Chairman of the Committee would be less than appreciative if he did not publicly thank all of the members of this very large Committee for their co-operation.

Respectfully submitted,
G. M. BURLINGAME
Chairman

LEGISLATIVE COMMITTEE

Compilation by States and names of Committee Members.

ALABAMA—J. W. Goodloe, 164 St. Francis Street, Mobile 2.

No Report.

ALASKA—John E. Murray, Northward Building, Fairbanks.

No Report.

ARIZONA—G. R. Sloane, 124 North First Avenue, Phoenix.

No Report.

ARKANSAS—Hon. Alfred Featherston, Murphreesboro.

No Report.

CALIFORNIA—Richard H. Howlett, 433 South Spring Street, Los Angeles 54.

The 1959 session of the Legislature repealed the statutory rule against the suspension of the absolute power of alienation in order to permit the common law rule against remoteness of vesting to govern future interests in property. To make this change in the law and to regulate the validity of the term and duration of trusts not limited in time to the term in which future interests must vest, to permit provisions for certain accumulations of income, and to provide methods for terminating such trusts, the following code sections were changed in the manner stated. Repealed: Civil Code Sections 715.1, 770, 771, 774, 775 and 777. Amended: Civil Code Sections 715.3, 716 and 724. Added: Civil Code Section 771.

Section 715.4 was added to the Civil Code to exclude trusts created for the purpose of providing for beneficiaries under hospital service contracts, group life or group disability insurance plans, group annuities, or any combination thereof, from application of the rule against perpetuities.

Section 1073 of the Civil Code and 109 of the Probate Code were amended to provide that California law does not include the rule that a grantor or testator cannot convey or devise an interest to his heirs, or any presumption that his grant, devise or bequest to them is not intended to transfer an interest to them. This is the so-called doctrine of Worthier Title, originated in feudal England as a rule of property, which made void an attempted testamentary or inter vivos transfer of real property to the transferor's own heirs.

Section 1220 of the Civil Code, as enacted in 1957, brought within the effect of the recording laws, all instruments affecting title to standing trees or timber, even though such trees or timber are personal property under Sections 658 and 660 of the Civil Code by reason of cutting or severance provisions in contracts or in any other instruments dealing with the timber. As now amended, Section 1220 provides that any such instruments or contracts executed and delivered but not recorded, before the effective date of the amendment (Sept. 18, 1959) shall become subject to the recording laws one year from said effective date. Section 3440 of the Civil Code (bulk sales) was also amended by adding as an additional exception from the application of the section, "Standing timber if the contract or grant in relation to the same is recorded as provided in Section 1220 of this Code."

Sections 14.5 and 14.6 were added to Chapter 523 of the Town-Site Act of 1867-68, relating to lands granted by the United States to unincorporated towns in California by Act of Congress approved March 30, 1868. The new Sections are designed to resolve questions heretofore existing as to the ownership of strips of land shown as streets and alleys on maps filed pursuant to the Act.

COLORADO—James O. Hickman, Boulder.

Section 118-6-6, Colorado Revised Statutes of 1953, was amended to provide that any written instrument required or permitted to be acknowledged affecting title to real property, whether acknowledged, unacknowledged or defectively acknowledged, after being recorded in the office of the County Clerk where the real property is situate, shall be notice to all persons or classes of persons claiming any interest in the said property and further that any such unacknowledged or defectively acknowleged instrument which shall have remained of record for a period of ten

years in said office shall be deemed to have been properly acknowleged. The Act was made to apply to all instruments heretofore or hereafter recorded.

Section 118-1-45, Colorado Revised Statutes of 1953, was amended to require the filing or recording by a corporation in the county where the corporation owns real property, a certificate of incorporation, amendments to articles of incorporation which change name or limitations on exercise of statutory powers as to real property, certified copy of articles of incorporation, certified copies of mergers and consolidations, certified copies of dissolution (voluntary or involuntary), certificate of authority of foreign corporations with articles and amendments of articles and amendments to certificates and withdrawals. The Act provides that as to persons who acquire an interest in or lien on real property from such corporation before documents mentioned above are filed, shall be protected from those claiming under him, by stating that in such case, the corporation shall be deemed to be an existing corporation qualified to exercise the powers of Section 4 of Chapter 32, Session Laws of 1958.

A Fair Housing Act was adopted concerning fair housing practices and making it unlawful to discriminate in the matter of housing against any person because of race, creed, color, sex, national origin or ancestry.

CONNECTICUT — Edward Traurig, 111 W. Main Street, Waterbury 2.

No Report.

DELEWARE—Benjamin N. Brown, 1003 West Street, Wilmington 1.

No Report.

FLORIDA—J. E. Churchwell, 227 Harrison Ave, Panama City.

No Report.

GEORGIA—Harry M. Paschal, 14-16 Auburn Ave. N.E., Atlanta 3.

No Report.

HAWAII—David T. Pietsch, Merchant at Richard Street, Honolulu 2.

No Report.

IDAHO—George V. Russell, 711 Bannock Street, Boise.

S.B. No 36, amended Section 28-112 to change the method of annexing or excluding property from cemetery districts.

S.B. No. 146 provides a procedure for the annexation of territory to highway or good road districts and for the recordation of a certified copy of the annexation order in the office of the county recorder in the county in which the highway district is situated.

H.B. No. 32 makes provision for joining the State of Idaho where it has or claims to have interest, lien or claim, a party defendant in any proceedings whether judicial or summary, and further provides that process shall be served upon the Attorney General.

H.B. No. 49 provides that should any person be entitled to a deed from an executor or administrator or guardian and such executor, administrator or guardian has been discharged or is disqualified or refuses to execute the same, such deed may be executed by the probate judge authorizing the sale, or by his successor.

H.B. No. 51 amends Section 55-705, provides that acknowledgements of wives or dependents of persons may be taken before certain military officers and validates all prior acknowlments so taken.

H.B. No. 94 amends Section 41-806 to provide that the payment of a tax upon its gross premiums by any insurance company, shall be in lieu of other taxes upon income, franchise, etc.

H.B. No. 103 amends Section 40-120 to prohibit the Highway Board from disposing of public lands. It is felt that since the power of the Highway Board is now limited to excess land taken for highways, sales of such excess land need no longer be questioned.

H.B. No 113 authorizes sale or exchange of non-useful property by a highway district.

H.B. No. 263, among other things, grants to the Commissioner of Insurance the power to promulgate and adopt such rules and regulations re-

lating to insurance companies as are necessary to discharge his duties and exercise his powers in connection with Title 41, Idaho Code.

H.B. No. 264 repealed Section 30-516 and 30-517, and provides that a foreign corporation shall not be deemed to be doing business or to have a tax situs in the State of Idaho where its only transactions or business in Idaho consists of acquiring, modifying, holding, selling and enforcing obligations and receiving income from obligations which are secured by mortgages, deeds of trust or bonds, and are acquired through or issued by and are serviced by a qualified corporation. It further amends Section 30-505 to provide that the deed to any foreign corporation or its taking or holding title to realty prior to qualifying shall no longer be void but only voidable upon the petition of any interested party to the district court in the county where such real estate is situated, and in the event such qualification is not made prior to entrance of a decree, such decree may hold the deed or conveyance void.

ILLINOIS—A. E. Peterson, 111 W. Washington Street, Chicago 2.

S.B. No. 129, "Merchantability Act," which in general bars any action based on a claim arising or existing more than 40 years before an action is commenced to recover real estate or establish an interest in property against the holder of the record title where the record title holder and his grantors have held chain of title for at least 40 years before the commencement of action. Under the Statute, certain interests are excepted: (1) Lessors with respect to reversionary interest arising upon the expiration of any lease; (2) Rights of easement which are apparent or can be proved by physical evidence of its use; (3) The interest of mortgagees where the due date of the mortgage is stated on the face of a recorded instrument.

S.B. No. 128 amended Reverter Act (Ill. Rev. Stat. Ch. 30, pars. 37b-37h), limiting the enforcement of rights of reverter by reducing the 50 year period to 40 years, to make it conform with Merchantability Act.

INDIANA—John S. Blue, Rensselaer.

House Act No. 43 provides that after effective date of Act (July 1, 1959), no instrument by which title to real or personal property is conveyed, created, encumbered, assigned or otherwise disposed of shall be received for record unless the name of the person or governmental agency which prepared instrument is printed, typewritten, stamped or signed in a legible manner at the conclusion of instrument.

IOWA—Tim J. Campbell, Newton.

No Report.

KANSAS—John W. Dozier, 110 W. Sixth Street, Topeka.

Law relating to due date of real estate taxes has been amended to provide that if property is acquired prior to November 1st (date on which taxes are due and payable) by the Federal Government or State and other exempt taxpayers, the current year's taxes become a lien immediately at the date of transfer and the county clerk must compute the taxes on the amount of the previous year.

KENTUCKY—Mark V. Rinehart, 408 W. Jefferson Street, Louisville 2.

No Report.

LOUISIANA—Lloyd Adams, Baronne Bldg., New Orleans.

No legislation adopted since last Convention which affects evidencing of titles.

MAINE—

No Report.

MARYLAND—William C. Rogers, 113 E. Baltimore Street, Baltimore 2.

No legislation adopted since last Convention which affects evidencing of titles.

MASSACHUSETTS — Theodore W. Ellis, 124 State St., Springfield 3.

No Report.

MICHIGAN—Wallace A. Colwell, 735 Griswold Street, Detroit 26.

No Report.

MINNESOTA—C. J. McConville, 125 South Fifth Street, Minneapolis 2.

Chapter 75 amends Not Coded, permits private corporation which has expired prior to July 1, 1959, to re-

new corporate existence with same effect as if it had not expired. Allows two years from March 6, 1959, to renew under this Section.

Chapter 94 amends 50.14(5), (a) permits savings banks to invest in mortgages in Michigan, Illinois and Indiana in addition to other states already permitted. Permits 50 per cent loan on unimproved land (was 33⅓ per cent). Permits 70 per cent loan where an amortized 20 year loan. (was 66⅔ per cent.)

Chapter 100 amends 525.03, requires probate court to keep an indexed record of all orders authorizing, or refusing to authorize the sale, mortgage or lease of real estate or confirming or refusing to confirm the sale or lease of real estate under contract . . . and all orders granting or denying restoration to capacity.

Chapter 155 amends 71.23, adds new retaliatory provisions against foreign companies. Minnesota Commissioner of Insurance may suspend the licenses of all insurance corporations from any state where a Minnesota corporation has been refused admittance after complying with all that state's requirements if the Minnesota Commisisoner determines the company is solvent and properly managed. It also provides that any law or ruling of another state which prescribes to a Minnesota Insurance Company the rate for life insurance issued outside that other state is NOT reasonable.

Chapter 228 amends 384.141, County Auditor may destroy all tax assessment books and duplicates after 20 years.

Chapter 252 amends 508.12, authorizes four full time deputy torrens examiners in Ramsey County and six full time deputy torrens examiners in Hennepin County or two part time deputy torrens examiners for each full time examiner authorized.

Chapter 321 amends 257.181 (new). No charge can be made by Register of Deeds or Registrar of Titles for filing any instrument on behalf of his county.

Chapter 322 amends 505.31 (new), permits a surveyor to enter on any land if he first notifies owner or occupant—makes him responsible for any damage such entry causes.

Chapter 322, amends 505.32 (new), permanent survey monuments shall henceforth have date and name of surveyor inscribed on them. No prior stakes or post can be removed or destroyed by surveyor on new survey.

Chapter 335 amends 82.035 (new), adds a new section which provides for an examination to be passed before licensing real estate brokers and salesmen. Also makes minor changes in the requirements for such licensing.

Chapter 339 amends 505.02, .03 and .08, standardizes requirements on new plats and provides penalties for those who violates its provisions.

Chapter 349 amends 373.05 (new), any act or contract to be performed at a county building that is closed on Saturday may be performed on next regular business day without penalty.

Chapter 380 amends 508.477(4), adds limitation that Registered Land Surveys cannot designate as a tract any portion used as a street. No tract can be smaller than permitted by zoning ordinances of that city and one dimension of the tract must be at least 50 feet. (Only affects counties not containing a city of first class).

Chapter 418 amends 508.24 (new), PERMITS WITHDRAWAL OF LANDS FROM TORRENS SYSTEM IN THOSE COUNTIES NOT CONTAINING A CITY OF THE FIRST CLASS.

Chapter 460 amends 272.48, provides that the office of Register of Deeds is the proper office to file notices of tax liens and requires the Register of Deeds to keep a separate index of them. (Signed April 24, 1959).

Chapter 464 amends Not Coded, validates recorded conveyances of homestead made by separate deed of husband and wife in the years 1953 and 1954 although Section 506.02 requires a joint deed.

Chapter 492 amends 541.023, adds a new subdivision 7 to the 40 year

marketable title act to define "Source of Title." Delays the effective date of this new section until June 1, 1960, as to certain claims. (Covers the area left open by dicta in the Winkleman case.)

Chapter 500 amends 160.05(5) (new), provides that a road used and kept in repair continuously for at least six years by the Highway Department shall be considered as dedicated to the public two rods on either side of the center line.

Chapter 559 amends 394.21 to 394.37 (new), new sections authorizing county planning and zoning activities and providing forms of control and enforcement. Applies only to counties having a population of less than 300,000.

Chapter 618 amends 559.21, authorizes charging defaulted Contract for Deed vendees with attorney fees ($50.00 where default is less than $500.00; $100.00 where default is $500.00 or more), provided default has existed at least 45 days prior to date of service of notice of default.

Chapter 622 amends 256.26, old age assistance lien will not take priority over the claim of any **person** for money actually expended by him in permanent improvements on the recipient's homestead or in payment of taxes or encumbrances thereon. (The word person was substituted for the word children. I do not know if a corporation would be considered a "person" under this Section.)

Chapter 656 amends 117.20(2), amends eminent domain proceedings. Adds a new sub-division (8) prescribing the procedural steps to follow. Requires state to file a petition with District Court describing premises to be taken, etc. The lis pendens portion of the statute was not amended and as to innocent third parties, a lis pendens would still seem to be required in order to impart notice.

MISSISSIPPI—George S. Neal, Jr., 516 E. Capitol Street, Jackson.
No Report.

MISSOURI—John P. Turner, 10th and Walnut Streets, Kansas City 6.

No legislation passed which has a bearing upon the status of abstract and title companies. Several Acts passed having a bearing on real property titles.

(1) A curative act in connection with defective acknowledgements.

(2) Probate Court procedure where property is owned by tenants by the entirety and one of such tenants is incompetent.

(3) An amendment as to the time in which a suit must be filed to enforce a mechanic's lien.

(4) The time in which a will must be presented for probate.

MONTANA—W. J. Faust, Great Falls.
No Report.

NEBRASKA—B. W. Stewart, 119 W. Sixth Street, Beatrice.
No Report.

NEVADA—Sidney W. Robinson, 27 E. First Street, Reno.
No Report.

NEW HAMPSHIRE—
No Report.

NEW JERSEY—John C. Thompson, 830 Broad Street, Newark.
No Report.

NEW MEXICO—Oscar J. Allen, Jr., 219 Third St. S.W., Albuquerque.
No Report.

NEW YORK—Daniel A. Whelan, 400 Park Avenue, New York 22.
No Report.

NORTH CAROLINA—W. A. Hanewinckel, Jr., Reynolds Bldg., Winston-Salem.

No legislation adopted concerning title evidence.

NORTH DAKOTA—A. D. MacMaster, Williston.
No Report.

OHIO—Walter G. Morgan, 1275 Ontario Street, Cleveland 13.
No Report.

OKLAHOMA—George A. Fisher, 219 Park Avenue, Oklahoma City 1.

Bill No. 689 amends, in effect replaces, Title 16. O.S., Section 51, and provides that instruments, court proceedings or decrees affecting title to real estate which have been recorded or entered for a period of 10 years prior to six months after its effective date, and thereafter when they have

been recorded or entered for a period of 10 years in which any of the following variations of names appear: (a) where in one instance a Christian name or names of a person is or are used, and in another instance the initial letter or letters only of any such Christian name or names is or are used but the surnames are the same or idem sonans; (2) where in one instance, a Christian name or initial letter is used, and in another instance is omitted, but in both instances the other Christian names or inital letters correspond and the surnames are the same or idem sonans; and where no action shall have been brought within said period in the court having jurisdiction seeking to assert an interest in or liens upon said real estate by reason of the invalidity of such instruments, it shall be presumed that the person referred to by one of such variant names is the same as the person referred to by the other, and the record of such instruments shall constitute constructive notice, and such instruments may be received in evidence as if variations in names did appear.

OREGON—Stanton W. Allison, 731 S.W. Stark Street, Portland 5.

C.H. 165—Oregon Laws of 1959—Trust Deed Act modeled upon Idaho Trust Deed Act.

C.H. 418 amends State Inheritance Tax Law to subject property held as tenants by the entirety to the State Inheritance Tax upon the death of one of the spouses. The Act provides substantial exemptions.

C.H. 325 amends the procedure for service of citation in guardianship sale proceedings and has provided a much needed improvement in the sale procedure in these estates.

PENNSYLVANIA — Elmer S. Carll, 1944 N. Front St., Philadelphia 22.

H.B. 134, Act No. 85—"Short Form Mortgage Act," provides for the recording of general mortgage provisions and short form mortgages incorporating provisions of master mortgage by reference.

H.B. 489, Act No. 861, permits recording of a memoranda of lease without recording original lease with effect that purchasers and mortgagees are charged with notice of the unrecorded original lease.

Legislature still in session.

RHODE ISLAND—Charles J. Hill, 66 S. Main Street, Providence 3.

No legislation adopted since last convention which affects the operation or procedures of certifying or insuring real estate titles or of furnishing of title abstracts.

SOUTH CAROLINA—David S. Mellichamp, 1316 Washington St., Columbia.

No significant legislation passed by General Assembly affecting real estate since last Convention.

SOUTH DAKOTA—R. G. Gross, Ipswich.

No legislative changes took place in South Dakota during past year.

TENNESSEE—Charles O. Hon, Jr., 617 Walnut St., Chattanooga 2.

No legislation adopted since last convention which would affect evidencing of titles.

TEXAS—Ralph E. Shin, 131 W. 7th Street, Austin.

No Report.

UTAH—Jesse N. Ellertson, 248 S. Main Street, Salt Lake City 1.

No legislation passed affecting evidencing of titles.

VERMONT — Joseph S. Wool, 161 Main Street, Burlington.

Act to amend subdivision VII of Section 9023 of V.S. 47 as amended (VSA Title 8, Section 3301), relating to prohibition of real estate title insuring provides that nothing therein shall authorize an insurance company to issue a policy of title insurance in Vermont until the applicant therefor has been notified in writing by such company of all defects in title which will be excluded from coverage under the prospective policy. Such notice shall set forth in descriptive terms the nature of such excluded defects. Upon receipt of such notice, the applicant shall have the option of cancelling his application without any liability therefor to said company.

VIRGINIA—W. L. Bramble, Esq., 914 Capitol Street, Richmond.

No regular session of legislature since last convention.

No legislation adopted at extra session affecting title evidencing.

WASHINGTON—Herbert H. Sieler, 1117 Park Street, Chehalis.

Notwithstanding the fact that 38 laws were passed affecting real property, which laws covered, among other things, the subjects of minors, guardians and relief of aged, no laws were passed which directly affected abstract or title insurance companies.

WEST VIRGINIA — James A. McWhorter, 409 Kanawha Valley Bldg., Charleston 1.

No Report.

WISCONSIN—Wm. J. Hoyer, 842 N. Third Street, Milwaukee 3.

C. H. No. 191 of laws of 1959. Subcontractors have 120 days from the first day of work or furnishing material to file notice of lien and have 120 days to file lien after the last day of performing work or furnishing materials. The period in both instances was formerly 60 days.

C.H. No. 248 of laws of 1959 increased the homestead exemption from $5,000 to $10,000.

C.H. No. 256 of laws of 1959 amends platting law to provide that no lot shall be platted or replatted if the resulting lot shall be less than 50 feet wide. A violation provides for a fine and if illegal, the question arises as to whether the conveyance is valid.

C.H. No 186 of laws 1959 applies the doctrine of lis pendens to the United States District Court as well as to the State Courts.

C.H. No. 68 of laws of 1959 authorized Savings and Loan Associations to participate up to 50 per cent in which the other lenders are instrumentalities of the state or the United States. This would include associations insured under the Federal Savings and Loan Insurance Corporation or banks under the Federal Deposit Insurance Corporation, and Life Insurance Companies licensed to do business in Wisconsin.

WYOMING—Frances Rossman, Box No. 309, New Castle.

No Report.

Report of Committee on Federal Legislation

THOMAS E. COLLETON

President, Lawyers-Clinton Title Insurance Company of New Jersey
Newark, New Jersey

After President Eisenhower had vetoed two 1959 Omnibus Housing Bills in an effort to eliminate needless spending programs, Congress finally passed a third bill which met some of the objections raised by President Eisenhower against the first two bills. Included in the bill are provisions for a new and better schedule of FHA downpayments, an increase in the amount of FHA mortgage insurance and removal of the October 1, 1960 cut-off date on insurance authorization, a two year in stead of a one year urban renewal program, an increase in the interest ceilings and mortgage amounts for rental and cooperative units and improvements involving F. N. M. A., Savings and Loan Associations and trade-in transactions.

Immediately after President Eisenhower signed the Housing Bill on September 23rd, the FHA Commissioner raised interest rates on the various types of FHA mortgages, including an increase from 5¼% to 5¾% on the regular family-home mortgage section. The new rates are more realistic in terms of investors' yield and it is hoped that the increased rates will eliminate or at least substantially reduce the discounts on FHA mortgages.

The increase in the interest rates and the willingness of the borrowers to pay the higher rates will not, however, insure the availability of the mortgage money. The money market today has been described by economists as the tightest money market in a generation. The prime rate has

been raised by commercial banks to 5%. The United States Government, itself, hampered by the refusal of the Congress to raise the statutory interest rate on our long-term debt has been forced to borrow in the short-term market and has paid interest rates as high as any paid in our entire history. It is obvious that a continued tightness in the money market will inevitably curtail home building and seriously affect the title industry.

President Eisenhower also signed a new banking act which raises from 66-2/3 to 75% of property value the amount a national bank can lend on real estate and also increases the ratio and amount national banks may advance on construction loans.

The most important federal legislation affecting our industry was recommended by the Senate Armed Services Committee and was contained in an amendment to HR 5674. The amendment, Section 415D, provided that on future Capehart Housing Projects, which are large military installations, the United States Attorney would furnish an opinion on the sufficiency of title on each project to the Secretary of Defense, who would then be authorized to guarantee the title on such property. Enactment of this Section would put the United States Government into direct competition with privately owned title companies.

An Association bulletin alerting the industry was mailed to all Association members on May 28, 1959 and members were requested to contact their Congressmen and make known their opposition to this proposed measure. Association members throughout the country responded and the industry position was made known to the Congressmen through letters, telegrams and personal calls, and particularly by the letters and memoranda prepared by President Loebbecke and George Rawlings, Chairman of the Committee on Title Insurance on Capehart Housing Projects. The opposition of our members was given consideration and Section 415D was amended and in final passage read as follows:

"SEC. 415 (d) On request by the Secretary of Defense, the Attorney General shall furnish to the Secretary of Defense, or his designee, an opinion as to the sufficiency of title to any property on which it is proposed to construct housing, or on which housing has been constructed, under this section. If the opinion of the Attorney General is that the title to any such property is good and sufficient, the Secretary of Defense is authorized to guarantee, or enter into a commitment to guarantee, the mortgagee under a mortgage on such property which is insured under Title VIII of the National Housing Act, against any losses that may thereafter arise from adverse claims to title. None of the proceeds of any mortgage loan hereafter insured under such title VIII shall be used for title search and title insurance costs: Provided, That if the Secretary of Defense, or his designee, determines in the case of any housing project, that the financing of the construction of such project is impossible unless title insurance is provided, the Secretary may provide for the payment of the reasonable costs necessary for obtaining title search and title insurance. Any payments by the Secretary hereunder shall be made from the revolving fund established under section 404(g). Any determination by the Secretary under the foregoing proviso shall be set forth in writing, together with the reasons therefor. The Committee on Armed Services of the Senate and House of Representatives shall be promptly notified of each such determination, and of the amount of any payment made by the Secretary for title search and title insurance costs."

There was the usual demand for tax reductions, but because of the likelihood that the budget will continue unbalanced, the efforts toward tax reduction met with little support.

A Look at Our Industry

JAMES M. UDALL, *President of the National Association of Real Estate Boards and President, James M. Udall, Inc., Beverly Hills, California*

When my fellow-townman and your capable president, Ernie Loebbecke, invited me to speak to you here today, he suggested as a topic "A Look at Our Industry." I quickly accepted his suggestion, because the title seems a happy one for at least two reasons.

First, it implies a mutuality of interests that is certainly accurate. This mutuality was well-stated by a prominent titleman—Harold F. McLeran, your 1957-58 president—when he said:

". . . Realtors, lawyers, and title evidencing people should work in cooperation to encourage land ownership. Each group has its own sphere of activity in the transfer of the land." This statement of our partnership in service to the American public wins my hearty acclaim.

Second, a title such as this allows me to assume our shared concern in approaching a brief description of the real estate market as Realtors see it, some of the aims of our National Association of Real Estate Boards, and a few suggestions for stronger cooperation between us toward a common goal.

Before I start on a tour of these bases, I should like to make an observation in a spirit of wry humor.

In the course of preparation for this appearance, I took the occasion to read the latest issues of that excellent publication, the **Title News.** Please note this diligence on my part, and apply yourselves at the first opportunity to a perusal of another eminent publication, REALTOR'S HEADLINES.

In the March, 1959, issue of the **Title News,** I came across a very informative article by J. C. Parish of St. Paul in which I found this observation:

"Under all land and its improvement lies the title—the transfer of which rests within the scope of the business of the abstracter."

I made note of this, because the preamble to our NAREB Code of Ethics proclaims:

"Under all is the land," and then goes on to set forth the Realtor's duties in its wise utilization.

It would seem, therefore, that you are "under-cutting" us. It would further seem that you are determined to preempt the position of "low man on the totem pole." I am not quite sure that I know just what my position as a Realtor is among characters of such a subterranean status.

But whatever our relative position and primacy, I am sure of our common dedication to professional standards in the real estate service we render. The ATA was formed in 1907; NAREB came into being in 1908. And the history of both organizations is a record of steady accomplishment in the serious search for more knowledge, improved techniques, and higher ethical concepts.

NAREB, of course, continues to pursue the goal of complete professionalization. To that end, we are continuing to press for improved state license requirements for both brokers and salesmen, for the adoption by our boards of a membership policy that will admit worthy salesmen; we are working more intensively than ever with colleges and universities looking forward to the establishment of courses in real estate and land economics, and to the strengthening of academic sequences in these fields that are already in existence. NAREB and its state associations and member boards are offering more educational conferences than ever before to increase the proficiency of both new and old members; and our 10 affiliated and specialized societies and institutes continue to grow and flourish as more and more Realtors follow the trend of the time to engage in one or more specialized fields.

Because we share a common dedication to the improvement of our

ability to render service, I know these developments will be of interest to you. But there is a more immediate reason why they should enlist your approval. And that reason is found in the sequence of our function with respect to the transfer of land. By and large, there must be a sale of real property before there is a need for a title abstract or title insurance. Thus, if indeed the title does lie under the land, before the title evidencer is called on to provide same, there must be a seller, a buyer—and usually a Realtor!

And this means—in plain terms—that the more effective the Realtors are in serving the public and effecting sales, the better it is for the title industry.

It is a matter of reassurance, therefore, for both the public and all segments of the shelter industry to know that the nation's corps of professional real estate brokers — the Realtors—is in a state of advanced readiness and peak strength. More than 65,500 Realtors throughout the United States are exerting peak daily efforts and skills in matching the needs and capabilities of buyer and seller to the end that real property ownership is expanding to the betterment of the people and the country.

The current situation and that of the months immediately ahead places a strong premium on the aggressive and professional salesmanship of Realtors. Mortgage money is tight; interest r a t e s are rising to new heights—even to the point at which they are pressing against the ceilings established by usury laws in many states. This is not, of course, the most ideal atmosphere for a high volume level of real estate transfers. The would-be purchaser of modest means finds himself faced with higher standards of qualification, the need for higher down-payments, the assumption of steeper monthly payments.

To help potential buyers in this numerous group to go through with their plans for residential purchase, the Realtor must be more diligent than ever in building his listings so that a maximum c h o i c e may be offered; he must know his lender-market and thus be able to help his prospect qualify for the most favorable loan possible; and—as always—he must have a burning faith in his product that will enable him to sell that product in the face of competition from a wide variety of consumer goods.

According to all indications we have on hand, the Realtors are meeting the challenge. While the sales market is always characterized by wide variances in particular localities, NAREB has not—to date—received any general reports of sharply slumping sales situations. And the reaction that a trade association receives from its members in times of presumptive stress is usually a reliable barometer for the state of the industry. This is the message of cheer that I bring to you today. It is based on the determination, application, and skill of my fellow members of NAREB.

Nevertheless, there are portents of potential pitfalls that always ride the wind of tight money. The buyer of real estate is facing higher charges for his mortgage loan, and the inevitable concomitant of this is that his cost-consciousness is heightened.

The answer is to be found in intensified public relations. We of NAREB sometime define public relations as acting in the public interest, and then letting the public know about it.

Let me be specific, first, on examples of action both of us can undertake.

We Realtors are particularly interested in the section of the 1959 housing law that improves the FHA home trade-in program. In brief, the changes makes a Realtor taking temporary title to a home being traded-in on another, qualified for the same mortgage amount under the FHA program as an owner-occupant. In an era in which six out of every 10 families is already in home ownership status, it is truism to say that more and more new business will deal with second-house purchases. The trade-in program is full of great promise for making this possible.

What service are titlemen prepared to offer in this connection? In a re-

port on your last February meeting in the May *Title News*, I have read that:

"Mention was made of the trend in modern home buying . . . 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."

I am glad that the attention of the membership was called to the trade-in program, and I can appreciate the importance of checking on the lien status of the title during the trade-in period. I am sure, however, that this does not exhaust the contributions which your imaginative segment of our industry can make to the trade-in program. The need is for positive action that will make it quick and easy for the man who now owns a home to trade it in on a new one. At a time when Realtors are bending every effort to this end, and when the FHA is amending its program for the same purpose, similar action on the part of title men would be appreciated. Any help you can give will mean good business and more business because it will constitute constructive action to meet the improvement of life for our people.

Then there is the matter of title insurance. The *Title News*, while making it clear that there will always be abstracters, tells me that the trend is toward title insurance. Good. I believe in it, and most lenders insist on it. But to the public—in an era of cost consciousness—it may be just another costly "extra." In this case, you have acted in the public interest, and I know that you are constantly seeking to improve title insurance for both the mortgagee and the home owner. I have seen some booklets on the subject, some press material—and not much more. Why not tell the public more about it in areas in which your members offer it?

I have a hunch you expect the Realtor to do some of this explaining for you. At least in the February, 1959, issue of your publication I find that your public relations targets are "the Realtor . . . the builder, the developer, the subdivider, the lawyer, the lumber yard and yes, in a rather vague way, John Q. Public."

Let's move John Q. up the line a bit. Let's talk directly to him in the certainty that if the subject is real estate the Realtors will lend an ear, too. Of course, Realtors will cooperate in carrying the message about title abstracts and insurance . . . but the word is "cooperate"—in this instance, we don't want exclusives!

And that brings me to another area in which we welcome cooperative rather than exclusive action—the explanation of the settlement sheet. As we all know, many a buyer and seller has come to the office of the title company psychologically unprepared for the "statement of charges" with which he is faced. We all know that these charges are carefully computed and justly levied—including fees—and *at the settlement*—all too often—we both try to explain this to our principals.

Our belated efforts along this line do not always meet with complete success. And anything less than complete success is not good in a market that is being made up increasingly of repeat buyers.

I am told that the need for advance explanation is particularly accute if discounts are involved.

Here again you may well tell me that since the title personnel have no formal occasion to meet the buyer and seller prior to settlement time, that it is the job of the Realtors—who have such contact in abundance—to make the advance explanation of all settlement charges including discounts.

I'll buy that—in part. By that I mean that I don't think this is our sole responsibility.

An otherwise praiseworthy booklet issued for public consumption by a Virginia title corporation brushed off the settlement explanation like this:

"No attempt will be made to ex-

plain a settlement sheet . . . inasmuch as each transaction is different, and a general explanation would tend to confuse rather than aid the reader."

Realtors well know that every transaction is different, but that doesn't prevent them from distributing thousands upon thousands of "house-hunting hints" through virtually all media in an effort to take the mystery—the terror of the unknown, if you will—out of real estate transactions. I submit that settlement charges can be explained in generalities in such a way that will show them as the reasonable things they are and *in advance of settlement* to minimize unpleasant surprise and clouded future relations. I also submit that this is a job for both of us.

In conclusion, I should like to transcend earthy considerations and make a confession of faith—faith in my associates, in you, in our country.

If there ever are sales made of space on the moon . . . on Mars . . . I think they will be negotiated by a Realtor, not by the land office of the politburo. If special abstracts are required—I don't think they will be written in Russian. If title insurance is needed, it will be supplied as it should be—through private enterprise and not by government intervention.

In the meantime, in the behalf of the American people here on earth, we will beat the tight money problem. We will beat it by sound salesmanship and client-service. We will beat it by improving the salability of mortgages with title insurance resting on sound legal judgment and careful abstracts. The progressive shelter industry of America of which both of us are proud segments knows but one direction—forward!

Report of the Villanova Project Compilation of Title Insurance and Abstract Laws

GORDON M. BURLINGAME

President, The Title Insurance Corporation of Pennsylvania, Bryn Mawr, Pennsylvania

At the Atlantic Coast Regional Conference held in 1958, the delegates of the member companies represented, discussed the proposal by the School of Law of Villanova University to prepare a treatise on the public regulation of title insurance companies by the states, territories and possessions in the United States. The said School of Law stated that the cost of such treatise, exclusive of printing, would be $15,000.00, provided the work could be done during the summer recesses, and further, in view of the other projects being handled by the School of Law, it would be necessary to assign faculty members to this project beginning with the summer of 1958.

It was the consensus of those present at the said Conference, that the proposal had great merit and would result in a work long needed by our industry. It was agreed, however, that since the project would be national in scope, it should be sponsored by The American Title Association, or if not by the Association as a whole, by the Title Insurance Section. The Officers of the Association were so apprised and the report of the then Chairman of the Conference made to the Convention held in Seattle in 1958, contained a strong and eloquent plea for sponsorship of the project by The American Title Association.

In order to allow the work to begin during 1958 and secure proper faculty directors, certain companies of New York and Pennsylvania, underwrote a preliminary cost without commitment that the project would receive widespread support from A. T. A., or from any other companies individually.

At the 1959 Mid-Winter Meeting of The American Title Association, the

Board of Governors approved a grant to the School of Law of Villanova University for the treatise on the statutes and case law of the fifty states and territories and possessions of the United States, concerning the public regulation of title insurance companies and provided that the work should include the laws relating to the licensing of abstracters. The grant approved by the Board of Governors was in the maximum sum of $10,000.00. It was stipulated that this allocation by The American Title Association be contingent upon subscriptions from other members of the Association, in an amount equivalent to the grant of the Association. It was further provided that the pledge by The American Title Association of $10,000.00 for the project, should not exceed one-half of the total cost of the entire study and compilation. Additionally, it was provided that the sum pledged would be budgeted to be advanced as follows: $5,000.00 in the year 1959 and $5,000.00 in the year 1960.

Following the advice of the Board of Governors of The American Title Association, the School of Law of Villanova University stated that it was prepared to continue the study and to include the laws relating to the licensing of abstracters. In order to support this expanded work, a total grant of $17,500.00 would be necessary. Of this amount, $2,000.00 had already been paid in 1958, leaving a balance of $15,500.00 to be paid over the years 1959 and 1960. This sum required by the School of Law does not, of course, cover the cost of printing and distribution.

The President of the Association was pleased to appoint a special committee to handle this project for the Association, which committee consists of Messrs. William H. Deatly, Lawrence R. Zerfing, Thomas P. Dowd, Harold A. Lenicheck, Harold F. McLeran and Gordon M. Burlingame with Mr. Burlingame to act as Chairman. The Chairman would be less than appreciative if he did not thank the members of the committee publicly, for their aid and advice.

Although a number of title insurance companies had therefore indicated financial support sufficient to assure the financing of the project, it was the feeling of the Officers of the Association and the committee, that participation should be as broad as the interests of the members of the Association permitted. Accordingly, on April 7, 1959, invitations to subscribe to the project were sent to all members of The American Title Association.

As of this time, 74 abstracters and 62 title insurance companies have subscribed the total sum of $11,645.95. Of this sum, $2,000.00 was paid in 1958, $9,580.95 has been paid this year, and there is an outstanding balance on one subscription of $65.00.

On May 14, 1959, a meeting of the project committee was held at Villanova University School of Law. At that meeting, the directors of the project, Ernest F. Roberts, Jr., Associate Professor of Law, and Eugene E. Holahan, Associate Professor of Law, together with Harold G. Reuschlein, Dean of the School, outlined in brief the method to be followed in gathering the information necessary to produce the treatise. The directors stated they would prepare proper indices and would see that the publication was copyrighted in the name of The American Title Association.

There was some discussion on the format to be used, and it was the consensus of the committee that the decision on this point be deferred until the directors of the project had more opportunity to determine the most orderly manner of presenting the subject, bearing in mind that continuations of the project would be required.

The directors stated that the target date for the completion of their work on the project would be September 30, 1960. The directors further assured the committee that it would be furnished with copies for review, comment and editing, prior to printing.

There was some discussion on the probable cost of printing, but since the number of pages was and is indeterminate, it was the consensus

that no estimate of cost could be established until the work was completed and edited.

The committee agreed that The American Title Association should distribute and bill for copies of the treatise. A discussion on the principle on which copies would be sold to non-subscribers took place, and it was the decision of the committee that the matter of charge for copies of the treatise and the principle on which the treatise should be distributed be left to the discretion of the Board of Governors of The American Title Association. In this regard, it was the consensus of the committee, that The American Title Association might properly make copies of the treatise available to the law libraries of the various law schools of the United States, without charge.

Having met the requirements of the Board of Governors as to the matching of contributions by members of the Association with the grant approved by the Board of Governors, there was paid to Villanova University the sum of $9,500.00. Of this amount, $4,750.00 was charged to the sum of $5,000.00 budgeted by The American Title Association, and $4,750.00 was charged to the cash contributions of subscribing members.

During the months of July and August of 1959, each of the faculty members of the School of Law engaged in the project, prepared a detailed analysis of the law of a particular state. From these analyses, a rough text was contructed following the outline contained in a preliminary report dated September 11, 1958, which report had been furnished to the committee and the Officers of the Association. On the basis of this rough text, a research assistant has been working examining the laws of other states and interpolating the data so obtained into the footnotes of the rough draft. From time to time, this new data is examined and the rough draft modified accordingly. Where the data accords with the general experience, it is left in its footnote status. Where, however, the data conflicts with the general experience, or is entirely new, the text is added to or changed in order to reflect this. Thus, the text is growing and changing to reflect the ever-increasing amount of information coming in.

When all states have been researched and the draft fully documented, the process will be reversed, and the text will be checked back in full against the statutory citations upon which it is based. At this time, the wealth of case law accumulated and indexed as the project progresses, will be interpolated into the text.

Thus far, twelve states have been completely covered in the text. They are: Colorado, Delaware, Florida, Iowa, Louisiana, Michigan, New Jersey, New York, Pennsylvania, Tennessee, Texas and Virginia.

A few problems which have been encountered may be of general interest. Out of the wealth of material, two are selected because they represent typical difficulties:

A. The new Florida Insurance Code contains a section relative to insurance whereunder some provisions of the Code are made "especially applicable" to title insurance, while making certain other chapters "non-applicable." The two lists, however, do not exhaust the Code, so that a balance of sections remains, which is neither non-applicable nor especially applicable. This hiatus, the merely "possibly applicable," is left to be filled in by the reader on the basis of an interpretation of each section.

B. New York provides another illustration of the problems encountered in statutory interpretation. The law of that state requires any person, firm, association or corporation which acts as an insurance agent in New York, to obtain a license, but specifically provides that the licensing requirement shall not apply to an agent or other representative of a title insurance company (Insurance Law Section 110, as amended). Another section of the law, however, prohibits a foreign insurer from issuing a contract of insurance on New York property unless the same is done through

a resident licensed insurance agent. (Insurance Law Section 130). Obviously the two sections of the statute appear contradictory to one another and, although it is the view of the directors of the project that the New York Superintendent of Insurance would probably say that Section 110 prevails over Section 130, and that, in the case of title insurers, licensing of agents is therefore, not required, the ambiguity remains.

All of this seems to indicate that with the aid of the treatise, The American Title Association might find it worthwhile to assume the drafting and promotion of a uniform title insurance code.

On the basis of the work completed thus far, there is no indication that the deadline for completion of the project cannot be met. In view of the scope of the research required, however, the amount of the materials being discovered, the possibility always exists that another revision of the basic schedule might be in order.

The committee again wishes to remind those who have or who have not yet subscribed, that the sum to be paid to the Villanova University School of Law does not include the cost of printing, which will be considerable. The committee, therefore, continues to invite contributions from those who have not yet subscribed. In the words of one of the subscribers to the project, a Past President of the Association,

> "This is one of the most worthwhile undertakings which has commenced during my activity in the Title Association."

Respectfully submitted,
William H. Deatly
Lawrence R. Zerfing
Thomas P. Dowd
Harold A. Lenicheck
G. M. Burlingame,
Chairman

Report on University of Michigan-American Bar Association Research Project

RAY POTTER
Vice-President-Chief Title Officer, Burton Abstract and Title Company, Detroit, Michigan

I am to report to this assembly upon the present status of the American Bar Association—University of Michigan Law School Conveyancing Project. As you will recall, the ATA contributed the sum of $2,500.00 to this project. This fact just might be the reason a report is called for today. In fact, one of the irreverant officers of this association suggested to me that my subject today should be "What Happened To Our Twenty-Five Hundred Bucks?"

In order to answer that question a little bit more informatively than to assure you that diligent research work has been done, and is being done, I ask your indulgence while I give you a quick run-down on the reasoning which led the Real Property, Trust and Probate Law Section of the American Bar Association to initiate this project. I hope thereby to get across some notion of the scope of the project and the possible utility of the results thereof.

In fairness to the ABA and the University of Michigan, I must state that I am authorized to speak for neither. But, I shall draw on views expressed publicly by responsible officials of the ABA Section.

For at least half a century now, we have been told by responsible and eminent authorities that there is a general dissatisfaction with the man-

ner in which real estate transfers are handled. Most recently, Perry Morton on Monday.

The complaints have not gone unheeded. Rarely does a session of a state legislature come and go without the enactment of a statue or two aimed at the improvement of conveyancing practice. Also, on the level of the immediate operational practices of conveyancers, some twenty-three of our state bar associations, in the last thirty years, have adopted uniform title standards. All of this is, for the most part, good.

But, conceding that recent history has brought forth some important real property legislation and that uniform title standards have been most helpful and effective in a few states, it has been thought that each approach to the conveyancers' ills has fallen far short of its respective potential. In most cases, the medicine just never gets anywhere near where the trouble is.

Why? Because generally the legislative mind has addressed itself to the solution of a series of minute, unrelated problems. Legislation has been piecemeal, enacted often without sufficient consideration of its place in the existing body of law and enacted almost never as part of a comprehensive, over-all plan of improvement. As to uniform title standards: More than half of our states have not seen fit to try this approach. A good job has been done in a very few states and in these states uniform title standards are reported to be very effective. However, in other states, they are fragmentary at best, poorly thought out, badly drafted and generally ignored.

In short, although efforts have been made to ameliorate the plights of the real property lawyer, the cure has not been effective. The situation appears to have worsened to the point where sober, responsible and competent observers have expressed the fear that the increased dissatisfaction with our conveyancing system will, unless checked, bring about ultimately a breakdown of present procedures and a revolutionary change therein. If this change takes place, it will have a serious effect on the welfare of the public and the economic position of the bar. It is my impression that the revolutionary change referred to is not to embrace title insurance as a cure-all. The revolutionary change referred to is some sort of government controlled modified Torrens System which would effect the economic position of persons other than the practicing attorney.

Thus, it has been thought by responsible representatives of the bar that what has been called "The deepening crisis in conveyancing, deserves and demands some good hard thought."

As suggested a moment ago, some valuable contributions have been made by some legislatures and by some state bar associations. Because legislators and practitioners have not too often had the time or resources to dig out these grains of wheat which are usually bound in the same tomes with a generous assortment of chaff, the said legislators and practitioners have often failed to make themselves currently aware of what is being done in other jurisdictions. Much less has there been available an authoritative analysis of the various statutes and title standards.

The Real Property, Probate and Trust Law Section of the American Bar Association has had, for many years, a Committee on Improvement of Conveyancing and Recording Practices. Several years ago, this Committee recommended to the Section that it sponsor a comprehensive research project in the conveyancing field designed to attack conveyancing problems on a national scale — but within the scope of the recording system. It was felt that this conservative approach, if successful, would better serve the public and the bar and would be an effective weapon to stop any more revolutionary movement.

After a decent interval of deliberation, the Real Property, Probate and Trust Law Section of the ABA endorsed such an undertaking and appointed a special committee to cooperate with those chosen to carry out the project. Professor Paul Basye

of Hastings College of Law was appointed chairman of said committee. I have had the honor of having been appointed as a member of the committee—not at the beginning to be sure—but later on, when the going got rough and the manuscript heavy and hard to carry but in plenty of time to be put on today's program.

It was clear that the research job (not the job of a minor committee member) could be done only by the most skilled hands operating in connection with a large law school equipped with adequate research facilities. By happy coincidence, the time at which the project was to be started coincided with the compulsory retirement from the University of Michigan Law Faculty of Michigan's eminent, able and active Professor Lewis M. Simes, he of "The Law of Future Interests." Professor Simes became the director of the project.

As to the financing of the project: To date the bills have been paid in full by private contributions—including the generous gift of the ATA—and by the University of Michigan Law School. The gift of the ATA, coming as it did when this undertaking was about to be launched and when contributions were not exactly rolling in, was especially appreciated by all concerned.

Professor Simes and his research assistant devoted full time to this project during the last academic year and during the early months of this summer. The major work has been completed and is in the hands of the printer. Professor Simes is now teaching in San Francisco and is continuing work on the project but, at his own request, without compensation. The completion date cannot be estimated at this time. It is my understanding that the minimal costs which will be incurred from now on and the printing costs will be borne by the University of Michigan Law School.

Now, finally, to what has been accomplished. The major work "The Improvement of Conveyancing by Legislation" is, as aforesaid, in the hands of the printer and is expected to be out of his hands in December of this year. The volume contains some thirty-two model acts, designed to reduce, if not to eliminate, certain of the conveyancer's problems. I have the table of contents here and I could read it to you. But, since I suspect you are more interested, at this hour, in reading a menu, I shall deprive you of the pleasure of hearing me read the table of contents. Anyway, each model act is fully annotated by a commentary which contains a lucid explanation of its purpose. The commentary includes references to existing statutes and citations to case law. An article on the constitutionality of the various model statutes is appended. Since I have studied the manuscript at various stages of its preparation and since I have been present at several meetings of my betters which were devoted to discussing the various model acts, I am in a position to testify solemnly before you that you will find this volume a most prodigious, informative and even inspiring contribution to the literature on real property law. The quality of the work is unsurpassed and the scope thereof is all but over-powering.

It is not contemplated that these model acts be promulgated or approved by anyone. Although they are prepared in such a form as to facilitate their enactment by the various state legislatures, it is recognized that various changes therein will probably be necessary in many states. The value of the work lies in the fact that for the first time this tremendous quantity of high quality material is made available in a single volume for the use of legislators and bar associations. Much of the laborious and expensive research and drafting job has been done.

Two additional volumes are in preparation. The second volume to be published will deal with uniform title standards. It will contain a set of model uniform title standards dealing with many title problems which are common throughout the country. This will make available to the various state bar associations expertly drafted standards which have not been too common or too easy to find in the

past. The volume will also contain model uniform title standards relating to the various model acts included in the first volume. I understand there will be a complete index of existing title standards showing a breakdown by subject matter. It is thought that this data will be most helpful to the title standards committees of the various states.

The third volume to be published doesn't have an official title at this moment but will be a handbook or primer of conveyancing for the use of legislators and bar associations. It will be a general treatise on the legislative approach to the cure of conveyancers' problems.

Now, as to the utility of the work: Perry Morton said here Monday that it is a short jump from criticism of conveyancing procedures to unwise action by uninformed people. The cry, "There ought to be a law" will produce a law all right—but a good law or a bad law?

It is not unreasonable to predict that the work produced by this research project will attract considerable attention throughout the country and will have a healthy influence in keeping reform within sensible channels. There are a great many energetic and influential people interested in this project who are determined to see to it that their own jurisdictions profit from this work. There will be enough material in the various publications to keep legislators and bar associations busy for sometime to come. I am confident that you will feel satisfied that the ATA has had its money's worth and I venture to guess that you will be a little bit proud of having had a financial part in this undertaking.

At the risk of being ruled out of order by your chairman, I should like to conclude by adding two quick post scripts which I concede fall outside of the scope of my talk here today:

First, I should like to urge you to take part in, and even to supply leadership in, the move for legislative and title standards reform which is going to go on and which Professor Simes' work will, I believe, encourage and inspire. Such labors will be a source of personal satisfaction and will be beneficial to your souls. Note what it says in the ATA Code of Ethics about supporting progressive legislation.

Second, the initial volume called "The Improvement of Conveyancing by Legislation" will be off the press in December. The cost is $5.00. Due to arrangements made generously and ingeniously by me, and by Joe Smith, you will find at the registration desk order blanks for this book. The book will be mailed and you will be billed for it in December. Thus, ordering the book is pretty painless.

So that I shall cause you no further delay in placing your orders for the book and for lunch, I now say—thank you very much.

Report to the Members on Association Affairs

ERNEST J. LOEBBECKE, *President*
Title Insurance and Trust Company, Los Angeles, California

I have decided to refer to my report this morning as Volume II.

The choice of the word "volume" seems particularly apt, as I am subjecting all of you to a whole lot of words. So much so, that the least I can do is make you a sporting proposition — I'll talk and you listen. If you finish before I do, just raise your hand.

Seriously, though, I would like to explain this departure from custom. As you are aware, we have had both general sessions and section meetings at this convention. The reason this morning's session is called a joint meeting of the sections, rather than a general session, is to indicate that it is a business meeting of the A.T.A., held specifically for the purpose of acting on matters affecting our Association, and also to permit discussion of Association affairs and matters of interest to both sections. These things could, of course, be done at a general session. But our

general sessions are, as I have said before, quasi-public in nature, while this one is purely a business session and it has, we believe, an important corollary purpose—that of bringing our organization closer together.

It is to the best interests of all of us to make the American Title Association a strong, effective trade organization. An organization which will insure the maintenance of a strong, effective and ethical industry, whose importance and stature will be recognized throughout the nation. This objective can only be achieved through unity and a common understanding, not only of our problems, but of our objectives as well.

I am sure you all subscribe to this philosophy. During this past year I have had ample evidence of this as I have traveled around the country. However, from time to time we tend to pull in different directions. There have been suggestions made — and made in all good faith—which, if followed would tend to divide us rather than to bring us closer together. This is not the direction, I am sure, that any of us wants to travel. Perhaps your officers and Board of Governors should just ignore these things when they arise, and go merrily on their way. But these men with whom I have had the privilege of working this year are not constituted to react that way. Rather, they recognize that every member of this Association is important and that he is entitled to express his views and to have them considered. They know that the problems of the abstracter are just as important to him as the problems of the title insurer are to him. They know, too, that the best way to solve these problems and to achieve our objective of a strong trade association, is to do it together — not separately.

I have asked three of your officers to join me on the platform this morning. While they are well known to all of you, I am going to avail myself of the privilege of introducing them to you:

Your Vice President — Mr. Lloyd Hughes.

Chairman of the Abstracters Section—Mr. Arthur Reppert.

Chairman of the Title Insurance Section—Mr. George Rawlings.

These men have been of tremendous help to me during the past year as has your Treasurer, Joseph Knapp, and your Finance Chairman, Mortimer Smith. They have been ready for any task and their counsel and guidance in matters affecting the Association have been invaluable to me.

Now as to the meeting itself. I am going to report on the matters your officers and your Board of Governors deem to be of importance to our Association. You will be asked to act on a number of these, and we will then ask for discussion—and action if necessary—on any matters you would like to bring up.

At the Mid-Winter Meeting in New Orleans, a new set of By-Laws were submitted by the Committee on Constitution and By-Laws, whose chairman was past president Jack O'Dowd. In conformity with our present Constitution and By-Laws, the Mid-Winter Meeting voted to submit these to this convention for final action. Accordingly, proper notice was given to our membership by publication of the new Constitution and By-Laws in the May issue of Title News. You will be asked to vote on them at the conclusion of my report.

Another important matter will be the report of the Finance Committee. Its chairman, Mort Smith, will make this report later in the meeting. The dollars involved will depend on the extent to which you accept the recommendations of your Board of Governors.

One of the most important matters which came up during the year and which has been discussed at length at this Convention, was the proposed change in regard to title services in conjunction with Capehart Housing Projects. The reason this legislature was important, was not that there has been enough volume of this business to materially affect our profits or operations, but because of the principles involved. You are all aware of the letters which were written, the reports which were made and the ef-

forts put forth to do something about it. George Rawlings, Mac McConville, Ed Peterson, Saul Fromkes and a host of others worked hard on this matter. All of this had some effect on the legislation as finally adopted but actually we should have done a better job. One of the main reasons we did not, was our lack of representation in Washington. One of the things we will consider here this morning has to do with that particular matter. As to the legislation finally adopted, it has provided the means whereby governmental agencies may, under certain circumstances do title work without regard to the local abstracters or title companies, and based on this work another governmental agency may perform the function of the title insurer by guaranteeing the title. I do not believe that very many titles will be handled this way in connection with future Capehart projects, but irrespective of that, the important thing is that government has made another inroad into private industry and in spite of all of the assurances we have had from Washington, it is not hard to conceive of further steps in which the government will get into the title business in connection with FHA and VA loans. Perhaps it will not happen, but this experience indicates to me that we must maintain a constant vigil in the future.

Another matter that occurred during the year gave further indication of the growing importance of the title industry. This was an article carried in the Wall Street Journal about title insurance companies. The article was, in my judgment, beneficial to our entire industry and I was pleased that the Journal consulted with our national office and with leaders in the industry before the article was published.

You have already had reports on some of the projects that have been underway this year. These include the film being made, the Villanova study of title insurance and abstracters' licensing laws, the study of abstracters' liability insurance and the study being made by the University of Michigan. These are all matters that concern, to varying degrees, every member of our industry and indicate that your Association is active.

As I consider these special matters and the on-going activities of the standing committees, such as the Judicial, Legislative and the Public Relations committees, I believe that a good job is being done. On the other hand, I do not believe that we are doing as much as we should. In visiting the various state associations — and I have deliberately made it a point to concentrate my visits as much as possible on those states that have smaller associations and where there are both abstracter and title insurance members, I found some dissatisfaction with our convention programs. And I believe the criticism is justified. Programs are left pretty much to one man—the president of the Association as to general sessions, and the chairman of each of the sections as to the section programs. It is my experience that each of these individuals correspond with the national office and with some of their fellow officers and put together a program. I sincerely hope that no one will feel that I am being critical of any individual. However, from discussions with our membership during the year, and from my own experience, it is my belief that this has not resulted in our having programs as strong and effective as they should be. Our members go to quite a bit of expense to attend conventions and while I realize that each has his own reason for attending—with a good many people telling me that a program is of secondary importance — I still believe that on the whole our members are entitled to and would be much better satisfied if the strongest possible program were devised.

As a result of this thinking, I have a recommendation to make to our incoming administration. As you all know, it is our practice to elect a chairman, a vice chairman, a secretary and an executive committee for each section. It has been my experience that the vice chairman, secretary and members of the executive committee of the sections are not overworked. Therefore, I would rec-

ommend that they constitute a program committee for their respective sections and that when they are elected to the office at the national convention, they understand that they will be expected to attend the mid-winter meeting and that they will convene as a program committee at that time. This will mean that at the mid-winter meeting each section will build the framework of a strong section meeting for the next annual convention. The chairmen can assign responsibilities and those in attendance at the mid-winter meeting can express their desires as to program content. This may not be a perfect solution but it seems to me that it will result in stronger programs than the present system provides. In any event, I hope you will express your opinion on it here this morning.

Another matter I have talked about repeatedly is strengthening and building the stature of our organization. One of the main purposes of our meeting this morning is for frank discussion of matters affecting the ATA. As I traveled around the country, a good many of our members voiced the feeling that the abstracters were not receiving sufficient consideration in ATA affairs. I am convinced this has not been done intentionally. It is my firm belief that the officers who have conducted the affairs of our organization over the years have done so with but one objective in mind and that is to provide the greatest good for all of the members of our Association. I cannot argue, however, with those who feel that the abstracters have been overlooked on some occasions. It is natural that these things will happen, but if we are to be a truly great Association we must work hard to keep it to a minimum. To me each member of our Association, whether that member is a one-man abstract office or a title insurer with a thousand employees, is just as important as anyone else. Further, I can say unequivocably that none of the problems which may exist, do so from any personal motive, but rather they exist only because there is a continuing transition in our industry. And you well know that transition is never accomplished without some problems arising.

As I told you on Monday, my primary function is as an observer. And I want to be very frank about my observations. As I traveled around this past year I found that many of our members engaged in the abstract business have title insurance connections only for the purpose of the occasional transaction where a lender requires that title insurance be written. They have no strong interest in extending the use of title insurance. This is their prerogative and they have every right to that approach. Others, who are considered to be abstracters, have come to the point where title insurance represents a substantial portion of their business and they have concluded that it is to their best interests to sell title insurance rather than abstracts. This is also their prerogative and no one should find fault with it. Then of course there are those who write nothing but title insurance and this, likewise, is their prerogative. The fact that there is more and more transition to title insurance is largely responsible for our problems. But this does not mean that the man who is still primarily interested in abstracting is not important. He is a member of our Association. He is entitled, and all of us should want him to be proud of his Association and to want to participate in it. He is engaged in the field of title evidencing and that, after all, is the foundation on which all of us operate. Or, at least, the foundation on which we should operate. Ours is not, and we must never let it become, a casualty business.

It is not the province of a trade association to guarantee its members freedom from competition or from the inroads of new and better methods, but it is the province of a trade association to help its members develop an ethical and highly regarded industry. This is not always easy to do, and while you may not agree with me, it is my judgment that any failure on the part of the ATA to accomplish that objective has been due to our failure to properly use the machinery which was set up years

ago by those who preceded us in our Association.

This is a family gathering. We're here to talk over our family problems. We have some guests here with us, and I know they realize that at a family gathering there may be different points of view—and even a squabble or two. Many of you will remember that at Seattle I told you that we would have different points of view and I illustrated my point with the story of the Swede and the Irishman—etc., etc.

Yes, we have some family matters to take care of this morning—and because of this transition I have been talking about we have a problem or two—but they can be solved if we will just talk them over.

Now—to be specific. Our good friends in the Wisconsin Title Association—who as a matter of fact provided our first national president, Mr. W. W. Skinner way back in 1907—have adopted a resolution and written a covering letter on our problem. In passing—if you will look at Page 31 of your program you will note that because Mr. Skinner later moved to California—us sneaky Californians immediately took credit for the first president—but it taint so.

I am not going to read the Wisconsin letter and resolution in full, but I would like to highlight it for you.

I have given considerable thought to the resolution adopted by the Wisconsin Title Association. I attended their convention and met with their executive committee. I talked to their members in attendance at the convention. I feel they were justified in adopting their resolution. I feel they are entitled to be concerned over the position of the abstracter in the ATA. They are, primarily, abstracters. However, as I told them, I do not believe that anything could be resolved by their withdrawal from ATA affairs. Rather, it is their responsibility, as it is that of everyone interested in the ATA, to know and understand the Constitution and By-Laws of our Association and to make themselves heard in our meetings. I have told them, and I say to you, that if this is done, I am thoroughly convinced that it can only resolve in a better and stronger association. We are no different in this regard than we are all too often in regard to our local, state and national politics. We abdicate the rights that are given to us by the Constitution. When someone else takes over we blame everyone but ourselves. Therefore, I recommend to you that we as an association designate section membership; participate in our section affairs as well as in the overall matters coming before the convention; improve our programming and above all; improve the services provided to our membership by the national office. If these things are done and if we will sit down together and discuss our problems there is nothing that cannot be resolved and the only result can be a stronger Association.

This now brings me to the matter of the national office.

At the mid-winter meeting in New Orleans the Planning Committee suggested and your Board of Governors, in line with that suggestion, ordered me as your president to cause a study to be made of our national office and to come up with recommendations at this convention. This has been done. I asked Mr. Lloyd Hughes and Mr. George Rawlings to serve with me as a committee and we have submitted a detailed report to the Executive Committee and to the Board of Governors. In short, this report recommends that the office be so organized as to permit an expansion of services to our members as these are developed. It is recommended that Joseph H. Smith be elected Executive Vice President and that James W. Robinson, Director of Public Relations, be elected Secretary. This portion of the recommendation, as you know, has already been put into effect. The Executive Vice President is to be the chief administrative officer of the Association and expected to keep in close contact with the membership through attendance at as many state association conventions as practicable. He will also be expected to maintain close relationships with kindred state associations

and a close liaison with all governmental agencies affecting our industry. The Director of Public Relations and Secretary is to be the second man in the office and be in charge during any absences of the Executive Vice President. Industry relations is the second most important function of our organization and that together with primary responsibility for Title News, bulletins, and like matters will occupy all of his attention. We feel that a third man should be employed by the organization. His primary duties would be as assistant to the Director of Public Relations and Secretary. He should be competent to handle routine and detailed tasks in connection with the Directory, Title News, Conventions, committee activities and matters of that kind.

We also feel that the Executive Vice President should have an extremely competent secretary and one who would attend conventions at midwinter meetings. She should take the minutes of the Finance and Executive committees and the Board of Governors so that the proceedings of these bodies would be immediately available to the officers. This year we brought Mrs. Pursell to the convention and it has been repeatedly demonstrated that her presence here is most helpful to the officers and staff. The Director of Public Relations and Secretary should also have a competent secretary. The organization also needs a stenographer who would basically be assigned to the assistant to the Director of Public Relations. Also, as is the case at present, the organization would have an accounting clerk and sufficient clerical help to handle multilithing, sorting, gathering, folding, addressing and mailing directories, Title News, bulletins, special mailings, etc. At the present time this would give us an office force of 9 people. It is two more than presently employed, but is comparable to the number that have been on the staff in the past. This requires an increase over the current year's budget of some $7,000. It would also result in added traveling expense.

In addition to the reorganization of the office, your committee recommended that the national office be moved from Detroit, Michigan to Washington, D. C. We feel that this will permit better service to the members of the ATA. If our organization were large enough it might be more satisfactory to have the general office more centrally located, say in Chicago and to have a Washington, D. C. office as well. This, as you know, is done by some trade associations. We do not feel, however, that we can afford the luxury of two offices, and because we feel that the Executive Vice President should spend a considerable amount of time in Washington, we believe that he should be located there. We estimate that the annual rental might be increased as much as $5,000 over the present figure. We feel that this is a justifiable expenditure.

To make the move, certain non-recurring expenditures will be incurred. These would consist of the cost of moving files, records, equipment and personnel. There might also be some expenditure required for partitions and alterations to the new office. This of course would depend on the particular lease that was negotiated. Also, we feel that it would be economically unsound to move our present office furniture as most of it is old. If we are to have a new office we believe that we should start out with new furniture. We also assume that there may be other contingencies arise. In total, we estimate that the non-recurring costs of this nature would be in the neighborhood of $18,000.

There is another non-recurring item which we cannot estimate with accuracy at this time. It is the duplicate rental that will be paid between the time a lease is made in Washington, D.C. and the expiration of our present lease in Detroit. We recommend that the move be made in the summer of 1960. If this is done we might have duplicate rental for a period as long as 6 or 7 months. This could cost as much as $3,500. It is hoped, however, that some arrangement could be made to reduce this figure.

Your Executive Committee and your Board of Governors have ap-

proved this report and have already started to take the necessary steps to put the reorganization into effect. However, the move to Washington is an important matter and before proceeding, it is our wish that it be submitted to you for action.

This concludes my formal report. Now we should devote our attention to these and other matters which require consideration by our Association:

1. By-Laws
2. Re-Organization and move to Washington
3. Report of Finance Committee
4. Wisconsin Resolution
5. Standard Form Owners Policy
6. Underwriting or Underwriters Practices
7. Earl Glasson?

Mortgage Banking Today

B. B. BASS, *President, Mortgage Bankers Association of America; President, American Mortgage and Investment Company, Oklahoma City, Oklahoma*

I must assume that you know what mortgage companies are. I must assume that you recognize that mortgage companies are important sources of business for you, for otherwise I am sure I would not be here. But I wonder if you know just how important we are—how much business we do and what kind of business it is that we do.

As a matter of fact not many even of us who are in the mortgage banking business really knew the answers to these questions until about a year ago, when the National Bureau of Economic Research, a privately endowed organization, published a study about us called "The Postwar Rise of Mortgage Companies." I commend this little book to you, because it will give you the low-down on a group that is one of your best customers.

Among the things that you will learn from it is that mortgage banking companies are responsible, risk-taking, private entrepreneur organizations **whose primary functions are to originate real estate mortgage loans, to arrange for interim financing including construction financing,** to place these loans with investing institutions, mainly life insurance companies and mutual savings banks, and to service the loans until their termination.

In carrying out these functions, mortgage companies also perform a service of national significance. They provide the main channel for the distribution of funds from areas of capital surplus to areas of capital shortage, and they provide the means through which the savings of the people all over the country, especially in life insurance, are brought back for the benefit of these people in the form of mortgages on homes, apartments, and mercantile establishments. In many instances they bring back much more money than has been taken out. There are no other means so effective for providing this vital service; and, in carrying it out, mortgage companies have also been the instrument not only for equalizing the regional availability of mortgage funds but also for reducing the variations in interest rates from one region to another and for increasing the ratio of nonfarm home ownership to its present 60 per cent of all occupied dwellings.

The study I have referred to will also tell you that mortgage companies are servicing over one-fifth of the outstanding dollar amount of mortgages on one- to four-family houses, which represents a larger volume of servicing than that of any institutional group except savings and loan associations. The study

shows **further that mortgage companies are servicing nearly half of all federally underwritten home mortgages,** that is to say mortgages insured by the Federal Housing Administration or guaranteed by the Veterans Administration. And this brings me to the matter I want most to talk about to you today.

The growth of today's mortgage banking business has paralleled the growth of FHA, for it is through FHA that mortgage bankers found the way to perform the services I have described. **FHA offered what was needed to create a national mortgage market.** Its minimum property requirements, its subdivision standards, and its credit review gave insured mortgages a quality upon which distant lending institutions could rely with a minimum of individual review and investigation. The mortgage insurance itself permitted lenders to make loans of higher risk than would otherwise been prudent or legally possible both as to loan-to-value ratio and as to distance from the seat of their operations.

The FHA mortgage thus became a standard article—in effect a negotiable instrument that might readily and safely be traded in by one lender with another. The FHA mortgage had an additional unique feature. It was, under certain limitation, eligible for purchase by another federal instrumentality, the Federal National Mortgage Association. The availability of this resource made it possible for mortgage companies to have a place of last resort in times of temporary credit stringency and thus permitted them to take a position in the market. The purpose was to provide a degree of evenness in the supply of mortgage funds that would not otherwise exist.

Through FHA and its handmaiden FNMA, therefore, we have an extraordinary useful adjunct to the private home mortgage market and, through that, an enormous boon to the millions of families of all classes and in all localities who have found the insured mortgage the road to home ownership. Since the end of World War II, the Veterans Administration through its system of guaranteed home loans for veterans has performed functions similar to those of FHA, especially during the years 1946 through 1956, in some of which it was actually more important volume-wise than FHA. Since 1956, however, the VA guaranteed mortgage has become a factor of diminishing significance in the market, and it is probable that this will be the situation in the future.

Consequently it is to FHA that we must continue to look for the maintenance and expansion of the national home mortgage market. I have included in the title of this talk, "Our Stake in FHA." I want to stress the word "our." **There is no question about the stake of mortgage bankers in the continued sound functioning of FHA.** I am confident that the stake of title companies is hardly, if any, less. FHA's requirement of "merchantable title" has been of especial significance to you, for a title policy in most instances provides this in a way not otherwise so well obtainable. Moreover, the very volume of FHA mortgages has produced business for you which certainly to a large extent could not possibly have been otherwise produced.

We are definitely in the FHA boat together; and it is in our joint interest that the boat be kept seaworthy. The task of doing this, unfortunately, is not likely to be easy. The boat has enough to carry with the burden of its original purpose to broaden and strengthen the private home mortgage market. **Forces are continually at work to overload it with a cargo of incompatible and often even unrelated functions,** so that the boat may be slowed in its course or swamped altogether. I want to go into this a little more fully with you.

The original purpose of FHA was clear. It was simply to provide, under governmental auspices but without cost to the government, a means through which private mortgage lending institutions might pool risks which they could not otherwise assume and hence greatly amplify their service to the home-buying public. To a very substantial extent FHA has been able to carry out this

purpose. It has been fully self-supporting through premium and other income since 1940 and, by 1954, it had repaid to the Treasury with interest all the funds that had been advanced to it during its formative years. Moreover, it has been able to accumulate over its twenty-five-year life reserves which have been conservatively estimated to be sufficient to weather a foreclosure storm of the magnitude of that of the 1930's.

FHA thus stands on its own feet. Financially the government is involved only in the now practically nonexistent contingency of having to make up a deficiency in its reserve fund. Amid the complex federal hierarchy, **FHA holds a fully comparable position to the Federal Deposit Insurance Corporation which insures commercial bank deposits,** and the **Federal Savings and Loan Insurance Corporation,** which **insures accounts in savings and loan associations. Like both these other self-supporting agencies, it was designed to strengthen private institutions, and not to supplant them or to hamper them. To a great extent the same may be said of FNMA,** which has consistently returned a profit to the government. **As a reserve source of funds to the mortgage banking industry, it stands in much the same relationship as that of the Federal Home Loan Banks to the savings and loan industry or the** Federal Reserve Banks to the commercial banking system.

In spite of the analogies I have cited, however, neither FHA nor FNMA has been viewed politically in the same way as has been true of these other institutions, which have been permitted to pursue without deflection or interruption the courses originally chartered for them. Instead, the originally simple FHA system, which was available to all home borrowers of good credit standing on equal terms, has been vastly complicated by a series of special kinds of mortgage insurance. These have been designed to give special inducements to this or that kind of construction as might serve some assumed political or social purpose, irrespective of market conditions.

The special programs have included low priced houses, farm houses, prefabricated houses, houses for veterans, houses for the aged, houses for military personnel, houses for families displaced by public improvements, cooperative housing, and nursing homes, and there have probably been some more I haven't mentioned. When the private institutions have been skeptical of the soundness of any of these programs, FNMA has been called upon to carry them. **So by indiscriminately mixing social and political considerations with credit considerations, we find a tendency to undermine both the purpose and the principles on which these credit agencies have been established.**

FHA has also been seriously afflicted by the effort of Congress to determine interest rates by legislative and administrative action rather than through the free play of the forces of the market place. I have been told by those who worked on the initiation of FHA that the **insurance device was expected to broaden the market both regionally and socially, but that it was not expected to produce a favored interest rate except as the quality of the security might receive special consideration from investors.**

Before World War II the interest rate question was not serious because the FHA worked amid a generally sagging money market. Since the War, however, interest rates have generally been on the uptrend, with the result that there have repeatedly been occasions when the maximum permitted FHA interest rate has lagged much behind the going level of rates. This has produced repeated interruptions in the flow of funds into FHA mortgage investment in periods of rise and often an excess flow in the periods of temporary relaxation, and, along with the same effect in the VA sector, has been the main cause of the violent ups and downs in residential building during the postwar period.

That these distortions in the rate of activity are artificial rather than the inevitable effects of the conduct of monetary policy seems to be demonstrated by the relative eveness of

the flow of funds for conventional mortgages where interest rates have been free to move as the market has indicated. The effort to control interest rates has put an unnecessary burden on FNMA since, when these artificial stringencies are produced, mortgage originators have no other resource. This burden has been intensified by the occasional outright use of FNMA to support a given level of interest rates by requiring that agency to purchase mortgages at par. Again we see the working of influences contrary to those making for a sound and dependable home mortgage credit system.

Finally, we have the disruptive effect on FHA—and hence on the ability of builders to build and of prospective home owners to buy — that is caused by the legislative process itself. Almost without exception during the postwar period so-called "comprehensive" housing legislation has been introduced early in the session and usually has not been concluded—when it has been concluded —until near the end of the session. Always some portion of the legislation has concerned the private building market through provisions related to FHA.

Responsible legislative programming should recognize that, to have its best results, legislation dealing with the private housing market should be out of the way before the vital spring building months. If there is a delay in a measure affecting FHA's ability to perform, building may be disrupted at the most crucial time of the year. If pending proposals promise more liberal terms or softer mortgage money, builders may hold back in order later to gain the advantage of the new provisions; or, if there is the possibility of the termination of an advantageous provision, or the exhaustion of the insurance authorization, or the imposition of some control, builders will rush to cover themselves before the adverse situation comes to pass.

The reason for the delay in the prompt handling of legislation affecting the private housing market is the practice of making the FHA provisions hostage for the adoption of the less assuredly popular features of omnibus bills, involving various subsidized and direct lending activities. FHA is thus made the means of forcing through proposals that might not pass on their own merits. This practice has been openly admitted by the advocates of the subsidized programs, who have promised to use it again next year. Its dangers have at long last been recognized by the administration, which this year dared them to shoot the hostage. Although the challenge was not accepted, the contest gave us a nervous eight months; and the resulting uncertainties undoubtedly have contributed to the decline in residential building which seems to be in prospect for 1960.

I hope that you will agree with me that the FHA mortgage insurance system as originally conceived has an important part to play in the development both of a sound home mortgage credit system and of a national home mortgage market, with all the desirable economic and social results that flow from these attainments. I hope you will recognize also that FHA has become increasingly beset with problems affecting its ability to perform and, further, that something ought to be done to solve these problems.

We in the Mortgage Bankers Association think we know what ought to be done. First of all, in respect to the FHA and FNMA operations, we believe that the principles of a sound private credit operation must be kept to the front, that further deviations from these principles should be avoided, and that, as the opportunity is presented, existing ones should be eliminated. We believe that the beneficial potentialities of private credit have been woefully underestimated and that, if the inhibitions presently imposed upon it were removed—that if, for instance, FHA had greater freedom in setting its insurance premium in relation to risk and if its interest rates were not subject to political domination — the excuse for special programs of dubious soundness would be removed.

We can see no reason why mortgage insurance should be considered the justification for, or the appropriate means for, the political regulation of interest rates any more than are deposit insurance or the insurance of savings and loan shares. We are convinced further that any effort to prevent interest rates from following their course as determined by the demand for and the availability of savings funds will be self-defeating. Such efforts in the long run—and, I suspect, the not very long run at that—can only discourage the flow of savings into the institutions on which the mortgage market depends and, in turn, deflect the outflow of funds from these institutions to investments of more generous return than offered by mortgages.

Finally, we are opposed to omnibus housing legislation. This does not mean that we are opposed to all the features of omnibus legislation except those affecting FHA; but we do insist that each important subject of legislation should be treated separately on its own merits and, especially, that legislation involving the direct use of public funds through either loans or grants should not be confused with legislation effecting private credit.

We see no need for the annual tinkering to which the FHA operation has been subjected. There is, for example, no real need to limit the amount of the FHA insurance authorization any more than there is need to tell a life insurance company how much it may underwrite in the coming year. There is no necessity for so closely limiting, as is now the case, the amount of its own income that FHA may use to meet the contingencies resulting from variations in the volume of its business. If these two issues were sensibly met, not only would the requirement for annual legislation be much reduced but a greater continuity in the FHA operation would be assured.

We do not expect that the suggestions I have outlined can be accomplished in a year's time or in any set number of years. The drift away from sound credit principles has gone too far to be reversed in a hurry. But we are confident that our position is right and logical and that in the end right and logic will prevail if their advocates have the fortitude to be steadfast in their advocacy.

Some of the Past—More of the Future

WILLIAM GILL, SR.
President, Great Western Business Investment Co., Oklahoma City, Oklahoma

After spending 42 years in the title business in rural and metropolitan areas, one naturally has some fixed opinions and conclusions and has enjoyed numerous interesting and happy experiences.

A change of occupation does not erase memories of the past. A major portion of a lifetime in the title business causes considerable hesitation when one is faced with a decision to enter a new business field. Such a decision necessarily is based upon financial betterment and the challenges and opportunities presented.

To me, the title business has been most interesting with its ever present problems, headaches and pleasures. It, too, presents challenges and opportunities for a still higher degree of efficiency and public service.

During the past nearly half a century, the title business has witnessed almost unbelievable progress and improvement—in each of the United States. To be sure, some areas have witnessed more progress than others, but the overall picture is definitely satisfactory. There still remains a vast field for more improvement.

No longer is the public satisfied with the title services available in the "twenties and thirties." The title industry sensed this and "did something about it." Today, contrary to the belief of some customers, the public receives more for its title dollar than ever before.

Today, nationwide, those engaged in the title business, have the confidence and respect, rightfully so and justly gained, of the public. In practically every area—metropolitan and otherwise—title people are highly regarded progressive community leaders and good citizens. Their field of activities includes the various youth organizations, civic clubs, churches of their choice, commercial organizations and other groups.

I was always proud to be identified with the title industry. I considered it an obligation to endeavor to place the standards of the title profession upon a still higher plane.

Please pardon the apparent bluntness of my sincere comments regarding some unethical practices of a minority who persist in publicly preaching conformity to a high standard of ethical operations, and in daily life replace the Golden Rule with a silver dollar.

I would not intentionally offend anyone, yet as "a former insider, and now a technical outsider," I more fully realize the desirability of strengthening the foundation of the American Title Association.

A business or profession is usually publicly judged by acts of individuals. Those who refuse to play the game according to well established rules, unfortunately cast a cloud of doubt and suspicion in the blue sky overhanging those who play the game "according to Hoyle."

It is obnoxious to recognize the lack of and the need for increased unity in developing a more friendly competitive relationship.

In a very few areas the breach between abstracters, Title Insurance and Title Guaranty Companies is so noticeable, it would be comical were it not for the serious aspects of facts. Sometimes this condition has been aggravated by unwise retaliatory tactics of competitors. This only widens the breach and undermines and weakens the foundation of a dignified and highly respected business and profession. My friendly condemnation is not confined solely to abstracters—it includes Title Insurance and Title Guaranty Companies. Since I have accurately been classified as both, it can be truthfully said that neither group "am 100 per cent lily white"—and certainly that statement is applicable of any other trade association membership.

Title Insurance and Title Guaranty Companies have too much in common to indulge in unethical and unsound practices; and, they need the assistance, good will and loyalty of abstracers as badly as the abstracter needs what Title Insurance Companies have to sell.

Previously I have said, and still believe, that in some instances a minority of members, by their acts, have unintentionally caused more damage to a well-established industry than caused by any outside influence.

I urge you to continue your efforts in eliminating any unsound practice engaged in by either the title company or abstracter. Then and only then, my good friends of the American Title Association, can you raise the present high standards of the industry to a more respectable higher level.

The practice of giving discounts, rebates, kick-backs, etc., is a deplorable one and has almost been entirely eliminated. It has been my observation that those who seek special price advantages demand and receive full prices for their services or merchandise.

During the past two decades we have witnessed and will continue to see more plant modernization and production short cuts. This is essential for still better title service.

To the thinking person, it is evident that the public will obtain from some source or another, the desired type of title evidence. At least to that extent the public does generally dictate to the title industry.

I have often said, and it's now worth repeating, as a customer, regardless of your personal views, likes and dislike, the title man and woman should be equipped and prepared to care for the customer's needs and wants. The customer knows what he wants and will get what he wants from some source. If you cannot or will not care for his needs, you don't get the business—it's that simple.

It is gratifying to the title industry to know that no real estate transaction can be safely consummated without the services of the industry. Likewise, it's nice to know that in the United States and its possessions, real estate can be bought, sold, leased and mortgaged with a higher degree of safety than in any other nation in the world. The thousands of title men and women are entitled to the credit for this condition.

The picture, as I view it today, is a bright one. Now, as in the past, the title industry is, and will always be, the fountain-head and the most responsible source of real estate title information.

In some areas, the field of title company relations could and should be better cultivated. Lack of better public relations has created some difficult needless problems, and this important phase of the title business can never be safely overlooked or disregarded. Good public relations mean a friendly relationship with all groups. "Locking horns" with any important organization is unwise.

The American Title Association, efficiently staffed and adequately financed, recently added a most likable and capable Public Relations Counsellor to its staff. His services will prove invaluable to the industry and its members. Perhaps, it should be said that some of the good members of the Association could receive still more benefits for their "title dues dollar" by more use of the services offered by the National Association. The ATA Public Relations Division can assist you in avoiding "pit falls" and possibly help you out of a "tight spot," if you seek counsel and advice before you "stick your neck out too great a distance." "It's too late to lock the barn door after the mule has been stolen."

The title industry will always have its internal and external problems. There will always exist the problem of better trained personnel, better plant equipment, and still faster services than obtainable in some areas. The future of the title business contains many interesting challenges. Some have and perhaps still more of the customs and practices of the past must be discarded, making room for a more modern, less costly operation. In some areas, competition regrettably prevents the highest degree of efficiency, and "lousy service always invites competition." During the past decade a number of title company mergers have been effected. More, I believe, are desirable.

The duplication of maintaining separate indexes, typing crews, tax and court checkers, reduces profits in areas having more than the necessary number of title companies. A consolidation of some of these operations has increased profits in a number of places where competitors work more closely together. This field of "Competitor Consolidated Operations" presents profitable possibilities and is well worth exploring.

I have always believed that a number of those engaged in the title business do not make a sufficient charge to justify a reasonable profit. The industry has and will continue to be faced with ever increasing operating costs—salaries, rent, supplies, books, equipment of every nature and other essential title company items. Overhead expense can be reduced by improvement of present plant operations or, at least, held to the present level. Your customers are aware of increased operating costs, and they will not complain when prices are raised to a reasonable level.

As a former title company executive, I discovered that when profits and expense are too far out of balance, reserve for contingencies are depleted or remain static and general title services and financial stability fall below a respectable standard. A safe and sound operation, regardless of the size of a title company, cannot be maintained unless management constantly watches income and expense and when required promptly adjusts charges upward. A financial optimist is one who thinks that when his shoes wear out, he won't be back on his feet.

The title company, large or small, to justify continued public confidence, must be financially able to meet any losses promptly. An inadequate price schedule prevents this. Contrary to public belief, abstracters, Title Insur

ance and Title Guaranty Companies, have and will continue to suffer some rather severe losses. These losses would be still greater were it not for the extreme caution used and the "know-how" possessed by the title industry.

The past few years have witnessed many more larger real estate transactions than previously. Real estate prices have and will continue to increase—a $500,000.00 transaction in the early forties could well be a million dollar one in 1959 and even more in 1960. Larger real estate loans are needed and are being made, bigger industrial plants, etc., built. Today's real estate transactions and financing are not "peanut operations." Big money is involved and will be even larger.

The title industry must be prepared to handle an increased volume of orders and larger risks than at any other time in the nation's history. This necessitates the creation of still larger reserves. It means, in many instances, the pooling of title company resources to handle these larger risks; it means that the smaller title company must have re-insurance arrangements and it means, if the abstracter wants to enjoy a share of the business in the future, a connnection with a Title Insurance or Title Guaranty Company is "a must." However disagreeable that statement may be to some, let me repeat it—"If the abstracter wants to enjoy a share of the business in the future, a connection with a Title Insurance or Titie Guaranty Company is "a must."

The prospects for title business in the future are indeed bright. Where will the business come from?—Urban renewal, fringe and spot development along Federal and State Highways between cities, by-pass development around cities, decentralization and expansion of industry, increased oil and mineral exploration and development, unbelievable residential and commercial growth, more and more public schools, university and college expansion, churches, municipal growth and additional municipal facilities, newly created and expanding recreational areas, lake and river projects, replacement and enlargement of Post Office and military facilities—all these things and others, coupled with an ever-expanding population, will result in a greatly increased title volume during the "Golden 1960's."

The business is here—it's going to stay good—it's yours if you go after it—if you are equipped to handle it satisfactorily.

Looking back into the past, in my scrapbook of memories, there is tucked away many unforgettable and enjoyable experiences. The greatest and most highly prized of all is the privilege of knowing some of the grandest persons ever born, and the friendship acquired over a long period of years will never be forgotten.

And, of course, the scrapbook contains some items of sorrow when good friends have answered the call of their Creator. This life one so enjoys contains many blessings and likewise a sprinkling of sadness. Perhaps a slowing down of activities would increase life expectancy—that's a thought worth considering anyway, and will be welcomed by your good Life Insurance Company customers who dislike to prematurely pay policy losses to a beneficiary

As a customer, conversant with existing problems, I salute the title industry. I do so in a very humble manner, because 1 deeply appreciate and will always be mindful of the many undeserved courtesies and honors received. Don't be surprised if my wonderful wife and myself hang around some of the future Title Association meetings. A person who has been once "bit by the title bug" has a contagious, incurable disease and an uncontrollable desire to mix and mingle with those likewise afflicted.

The Housing Picture As I View It

HONORABLE NORMAN P. MASON, *Administrator*
Housing and Home Finance Agency, Washington, D.C.

I note that Mr. Khrushchev on his return from our country to his own uncovered serious housing shortages in Siberia. There is no concealment of this fact; it is being made public to the world.

Mr. Khrushchev sent his housing chief—who is my opposite number—to see what he could do about it.

When I read about this I could not help thinking that while we have our problems we don't always realize how well off we are.

Just look around at our present situation.

There has been a lot of talk about housing this year, but some of the talkers have overlooked the fact that there has been even more homebuilding than talk. The gloom prophets have been wrong again.

Private homebuilding this year is almost certain to exceed 1,300,000 units, even assuming a more than seasonal decline in starts in the remaining three months.

That is quite a record. It will, in fact, closely approach the all-time record of 1950 when 1,352,000 private housing units were started, and will approximate or surpass the boom year of 1955 with 1,300,00 starts.

And this year's record is being made under strikingly different and healthier conditions than in 1950. It is not the result of a war-style boom, such as the Korean outbreak stimulated nine years ago, with its accompanying sharp inflation.

This year, with the strong support that the people have given the President's insistence on sound fiscal policies, we have had a near-record housing year.

Such housing problems as we have—dislocations I would call them—represent the stresses of growth and expansion and not of scarcity. Such dislocations are going to be with us just as long as we continue moving forward as a nation. By the same token we have to keep adjusting and improving our methods of coping with them.

So an important part of my job as Housing Administrator is to look, listen, and ask questions. I want to know why, when, how, and what and if not, why not. Because something worked or seemed to work in 1939 or 1949 it doesn't mean that it is working in 1959.

Here's an example.

Twenty-two years ago we set in motion a massive social experiment—public housing. Even some of its earliest and strongest proponents now concede that this program which grew out of the troubles of the depression years isn't attuned to the climate of today. It doesn't represent the way Americans want to live now. We need a more dynamic and more flexible approach to the low cost housing problem. So that's one question I'm asking. A concentrated search is on for better ways and means.

Here is another example:

It is our philosophy to assist rather than compete with private enterprise in urban renewal development work. However, keep this in mind. We all know that in private business operations the factor of speed is so important that it can represent the difference between profit and loss. A business that is dragging its feet has to meet its overhead just the same.

Yet what is happening in too many cases is that developers, potential and actual, are unable to take advantage of urban renewal opportunities on account of delays and indecisions at the local level. We have communities now with urban renewal areas lying idle and gathering waste and weeds, with no development work going on there—and these communities applying at the same time for still further renewal aid from Uncle Sam.

That is another question that has been facing us. I use the past tense

because we are taking action to produce action. First things are going to have to come first.

I mention these as across-the-board examples; but now let's look at matters of immediate concern to you professionally as well as to the housing agencies.

The work you are engaged in is constructive. Title insurance can save a man's home, his future and the future of his family. But we find even in this field—with which every home-owner should be acquainted—there are misunderstandings.

Specifically—

Mr. Average Citizen knows about our great title companies, and when he purchases his home he finds only satisfaction in the fact that the mortgage lender orders a policy of title insurance.

But does he know that in many instances the title policy protects *only* the lender?

Is he told that for only a few extra dollars the title policy will be written to protect him, the home-owner, as well as the lender? Wouldn't it be good business for you to make certain he fully understands, since you have a worthwhile product to sell him?

The evidence indicates that something is being done along these lines. The FHA lawyers tell me that there is a steady increase in the number of home-owners' policies in the title evidence which comes to them for examination. This is good for you and good for the home-owners. Keep it up.

Again—

If a home-owner wants to finance his home repairs and improvements through an increase in his mortgage, can't he find a better means of doing it than having to have his title searched all over again? I understand that state laws have a major bearing on this problem.

The housing rehabilitation field in the next few years is going to offer a tremendous challenge. We are going to see rehabilitation operations on an organized national scale; and the Urban Renewal Administration is already stepping up its operations to take care of the future. Here's a problem, for your concentrated attention.

Still again, wouldn't it be wonderful if we could have a uniform Mortgage and Foreclosure Law which would so greatly simplify and expedite the financing of home construction? That's something we can all work together for. Maybe it isn't so much of a dream after all.

Finally, let me pose a big question to you to get your reaction. This is one that involves fundamental policy. Let me know what you think:

Should the Government offer the individual home-owner protection on his mortgage so that when he is out of a job or seriously ill, his home is covered?

You recognize the potentialities and implications of the question.

It's the type of question I mentioned before that I have to keep on asking myself as Housing Administrator.

And now a word about the basic approach of this Administration to all questions.

It is obvious—nothing could be clearer—that the future of America depends on a stable currency.

Specifically, it is obvious that your industry and all others which are involved with housing, depends on a stable currency for the good reason that the future of housing is dependent on long-term credit.

Long-term credit in turn is only possible where there is a sense of responsibility.

So long as we can preserve and encourage this sense of responsibility we can face the future with confidence. On the other hand, if we ever reach a state of affairs where our automatic answer to all knotty problems is simply to say "Spend more money! Let Uncle Sam Do It!" —watch out.

Watch out collectively and individually, as citizens and taxpayers both!

Eulogies

HALE WARN, *Executive Vice President, Title Insurance & Trust Co., Los Angeles, Calif.*

PORTER BRUCK

On May 28, 1959 in San Francisco, Porter Bruck, a past president of the American Title Association, passed away quite suddenly at the age of 63 years.

"Port," as he was affectionately known to his many friends, was born March 19, 1896 in Los Angeles, California. He graduated from the University of California and for 2 years —from 1917 to 1919— served as a commissioned officer in the United States Army.

After spending 2 years as a bond salesman and another 2 years in ranching, he entered into the Title Insurance business in 1923 with the Title Insurance & Trust Company in Los Angeles. In 1937 he became the company's First Vice President and was elected a member of its Board of Directors.

He was very active in local and civic affairs and served as President and Director of the All Year Club of Southern California.

Porter Bruck left his position with the Title Insurance & Trust Company in 1946 to become First Vice President and subsequently President of Land Title Insurance Company of Los Angeles, which position he held until 1952, when he elected to leave the heavy responsibilities and pressures of the business world and retire to his newly acquired home in the Oak Creek Canyon area of Arizona. His complete retirement was postponed for 5 years, however, when he accepted the position of Executive Vice President of the Arizona Title Guarantee Company of Phoenix, Arizona.

Porter Bruck had a very real and active interest in the Title Industry and in the people who gave it form and motion. He served as President of the California Land Title Association in 1938-39.

These, then, are the brief statistics of one man's life and career. But the things for which he was loved and will be long remembered are even more important. "Port" was a friendly man—No, he was more than just a friendly man—he liked people, genuinely and with a warmth of heart and people liked "Port" because they felt the depth and sincerity of his interest in them.

His kindness of heart, keen memory which almost never forgot the face and name of an acquaintance and his fine personal interest in the problems of those around him drew to him a host of personal friends in all walks of life. Many were those to whom he extended a helping hand—his hand—to help them over the hard places in their lives.

Porter Bruck, who was fondly referred to as "Mr. Title Insurance" both in his native State of California and throughout the American Title Association, will be truly missed by all who knew him.

JAMES S. JOHNS

Our Roll of Honor indicates that since its founding, the American Title Association has had fifty-two Presidents. These Presidents might be represented as a chain consisting of fifty-two links, each link serving to connect the past with the future! and each, mutually dependent on the others. Though outwardly, the links appear alike, the underlying nature of each is distinct and individual.

May I draw your attention to the 25th link in the Chain of Honor. On it is engraved the name of James S. Johns, Pendleton, Oregon, President 1931-1932.

This means that James Johns dedicated a portion of his time, abilities,—yes, his life—to the American Title Association and its growth and success. His life leaves a lasting effect upon the Association, as well as, upon every member, past, present and future. Any man who will

give of himself to this extent is worthy of our high consideration.

However, those who will remember Jim Johns with real affection are those who were fortunate enough to be called "friends". For to truly appreciate a man, one must be familiar with his main moods, his sense of humor, and the delightful details of his character.

James S. Johns died on June 18, 1959, at Pendleton, Oregon, at the age of 68. Mr. Johns had lived in Pendleton since moving there with his family in 1904 from his birthplace, Minneapolis, Minnesota.

He received his B.A. degree at the University of Oregon in 1912, and after graduation he entered business with his father in the Hartman Abstract Co., becoming its President in 1936 and shortly thereafter, became President of the Oregon Title Insurance Company.

Mr. Johns is survived by his widow, Mrs. Pearl McKenna Johns, two children, Dr. Richard J. Johns of Baltimore, Maryland, and Mrs. Dorothy Barksdale of Whittier, California, and his mother Mrs. Alice Johns of Pendleton.

The passing of Mr. Johns concluded the career of a man whose character, judgment, breadth of activities, and leadership brought honor and dignity to our profession.

Report of Committee on Resolutions

1. WHEREAS at this convention our knowledge has been enhanced, our experience broadened and our purpose stimulated by the addresses of our distinguished guests, Perry W. Morton, Assistant Attorney General, Lands Division, Department of Justice; Martin R. Gainsbrugh, Chief Economist, National Industrial Conference Board; Steve Carrier, Life Insurance Counsel; William C. Gould, Chief of Property Bureau, Department of Insurance, State of New York; Dexter D. MacBride, National Secretary, American Right of Way Association; James M. Udall President, National Association of Real Estate Boards; B. B. Bass, President, Mortgage Bankers Association and Honorable Norman P. Mason, Administrator, Housing and Home Finance Agency and by addresses given by leaders of our own profession;

THEREFORE, BE IT RESOLVED: That the American Title Association in convention assembled express its deep appreciation to those who have devoted their time and efforts by addressing this convention; and

2. WHEREAS our President, Ernest J. Loebbecke, the officers, Board of Governors, Section Officers and committee members have faithfully devoted their time and efforts to the advancement, benefit and progress of our Association, thus making 1959 a banner year in the Association's growth and progress;

THEREFORE, BE IT RESOLVED: That this convention express its thanks and appreciation to Ernest J. Loebbecke and his associates for their outstanding accomplishments in behalf of our Association and

3. WHEREAS the New York State Title Association, the New York Title Companies, William H. Deatly, Harold W. Beery and Mrs. William H. Deatly and all of the members of the 1959 convention committees have joined in planning the finest of entertainment from boat trips to banquet with the infinite details of publicity, transportation, arrangements and registration, and their warm hospitality exemplified by the address of welcome of Honorable Malcolm Wilson, Lieutenant Governor of the State of New York, has made our short visit to the great City of New York a memorable one,

THEREFORE, BE IT RESOLVED: That this convention express its thanks and appreciation to our gracious hosts and to each individual committee member for their efforts in our behalf and

4. WHEREAS the great success of this convention has largely been due to the work of Joseph H. Smith, our

Executive Vice President, and James W. Robinson, Secretary and Director of Public Relations, and other members of their staff,

THEREFORE, BE IT RESOLVED: That this convention express its thanks and apreciation to Joe Smith and Jim Robinson for their untiring efforts for the success of our Association and

5. WHEREAS this convention has been honored by the presence of many life insurance company counsel and executives and other distinguished guests whose participation and constructive aid have been of immeasurable assistance to us,

THEREFORE, BE IT RESOLVED: that this convention express its thanks and appreciation to each of said distinguished guests for honoring us with their presence at this convention.

RESOLUTIONS COMMITTEE
Floyd B. Cerini
C. J. McConville
M. R. McRae
James G. Schmidt, Chairman

meeting timetable

FEBRUARY 15-18, 1960
American Title Assn. Mid-Winter
Riviera Hotel, Los Vegas, Nevada

APRIL 8-9, 1960
Oklahoma Title Association
Ramada Inn, Tulsa, Oklahoma

APRIL 14-15-16, 1960
Texas Title Association
Robert Driscoll Hotel
Corpus Christi, Texas

APRIL 24-25, 1960
Wisconsin Mid-Year Meeting
Mead Hotel
Wisconsin Rapids, Wisconsin

APRIL 29, 30, 1960
Central States Regional
Drake Hotel, Chicago, Illinois

MAY 1, 2, 3, 1960
Iowa Title Association
Hotel Fort Des Moines
Des Moines, Iowa

MAY 4-, 5, 6, 1960
Atlantic Coast Regional
Seaview Country Club
(Just outside Atlantic City)

MAY 11, 12, 13, 1960
Illinois Title Association
St. Nicholas Hotel, Springfield, Illinois

MAY 24, 25, 26, 1960
American Right-of-Way Assn.
6th Annual Nat'l Seminar
Shoreham Hotel, Washington, D.C.

JUNE 3, 4, 1960
South Dakota Title Association
Sawnee Hotel
Brookings, South Dakota

JUNE 16, 17, 18, 1960
Colorado Title Association
Harvest House Hotel
Boulder, Colorado

JUNE 30 - JULY 1-2, 1960
Michigan Title Association
Boyne Mountain Lodge
Boyne Falls, Michigan

JULY 9-12, 1960
New York State Title Assn.
Saranac Inn, New York

AUGUST, 1960
Minnesota Title Association
Duluth, Minnesota

SEPTEMBER 24-25, 1960
Utah Land Title Association
(City and Hotel to be announced)

OCTOBER 3-6, 1960
Mortgage Bankers Assn. of America
Conrad Hilton Hotel
Chicago, Illinois

OCTOBER 9-13, 1960
American Title Association Annual
Convention
Statler Hilton Hotel
Dallas, Texas

TITLE NEWS

AMERICAN TITLE ASSOCIATION
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AMERICAN TITLE ASSOCIATION

VOLUME XXXIX JUNE, 1960 NUMBER 6

A LETTER

from

THE PRESIDENT

June 2, 1960

Dear Friends:

Among other major activities currently being carried out by our Association is the continuing work of Ben Henley and his Committee on Standard Title Insurance Forms. As you know, their new Owner's Policy Form was adopted at our Mid-Winter Meeting in Las Vegas, and since then they have been hard at it again with many conferences and much correspondence preparing a new Mortgagee's Policy Form. Later this month they expect to have a meeting in New York on the subject with counsel of many of our good lending customers. The entire Association is indebted to these hard working gentlemen for putting together these important and intricate instruments in a form acceptable to most.

I would like to call your attention to the series of posters that Jim Robinson has had printed for advertising both Abstracts and Title Insurance. If you intend to order some, and he hopes you do, quick action on your intention will not only be appreciated, but will also help to reduce the bulk of all that has to be moved to Washington, D.C. this month.

The California Land Title Association Convention at Coronado was another fine business meeting, wonderful social time, and a delightful introduction to the summer weather that we are all anticipating with pleasure.

Sincerely,

Lloyd Hughes

TITLE NEWS

The official publication of the American Title Association

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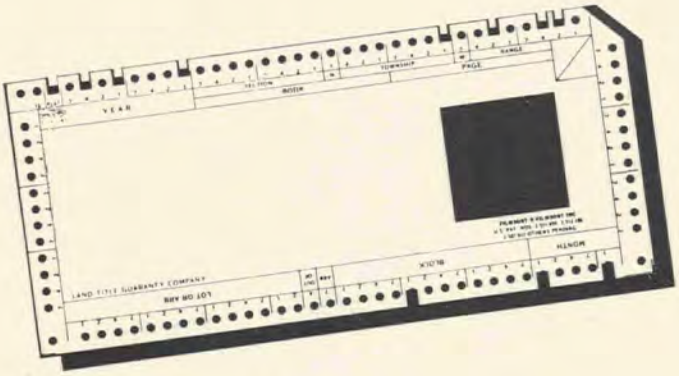
EDITOR: JAMES W. ROBINSON

Features

Departments

Time is



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Cleaning Up After a Fresh Start

By
DAVID C. SCHURCH, Vice-President and Manager
San Diego Office, Security Title Insurance Company

After a man has gone through bankruptcy, thereby demonstrating the probability that he has been a business failure, it is difficult to understand how he can be expected to "clean up," even though he has been given a fresh start. Be that as it may, once he has received his discharge in bankruptcy, he is given a fresh start, and perhaps the second time around he will achieve success. At least he has another chance.

Of interest to us, the Bankruptcy Act contains many provisions affecting the title to property owned by the bankrupt with which the title man must be familiar. To begin, let us consider the effect of the bankruptcy of a judgment debtor upon existing judgments against him. First of all, the liens of valid judgments obtained against the bankrupt more than four months prior to his adjudication and which have become liens on his real property by the recording of abstracts are not disturbed. Although title to the bankrupt's property passes to the trustee in bankruptcy by operation of law, the liens of these judgments remain intact. However, the liens of such judgments may not attach to property acquired by the bankrupt after adjudication. If the judgments are properly scheduled; if notice of the bankruptcy proceedings is given to the creditors; if the debts upon which the judgments are based are dischargeable debts; and if the bankrupt receives his discharge, the liens do not attach to after-acquired property.

It become important, therefore, to find out whether the debt which is the basis of the judgment is a type of debt which is dischargeable. To determine this, the title insurer must examine the original proceedings under which the judgment was obtained to ascertain the nature of the judgment creditor's claim. The Bankruptcy Act declares that the following provable debts are not affected by the discharge:

(1) Taxes levied by the United States, or any State, county, district, or municipality; or

(2) Debts based on liabilities for obtaining money or property by false pretenses or false representations; for wilful or malicious injury to the person or property of another; for alimony, or for maintenance or support of wife or child; and for various specified criminal acts of the debtor; or

(3) Liabilities based on the debtor's fraud, embezzelment, misappropriation or defalcation while acting as an officer or in any fiduciary capacity; or

(4) Claims for wages earned within three months before commencement of the bankruptcy proceedings and which are due to certain employees and agents of the bankrupt; or

(5) Debts due for monies of an employee received or retained by his employer to secure the faithful performance by such employee of the terms of a contract of employment; or, finally

(6) Debts which have not been duly scheduled in time for proof and allowance, with the name of the creditor, if known to the bankrupt, unless such creditors had notice or actual knowledge of the proceedings in bankruptcy.

It is sometimes difficult to determine, from an examination of the original suit in which the judgment was obtained, whether the debt was a dischargeable one. For example, in a recent California case, a judgment creditor brought an action to renew a judgment obtained against one who went bankrupt after the original judgment was obtained, but before the action to renew the judgment was commenced. The original action was brought on a promissory note and there was nothing on the face of the record which disclosed that the debt might not be dischargeable. However, the note had been given in settlement of a transaction which was founded in fraud and the court held that the debt was therefore non-dischargeable. When the dischargeability of the debt is in doubt, the safe practice is to insist upon an order of court cancelling and discharging the judgment under the provisions of Section 675B of the Code of Civil Procedure. That Section permits the bankrupt, at any time after the expiration of a year following his discharge, to apply to the court in which the judgment was rendered against him, for an order directing the judgment to be canceled and discharged of record. An order so obtained does valid claims, liens and encumbrances. Exercise of this power is discretionary with the referee and it usually must be shown that the sale will result in a benefit to the unsecured not affect the lien of the judgment on property owned by the debtor prior to bankruptcy. In connection with this procedure it should be pointed out that the relief available is a remedy which is personal to the bankrupt and only he can plead his discharge. It would seem unwise, therefore, for the title company to ignore the judgment, depending on Section 675-B without the order, as a defense to a levy of execution. At the crucial moment, the bankrupt may not be available to plead his discharge, or, being available, he may be unwilling to cooperate. It is my understanding that some title companies in California frequently insist on the 675-B Order, while others will ignore the judgment as to after-acquired property if it appears to be based on a dischargeable debt.

One of the main objectives of a bankruptcy proceeding, of course, is to marshal the bankrupt's assets, liquidate them and distribute the proceeds to his creditors. Where the property is encumbered the court has power to sell it free and clear of all

ON THE COVER

Keeping pace with the fundamental change that has taken place within the title industry and which is reflected in the expansion of the ATA staff and facilities, the National Headquarters of the American Title Association will be established, effective July 1, 1960, in the Premier Building, 1725 Eye Street, N.W., Washington 6, D.C.

Pictured on our cover, this modern, air conditioned building in the very heart of the most important city in the world, gives promise of a greater opportunity for service to members of the American Title Association.

creditors—that is to say that there will be a surplus realized over and above the total of the encumbrances and expenses of sale. Notice of the proposed sale must be given to all lien holders and they may object to the sale. The trustee may also challenge the validity of their liens in determining proper distribution of the funds so received.

The order of sale should provide for the transfer of all lienor's rights from the property to the proceeds of the sale. The referee then determines the amount, priority and manner of distribution of such funds as between the various lien holders. Costs and expenses of the sale are first deducted and then if there is more than one lien against the property sold, such liens should be paid in the order of their priority.

Any lien holder may bid at the sale and the court may permit him to use his security interest in payment of the purchase price if he is the successful bidder.

INCLUDES TAX LIENS

It is interesting to note that the power to sell free and clear of liens includes the power to sell free of statutory liens, including tax liens whether Federal, state, county or municipal in character. The power to sell free of real property tax liens was established in 1931 by the decision in **Van Huffel vs. Harkelrode,** 284 U.S. 225. In that case, Van Huffel had acquired title to two parcels of land in Ohio from a party who had purchased the property at a bankruptcy sale. The sale in bankruptcy was pursuant to an order of the referee that the property be sold free of all liens and encumbrances and directing that the rights of all lien holders be transferred to the proceeds of sale.

Defendant Harkelrode was the County Treasurer and after the sale he asserted a lien for unpaid State property taxes which had accrued prior to the bankruptcy. Notice of the sale had been given to him by mailing. There were two mortgages against the property and the referee erroneously applied all of the proceeds to one of them, leaving the State taxes unpaid. The County Treasurer did not appear at the trial nor did he object to the manner of distribution of the proceeds. In this action Van Huffel sought to quiet his title against the State and the county. The court held in his favor, and after a reversal by the State Intermediate Court of Appeals, the United States Supreme Court granted certiorari.

It should be borne in mind that there is no express provision in the Bankruptcy Act conferring upon bankruptcy courts the power to sell free of liens and encumbrances. The power has been developed by case law as being within the general equity powers of the bankruptcy court. In the Harkelrode case, the Supreme Court said that the power has been granted by implication; that it is similar to the power long exercised by Federal courts sitting in equity when ordering sales by receivers or on foreclosure, and that this power is necessary to enable the bankruptcy court to collect, reduce to money, and distribute the assets of bankrupts.

The rule of the Harkelrode case is followed in California in **Beck vs. Unruh,** 37 C. 2d 148, decided in 1951. In the opinion handed down in that case the California Supreme Court indicates that the trustee in bankruptcy may sell the bankrupt's property subject to the State's tax lien or may sell it free of such lien.

The Beck case illustrates another point of interest to us. There the property in question was subject to delinquent property taxes for the fiscal year 1926-27 and was sold to the State in June of 1927. In November of 1927 the owner of the property was adjudicated bankrupt and the property was scheduled as one of its assets. In December of 1932 the property was deeded to the State pursuant to the 1927 tax sale. The bankrupt was discharged in 1936, the trustee having made no disposition of the property in question. In 1944 the State sold the property to one Salter, whose title was later acquired by defendant Unruh.

NO CONSENT TO SALE

In 1947—20 years after the original

petition in bankruptcy — the bankruptcy court re-opened the case and sold the property to plaintiff. By that time the property had increased considerably in value. Plaintiff then brought this action to quiet his title, claiming that defendant's title was void due to the fact that the sale by the State was held during a period of time when the property was subject to the exclusive jurisdiction of the bankruptcy court and the referee had not consented to the sale. The trial court gave the plaintiff a decree quieting title.

We are all familiar with the general rule that upon adjudication of a property owner as a bankrupt, title to his property becomes vested in the trustee in bankruptcy by operation of law as of the date of adjudication. The property remains in the custody of law pending its disposition by the bankruptcy court. Enforcement of existing liens is stayed; they may not be foreclosed or otherwise enforced without the consent of the referee. This general rule applies to State tax liens. However, in the Beck case the California court held that due to the lapse of time the only reasonable conclusion was that the trustee had abandoned the property to the State as not worth the amount of the tax lien. The decree of the trial court was reversed and the tax title upheld. The fact that the property had increased in value made no difference. Finally the court held that in the absence of assertion of jurisdiction by the bankruptcy court the constructive possession of a bankrupt's property invoked long after termination of the original bankruptcy proceedings did not interfere with the power of the State court to determine title to such property.

We often encounter the situation where the bankruptcy court fails to dispose of some of the bankrupt's property even though it is scheduled as an asset. In the normal situation it is not wise for the title insurer to rely on what apparently amounts to a passive abandonment by the trustee. Something more than the mere scheduling of the property in the bankruptcy proceeding must be done. The trustee must take some affirmative action towards disposition of the property. Even under the facts of the Beck case had a title company insured the tax title (the title that was ultimately upheld) it would have been faced with long and expensive litigation.

I hasten to add that there are always the practical aspects of a given problem of this nature which should be considered. Speaking again of the failure of the trustee to dispose of a scheduled asset, the practical title man may well decide that the possibility of re-opening the proceedings may safely be ignored. If a substantial period of time has elapsed —say more than five years after termination of the original proceedings; if the record shows that the claims of unpaid creditors are relatively small, and if in the meantime no creditor has reared his ugly head upon the scene, your title committee may decide to forget about the old bankruptcy. If a creditor has assigned his claim to a collection agency, the risk would appear to be much greater, as such agencies are prone to much more perseverance than the average individual creditor. Of course, as a matter of law the property should be administered upon but there are times when practical considerations outweigh those that are on the technical side.

UPHOLD PURCHASER

A practical solution of one of these problems is well illustrated by the following example. Husband and wife owned the property in question in 1948. In July of that year they conveyed it to the husband's mother. Not long thereafter a judgment was obtained against the husband and wife. In 1950 both husband and wife went through bankruptcy and the judgment was scheduled. The property was not listed as an asset. They received their discharge in 1951. In 1957 the mother conveyed the property back to her son and his wife. They then proposed to sell to a buyer who had all the earmarks of a bona fide purchaser. What about the judgment? The title company handling the order decided to insure. After a careful look at the whole picture it

appeared that the claims of creditors were small, nearly nine years had elapsed, and there was no collection agency connected with the case. Although the title insurer felt fairly certain that fraud was involved, it decided to take the risk. It reasoned that if the title was ever questioned, a court of equity would uphold the bona fide purchaser.

Before closing, I would like to mention briefly two very recent cases, both of which announce principles of law that are unusual and perhaps contrary to your impression of what the law is or should be.

The first is the case of **Jefferson Standard Life Insurance Company vs. United States,** 247 Fed. 2d 777, decided in August, 1957. A publishing company operating in California was declared bankrupt in December of 1954. At that time all of its real and personal property was subject to three liens which had attached in the following order: First, a trust deed and chattel mortgage in favor of Jefferson Standard with a balance due in excess of $350,000 which had attached as of December 1, 1954; second, liens in favor of the United States for income and excess profits taxes amounting to some $288,000 which had attached as of March 14, 1952; and finally, real and personal property taxes levied by the county of Los Angeles which had become liens as of March 1, 1954. The amount claimed by the county was approximately $15,000.

In the course of the bankruptcy proceeding the trustee sold all of the bankrupt's assets free and clear of all liens and ordered the three liens which I have mentioned transferred to the proceeds of sale without impairment. The proceeds amounted to $382,500. Since there was not enough money to pay off the three lien claimants in full, the trustee petitioned the referee to determine the amount, validity, priority, and rights of these claimants to participate in the fund. The referee held that the Jefferson Standard lien had priority over that of the United States and ordered its claim to be paid in full and the balance of the fund paid to the United States. However, he also ordered that

the county of Los Angeles would have to be paid its claim for taxes out of the amount set apart for Jefferson Standard. Jefferson Standard appealed.

The United States Court of Appeals, Ninth Circuit, reversed the referee and determined that the lien of Jefferson Standard was prior to the county tax lien. In arriving at this result the court reasoned that the only basis for establishing priority in favor of the county would be an enactment by the California Legislature that property taxes take precedence over pre-existing mortgages and other contract liens. The court found that no such law exists in California. The opinion cites Section 2897 of the Civil Code which provides that ". . . different liens upon the same property have priority according to the time of their creation . . ." The opinion also mentions Section 3712 of the California Revenue and Taxation Code which declares that a deed issued pursuant to a tax sale passes title free of all encumbrances existing before the sale. The court held that this section was not applicable since under the facts there was no tax sale involved. Finally, the court held that Jefferson Standard was entitled to post-bankruptcy interest up to the time of payment.

As a result of this decision, we are faced with the anomaly that in California while a pre-existing mortgage or other contract lien takes precedence over subsequent tax liens, nevertheless a sale based on delinquent taxes will eliminate such pre-existing mortgage or contract lien. Query: Can a subsequent tax lien be eliminat-

ed by the foreclosure of a pre-existing mortgage or deed of trust? I have my very serious doubts. It seems probable that the California Legislature at its next session will enact legislation designed to remedy this situation.

The other case was one decided in New York in 1956 (in re New York Investors Mutual Group 143 Fed. Supp. 51). The investors group had sold real property under a contract of sale for a price of $105,000. A down payment of $15,000 was made and the balance was due in 18 months. By the terms of the contract the $15,000 down payment was made a lien on the premises. A year after execution of the contract the investors group was declared bankrupt. The trustees asked authority to sell the property subject to the claim of the vendee for the money he had invested and for an order of the referee authorizing the trustee to disaffirm the contract of sale. The basis of this petition was that the sale would net more money for the estate. Section 70-B of the Bankruptcy Act permits the rejection of an executory contract. The referee approved the sale and rejection of the contract and his order was affirmed by the New York District Court. The order was made subject to the vendee's right of repayment of the down payment plus interest. The question presented was whether the vendee's right under the contract of sale as the equitable owner of the property were superior to the right of the trustee under Section 70-B to disaffirm the contract. The court determined that the power of rejection under the statute was paramount.

While this case is of passing interest, it doesn't pose any real problems for the title industry. Under the forms of policies issued in California no liability is assumed by the insurer which might be based upon the subsequent bankruptcy of a vendor. It is arguable that had this case been decided in California where the doctrine of equitable conversion is firmly established, the decision might have gone the other way.

Bankruptcy is an unhappy subject, and I sincerely hope that none of us in either our individual or corporate capacity will ever find ourselves on the business end of a bankruptcy proceeding.

The Enemy

I am more powerful than the combined armies of the world. I have destroyed more men than all the wars of the nation. I massacre thousands of people in a single year. I am more deadly than bullets and I have wrecked more homes than the mightiest of guns.

I steal in the United States alone over $500,000,000 each year. I spare no one and I find my victims among the rich and poor alike; the young and the old, the strong and the weak, the handsome and the ugly. Widows and orphans know me to their everlasting sorrow.

I loom up in such proportions that I cast my shadow over every field of labor, from the turning of the grindstone to the moving of a railroad car. I lurk in unseen places, and do most of my work silently; you are warned against me yet you heed me not. I am relentless, merciless and cruel.

I am everywhere—in the home, on the streets, in the factory, at railroad crossings; on land, in the air, and on the seas. I bring sickness, degradation and death—yet few seek me out to destroy me. I crush, maim, devastate; I will give you nothing and rob you of all you have.

I am your worst enemy.

I am CARELESSNESS.

Our Invitation to You!

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Annual

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AWARDS PRESENTED
AT THE
54TH ANNUAL CONVENTION
DALLAS, TEXAS

Select the Best Advertising Promotion Sponsored By You During the Past 10 Years

WATCH TITLE NEWS FOR CONTEST RULES

meeting timetable

JUNE 3, 4, 1960
South Dakota Title Association
Sawnee Hotel
Brookings, South Dakota

JUNE 6-7, 1960
Southwest Regional
Sheraton-Dallas Hotel
Dallas, Texas

JUNE 8, 9, 10, 11, 1960
Oregon Land Title Association
Gearhart Hotel, Gearhart, Oregon

JUNE 9-10-11, 1960
Wyoming Title Association
Washakie Hotel
Worland, Wyoming

JUNE 16, 17, 18, 1960
Colorado Title Association
Harvest House Hotel
Boulder, Colorado

JUNE 19-20-22, 1960
Idaho Land Title Association
Shore Lodge
McCall, Idaho

JUNE 30 - JULY 1-2, 1960
Michigan Title Association
Boyne Mountain Lodge
Boyne Falls, Michigan

JULY 9-12, 1960
New York State Title Assn.
Saranac Inn, New York

JULY 29-30, 1960
Montana Title Association
Rainbow Western Hotel
Great Falls, Montana

AUGUST 12, 13, 1960
Minnesota Title Association
Hotel Duluth
Duluth, Minnesota

SEPTEMBER 8, 9, 1960
North Dakota Title Association
Bismarck, North Dakota

SEPTEMBER 15, 16, 17, 1960
Kansas Title Association
Warren Hotel
Garden City, Kansas

SEPTEMBER 22-23-24-25, 1960
Washington Land Title Association
Olympic Hotel
Seattle, Washington

SEPTEMBER 23-24, 1960
Utah Land Title Association
Cottonwood Country Club
Salt Lake City, Utah

SEPTEMBER 25, 26, 27, 1960
Missouri Title Association
Statler Hotel, St. Louis, Missouri

SEPTEMBER 25-26-27, 1960
Nebraska Title Association
Clarke Hotel
Hastings, Nebraska

OCTOBER 3-6, 1960
Mortgage Bankers Assn. of America
Conrad Hilton Hotel
Chicago, Illinois

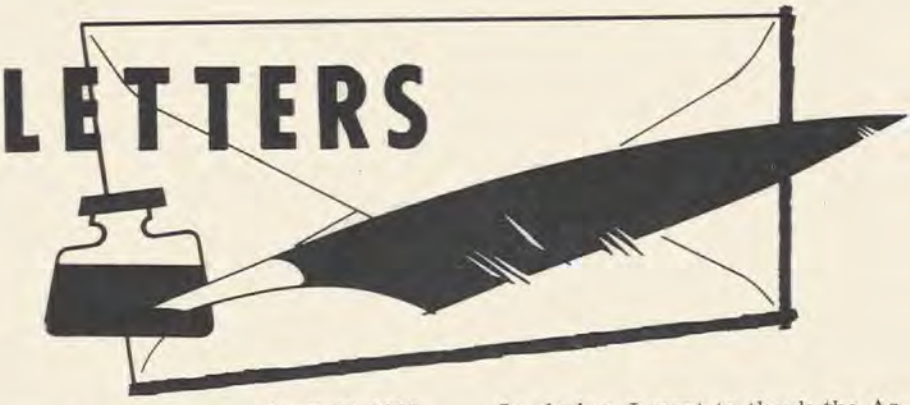
OCTOBER 9-13, 1960
American Title Association Annual Convention
Statler Hilton Hotel
Dallas, Texas

OCTOBER 20-21-22, 1960
Wisconsin Title Associatioin
Liggetts Holiday Inn
Burlington, Wisconsin

OCTOBER 30, 31, and NOVEMBER 1
Ohio Title Association
Netherlands-Plaza
Cincinnati, Ohio

NOVEMBER 14, 15
Indiana Title Association
Sheraton-Lincoln Hotel
Indianapolis, Indiana

NOVEMBER 17, 18, 19
Florida Land Title Association
Everglades Hotel
Miami, Florida



April 29, 1960

Mr. James W. Robinson
Secretary and Director of
Public Relations,
American Title Association
3608 Guardian Building
Detroit 26, Michigan

Dear Mr. Robinson:

I received your card, asking whether I still cared to receive the monthly Title Magazine. The card was checked in the affirmative and returned to you. I want to state that I have greatly enjoyed the magazine. It has been of great value to me in my work.

I have been employed by the State of Connecticut for the past thirty years, and my present position is one of a Senior Title Examiner. My work consists of supervising the preparation of legal instruments for the acquisition of land for highway purposes. I have to study and analyze the title abstract to determine the present owners, encumbrances, etc. We are constantly confronted with problems relative to estates, easements and reversionary rights. Time and time again, the Title Magazine has been a source of knowledge for me.

Back in September, 1949, I wrote to the American Title Association, asking whether I could become a member. Mr. James E. Sheridan, who at that time was executive secretary, replied and stated that I was not eligible, due to the fact that I was not an attorney. He stated, however, that he was placing me on the mailing list to receive the magazine, which I have received since then.

In closing, I want to thank the Association through you, for the kindness and generosity in allowing me to receive this Title Magazine.

Yours very truly,
Michael D. LeConche
36 Garden Street
Hartford 4, Conn.

April 26, 1960

Mr. James E. Sheridan
Executive Vice President,
American Title Association
Guardian Building
Detroit 26, Michigan

Dear Mr. Sheridan:

We are interested in obtaining a complete list of training films on title searching, title examination, or other title procedures. We expect to recommend certain of these films as training aids in connection with our right-of-way training program. The Right-of-Way Committee of the American Association of State Highway Officials has had a program under way for some time to aid the States in setting up effective right-of-way training.

Enclosed is a copy of the outline of suggested right-of-way training program which will give you an idea of the scope of our training activities.

Any help you can give will be appreciated.

Sincerely yours,
David R, Levin, Secretary,
Highway Officials,
American Association of
State
Bureau of Public Roads
Washington 25, D.C.

March 16, 1960 Joplin, Mo.
Dear Mr. Hinkle:

I regret that I haven't been able to pay this debt that's of long standing. I thank you for waiting on me as long as you have. You have been and are very considerate.

I have been out of a steady job now going on 6 months. I realize my duty as a servant of Jesus Christ and I would like nothing better than to clear up all hindering debts, and the one to you in particular because of your kindness to us. Right now I'm in a trial and without funds. My condition is sort of like the scripture set forth in the 5th Chapter of Exodus. I'm out of straw and it's with all respect that I say that. To know what I mean you will need to read the 5th Chapter of Exodus.

Please don't think I'm referring this to you in any way. Right now it's a good explanation of my situation.

I will not feel ill at you at any action you feel necessary to take, but as soon as I get employment I will make my debt to you one of my first efforts. I hope to remain your friend and neighbor and brother in Christ.

The Rev.

Apr. 26, 1960
James W. Robinson, Secy. ATA
3608 Guardian Bldg.
Detroit 26, Mich.
Dear Mr. Robinson:

Many thanks for the cordial letter and the copies of the "News". I have written Binyon, a valued associate, thanking him for his suggestion to you. He and I have corresponded on title and survey matters for some years, finding mutual agreement thereon.

Binyon's paper "Where on Earth" is a masterpiece of expression of the ideas and opinions of surveyors and title men over the land. His suggestions for betterment are pertinent. The ATA is a good springboard for a tryout in Committee work and recommendation.

Dan Rosecrans and I worked together many years in Title Insurance and Trust Co. of Los Angeles up to my retirement in 1947. He should be a help. I have kept in touch with general developments since being a has been (?), finding much interest still in my 55 years of survey engineering and title practice.

The paper by S. A. Bauer (Dec. 59 News) is fully up to his usual perspicacity. Sol and I were co-workers in the early days of ACSM. I have found him an exceptional person and hold him in highest regard.

May I suggest continuance of such papers dealing with survey and title problems, in the News. The layman and the title men too are often too little aware of our problems.

Would you place my name on the News subscription list, as a former and still associated Title Engineer? Any expense for the publication subscription to me will be accepted as usual.

Sincerely
Wm. C. Wattles
Mem. Advisory Council ACSM
(and an old ex title engr.)

COMPETITION

We are apt to name as competition only the companies which sell the same type of product we sell.

But the real competition is out of sight and more difficult to defeat.

A new stove may have to wait because the old washing machine conked out. A new car may lose out to a costly doctor bill or a college education.

Americans eat just as much today as they did 50 years ago, but competition has cut down the amount of bread, potatoes and many other foods.

There's plenty of competition among brands of bread, but there are many other foods which compete twice as hard.

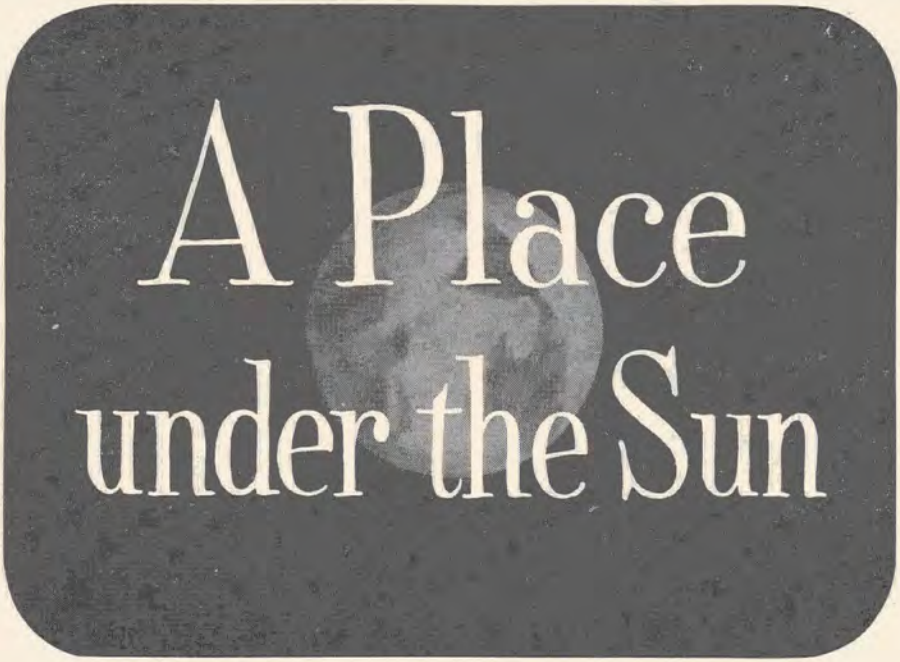
And here's another thing to think about. Competition isn't confined to production. It also affects jobs.

No matter what it is that you do in the world of work, in some other company there is an employee doing exactly the work you do.

If he does his job better, more effectively, with less waste and more production, he makes it that much easier for his company to beat our company in the competition for somebody's dollar.

ATA's

SPARKLING NEW MOVIE



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PLAN NOW TO ORDER SUFFICIENT PRINTS TO BLANKET THE AREA YOU SERVE

A TEXAS-SIZE CON

GREA

OPENS

54th A

On October 9-13, Texas titlemen will be hosts to the American Title Association as it convenes at the Statler-Hilton Hotel in Dallas. There is every reason to believe that the hospitality of Jimmie Pigman, the Texas State Title Association's President, Charlie Hampton, the Immediate Past President; Texas members of the Convention Committee; and, indeed, every Texas titleman, with sufficient strength to lift a limp abstract, will match the sweep and grandeur of their broad plains, magnificent cities and a wealth of natural beauty.

CENTER—Dallas' Big Tex, towering 52 feet above the crowds at the State Fair of Texas, is a top attraction at the annual October exposition, world's largest state fair. The big cowboy who "talks" in a deep voice—with a Western drawl, naturally—is often used as a symbol of the Western hospitality that has made Dallas famous.

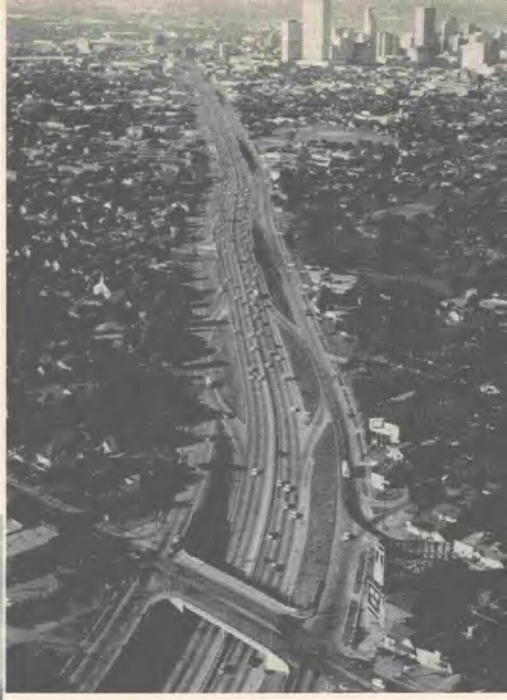
Below (left)—Just one of Texas' many wonders, "The Pyramid of the Sun". (Center)—An Arkansas Pioneer, John Neely Bryan, originally from Tennessee, built a one-room log cabin on the banks of the Trinity River to found the city of Dallas in 1841. The restored cabin stands today on the lawn of the Dallas County Courthouse. (Right)—Dazzling Dallas, heart of the metropolitan area with over a million population.

VENTION

T SOUTHWEST

ARMS FOR ATA'S

NNUAL MEETING



Above—Central Expressway, the route of U.S. Highway 75, stretches through the heart of Downtown Dallas, running 16½ miles in the City. It offers a rapid route through the City, for no traffic crosses the ten-lane super highway, and the few red lights along it are located only in the downtown section.

Title Insurance for Co-operative Banks

By CARLTON W. SPENCER
Chairman of the Board
Massachusetts Title Insurance Co.

A Comprehensive Discussion of What it is, How it Works and the Advantages Which Accrue to Both Lender and Borrower—Gives Mortgage Portfolio Greatly Increased Marketability—Insisted on by VA and FHA in Some Areas —Does Not Compete With but Aids and Supplements the Work of Conveyancers—Presents Opportunity for Title Holders to Obtain Full Title Insurance At Low Cost—A One Payment Plan.

With the monumental task before us of carrying the message to all who are interested in the purchase or sale of real estate (and few, indeed, are the citizens who are not) we commend the excellent manner in which Mr. Spencer outlined the advantages of title insurance at the meeting of the Co-operative Bank Club of Massachusetts in Boston on February 25, 1960.

I am very glad to have this opportunity to talk to you about title insurance, for its use is growing in this country, particularly in the urban areas. It is used extensively by agencies of the federal government. It is demanded today by the large national mortgage investors.

Title insurance, as the term indicates, insures the validity of title to real estate. It protects against the uncertainties of land titles. It indemnifies against loss arising from defects in titles or from the enforcing of liens existing prior to the issuance of the policy. It guarantees that the title is what it purports to be.

Potential Causes of Defective Titles

The risks covered by the title insurance policy include any negligence or fraud on the part of the examining attorney or abstracter. Thus it affords protection against negligent failure to find or recognize a defect appearing in the public records. In an article entitled "Lender Protection Through Title Insurance" which appeared in the October 1958 issue of Banking, there are listed thirty-three potential causes of defective real estate titles, including some that examination of the record title cannot be expected to disclose, such as forgery, incapacity of parties, and undisclosed heirs in a probate proceeding.

Title insurance has grown rapidly during the past ten years. In the urban areas to an increasing degree the measure of acceptability has become insurability rather than the traditional test of marketability. The chief reason for the increased use of title insurance has been the attitude of the large institutional lenders, notably the life insurance companies. Not only do these lenders make loans in every part of the country, but they also purchase mortgages in every part of the country. It is inevitable that they should desire standard and uniform title protection and procedure. It follows that lenders who contemplate the possibility of selling their mortgages in the national market wish to obtain the higher degree of marketability that goes with an insured title.

Attitude of Government and Its Agencies

A second reason for the increased use of title insurance results from the attitude of the United States Government and its agencies. The Veterans Administration and the Federal Housing Authority do not require title insurance on home mortgages, but most of the VA and FHA loans outside of New England are insured. In areas where the FHA and the VA lenders do not utilize title insurance,

no question is raised by the government agencies at the time of the loan as to the sufficiency of the title. However, should it become necessary for the lender to transfer property to either of these agencies, neither will accept transfer until the evidence of title is presented and submitted to its administrator and legal counsel. Generally speaking, where title insurance is presented, it is accepted without question as evidence of a valid title. If it happens that counsel for the FHA or the VA should refuse to accept the property because the title is defective, the lender who has title insurance is protected because the company then makes good on its policy.

Investors in government guaranteed mortgages, including Fanny May (F.N.M.A.), regard this requirement of evidence of title as the Achilles heel of the FHA or VA mortgage because, as I have indicated, the guarantee is conditional upon satisfactory evidence of a valid title and, if the holder of the mortgage cannot present satisfactory evidence of valid title, the underlying guarantee may be worthless. If the number of titles submitted to the FHA or the VA as the result of foreclosure should increase, it is reasonable to suppose that these agencies will become more exacting and rigid in their title requirements. Title insurance offers to lending institutions an inexpensive and effective way of assuring a minimum of difficulty when conveyances to these agencies may be required. The secondary market for FHA loans is strictly a title insurance market.

Several Savings and Loans Now Require It

Five Massachusetts federal savings and loan associations are now requiring title insurance on all of their mortgage loans. The First Federal Savings and Loan Association of Boston adopted title insurance July 1, 1957. Wollaston in Quincy followed in November of 1957, and the Boston Federal on January 1, 1958. Waltham adopted title insurance in August of 1958 and the Natick Federal decided at the close of last year to obtain title insurance on all loans commencing January 1, 1960. These institutions have adopted title insurance largely because of the desire to have a marketable portfolio. They recognize that if they should ever wish to sell their mortgages or borrow on them, they will have a much more valuable asset if their mortgage loans are title insured. The president of one institution told me that before he recommended the adoption of title insurance to his board of directors, he talked with a vice president of The First National Bank of Boston and asked whether he could borrow two million dollars on mortgage loans in his community. He was told that this might be done. He asked whether the transaction would be facilitated if he had title insurance. The answer was, "Indeed it would."

Other lending institutions have utilized title insurance to a limited degree. I think the chief reason why the federals have been first to adopt it is that they have had more experience with the buying and selling of mortgages and thus have perhaps a greater awareness of the desirability of the insured portfolio. They feel that an insured portfolio, because of its marketability, is worth more as an asset to the institution than one that is not insured.

Titles of Commercial Properties Insured

During the past few months Massachusetts Title Insurance Company has issued insurance policies on many commercial properties. Such policies were issued on property of Container Corporation of America, New England Gas Products, Inc., Sun Oil Company and on Raytheon's new plant in Norwood. Last August the Massachusetts FHA regulations were modified so as to require title insurance on all rental housing projects. The first transaction which the Massachusetts Title Insurance Company had, following this new regulation, was the apartment house erected at 1600 Beacon Street, Brookline, financed by the Suffolk-Franklin Savings Bank. The amount of the policy issued by Massachusetts Title Insurance Company in that case was over one million eight hundred thousand dollars.

Another reason for the adoption of title insurance is, of course, the obvious one that it does protect the institution against losses arising from a defective title. The system used for so many years in Massachusetts, namely, that of making mortgage loans upon the title examination of the lending institution's attorney, has proved unusually satisfactory in this area where the quality of the work done by the lawyers is high and the registries of deeds and of probate are well maintained and reliable. However, there are defects in title which the most careful examination cannot be expected to disclose, such as forgery and incapacity of parties. Losses arising from title defects of this sort are not common but they can be substantial. The concern of management over a claim of a defective title is in most instances out of all proportion to the number of dollars involved. It is a relief to management to know that, if a claim of a defective title is made, the title company immediately assumes defense of the title and will make good on its policy if the defect results in a loss to the institution.

Borrowers Like Title Insurance

A third reason for the utilization of title insurance by lending institutions has been the desire on the part of the borrowers themselves to obtain title insurance. In the Kiplinger Magazine for October, 1953, the home owner was advised; "To protect your own rights to the title you should take out a title insurance policy on your own hook. The smart thing to do is to buy full coverage—buy it when you buy your house and buy a policy in an amount equal to what you pay for the house."

People who come to this area from other sections of the country are accustomed to title insurance and desire to have it. We have had several instances during the past year where borrowers from the Workingmens Cooperative Bank and the Boston Five Cents Savings Bank, which do not require title insurance on their mortgage loans, have requested it. It has been issued upon the report of the institution's attorneys, who are approved by the title company, and the borrower has been obliged in many cases to pay only the cost of the premium in order to obtain a home owners policy at the time of the mortgage transaction. The attorney for an institution which does not require mortgagee's insurance may or may not make a charge for preparing the report to the title company. Of course, no charge for such services is involved when the lending institution requires a mortgagee's policy, for then the information necessary for the issuance of the owner's policy is available to the title company. In this connection you will be interested in a statement made last October by Mr. Norman P. Mason, Federal Housing Administrator, speaking at the New York meeting of the American Title Association. Mr. Mason said: "Title insurance can save a man's home, his future and the future of his family. Mr. Average Citizen knows about our great title companies, and when he purchases his home he finds only satisfaction in the fact that the mortgage lender orders a policy of title insurance. But does he know that in many instances the title policy protects only the lender? Is he told that for only a few extra dollars a title policy will be written to protect him, the home-owner, as well as the lender? Wouldn't it be good business for you to make certain he fully understands, since you have a worthwhile product to sell him? The evidence indicates that something is being done along these lines. The FHA lawyers tell me that there is a steady increase in the number of home-owners' policies in the title evidence which comes to them for examination. This is good for you and good for the home-owners. Keep it up."

Misunderstood by Some Attorneys

In almost every area of the country where title insurance has been introduced resistance has been met at the outset from the attorneys. This is almost wholly due to misunderstanding on the part of the attorneys. They are not sure how title insurance might adversely affect them, but they are apprehensive that in some way it might compete with them. This attitude on the part of attorneys disap-

pears as soon as they understand how title insurance operates. It is true that the major national companies do search and examine titles preparatory to insuring them. These national companies, however, operate outside their home areas on the reports of approved attorneys. The Massachusetts Title Insurance Company issues its policies entirely upon the reports of approved attorneys. Thus operated, title insurance supplements and does not compete with the attorney's services. The work of the attorney is not increased, for the closing procedure is exactly the same where title insurance is used. The examining attorney is selected by the lending institution. He is approved by Massachusetts Title Insurance Company and by its re-insurer, The Title Guarantee Company of New York. When he comes to his settlement sheet he has an item for title insurance, as well as an item for his services. He records the papers just as he would without title insurance. After this, he sends a report to the title company on the basis of which it issues a policy, and also issues a policy to the home owner if he has chosen to have insurance. If the company's exposure on any one title exceeds $25,000, it is customary for the company to consider the report and sometimes the abstract before a policy is issued and before the papers are recorded. If a claim is made on a policy and it should be found that the attorney has overlooked a title defect, the company does not look to the attorney, but stands responsible to the policy holder. That is what the company receives the premiums for. Thus the attorney is relieved from his heavy responsibility for errors or oversight in performing his exacting and highly technical work.

Frequently the question is asked whether the attorney and his client do not receive adequate protection from the negligence policy which the attorney may carry. The answer is "No." The amount of insurance ordinarily carried by the attorney for a banking institution is hardly adequate to cover the risk of substantial errors. Moreover, it protects him against his legal liabilities and not his moral responsibilities. If the defect in the title which the lawyer passed is not found until more than six years after the transaction, the statute of limitations will have run and, if the lawyer makes good to his client, he must do so with his own money. Also, the Supreme Judicial Court of Massachusetts recently held in the case of Connors v. Newton National Bank that a cause of action against an attorney for negligence did not survive his death.

Limitations of Land Registration

Land registration, useful though it is, cannot take the place of title insurance. Land registration in this country has never lived up to the hopes of its sponsors. It is well administered in Massachusetts, but, because it is a judicial process, it is slow and expensive. Moreover, the benefits accrue largely to the subsequent owner rather than the original petitioner. Eight of the nineteen states which adopted the Torrens system of land registration have repealed it, and in only four of the eleven states in which it remains does any substantial volume of registration exist. Suggested reasons for the failure of the Torrens system to meet with widespread public approval are that the average land owner does not desire to invite a lawsuit by seeking to register a title which he considers good, and that substantial lawsuits may arise from an attempt under a Torrens proceeding to fix definite boundary lines. Moreover, a title considered marketable might be found to be unmarketable if distrubed, whereas, if permitted to lie dormant it might be made good by lapse of time. In Massachusetts, the decree of registration can be attacked for fraud at any time within one year, and the Massachusetts statute lists five encumbrances which, though unregistered, will prevail over a certificate. Finally, the Torrens certificate does not require anyone to assume the defense in litigation attacking the title of the registered owner. The property owner must defend the litigation at his own expense and even if he is successful he cannot obtain reimbursement.

Title insurance is different. When

an attack is made on the title, the company assumes the full expense of the defense. Most of the large lenders will not loan on a Torrens certificate unless title insurance is also obtained.

Company One of the Oldest

Although the Massachusetts Title Insurance Company is a small company, it is one of the oldest in the nation. It was formed in 1885 by persons who came to Boston from the Baltimore and Philadelphia areas where title insurance was prospering. Like all title insurance companies, it operates under the supervision of the state insurance commissioner. It has issued some title insurance in every year since 1885. Last year, the company issued insurance policies in excess of twenty million dollars.

Some of you may remember the Conveyancers Title Insurance Company which failed in 1932. The failure of this company was entirely attributable to the guaranteeing of the payment of the mortgages. Massachusetts Title Insurance Company has never engaged in this practice and few companies in the country do so today. As far as I can determine no company which has confined itself to the insurance of land titles has ever failed.

Because Massachusetts Title Insurance Company is a relatively small company, its management deemed it prudent to obtain re-insurance. Therefore a treaty was entered into with The Title Guarantee Company of New York, which is licensed as a title insurer in Massachusetts and is the largest New York title company providing for 100% re-insurance on all policies issued by the Massachusetts Title Insurance Company. This means that the holder of a policy issued by the Massachusetts Title Insurance Company has full recourse against either company, or both, for the full amount of his policy.

Last month the John Hancock Life Insurance Company placed the Massachusetts Title Insurance Company on its list of approved companies and authorized acceptance of its policies up to the amount of three million five hundred thousand dollars on any one policy. The mortgagee's policies issued by Massachusetts Title Insurance Company are the American Title Association mortgagee's form, the standard provisions of which are written by every major title insurance company in the country. This form eliminates many exceptions which heretofore appeared in policies.

Title Insurance Very Inexpensive

Title insurance is very inexpensive. A single premium only is paid. An owner's policy costs $3.75 per $1,000 of coverage. Manifestly, at these rates the title companies must require the owner to take out a policy which covers the value of his property. Actuarially, it would not be feasible to permit the owner of a property worth $100,000 to carry only $20,000 of title insurance. The owner's policy protects the owner and his heirs or devisees so long as they own the property. If the property is sold, the policy holder no longer has an insurable interest and the policy is void. Since the liability of the title company to a mortgagee is generally for a much shorter period of time and will be a declining one if the mortgage is amortized, the rates are lower. A mortgagee's policy costs $2.50 per $1,000 of coverage. The mortgagee's policy is assignable as a matter of right. Its terms similarily protect a government agency which may take over the property. Moreover, if the mortgagee should acquire title by virtue of foreclosure or acceptance of a deed from the mortgagor, the mortgagee still has the benefit of the policy. If a borrower at any institution which requires title insurance on its mortgage loans elects, at the time of the mortgage transaction, to take a home owner's policy, he is credited with most of the premium paid for the mortgagee's insurance.

Boards of directors of banking institutions sometimes ask whether the increase in the closing costs, due to the requirement of title insurance on mortgage loans, will adversely affect the bank's competitive position. The answer is that it will not. Two institutions, now using title insurance provided by Massachusetts Title Insurance Company on all their mortgage loans, used to pay one-half of the

cost of the mortgagee's insurance policy to reduce the increase in closing costs to the borrower, but soon found that this was unnecessary and thereupon abandoned the practice. The borrower now pays the entire costs of mortgagee's insurance. In a letter written this past summer by Mr. Milton B. Wiggin, Executive Vice President of the Wallaston Federal Savings and Loan Association, in reply to an inquiry from another lending institution, this statement appears:

"We had some concern in the beginning as to whether prospective borrowers would feel that the small increase in closing costs resulting from title insurance premiums was objectionable. We found that it was not. Our borrowers accepted the increase in cost as entirely reasonable and we have never lost a loan as a result of having adopted title insurance. On the contrary, a number of applications have come to us as a direct result of our having adopted title insurance. Purchasers of homes show an increasing interest in obtaining title insurance protection and in getting it through financing here.

"Our board feels that the value of our mortgage portfolio is enhanced by title insurance and, needless to say, it is reassuring to me as executive officer to feel that on these insured loans neither the Association nor its attorneys can take a loss or be put to legal expense as a result of a title defect or an alleged title defect. We are very glad we adopted it."

Increase in Demand

Coming events cast their shadows before them. The public and lending institutions are more and more asking for title insurance, and I believe you will all one day wish to utilize it. One of the most significant changes in the American economy has been in the use of the real estate mortgage as a credit instrument. From a short-term, burden-some and sometimes difficult-to-negotiate purchase-money loan, it has become a modern, streamlined credit device providing for regular amortized payments. The accelerated use of mortgage financing today, the inauguration of a nationwide mortgage market, and the emergence of the mortgage as a popular type of investment have made title insurance an essential part of investment in real estate. Mr. Frank J. McCabe, Jr., Executive Vice President of the Mortgage Bankers Association of America, recently said, "Title Insurance has contributed a measure of investment quality to mortgages impossible to estimate." Title insurance provides desirable added protection for mortgage loans just as FDIC and FSLIC insurance provides desirable added protection for bank deposits and savings accounts. It is not so much a question of whether the lending institution can survive without either type of insurance as whether the institution should have it to secure the maximum protection now available and to have its mortgage portfolio at its highest value.

Helps Banker, Realtor and Attorney

Title insurance means much to many people. It can, as Mr. Norman Mason said, save a man's home, his future and the future of his family. It can quiet a controversy concerning a title and enable a realtor to consummate a transaction which would otherwise fail. It relieves the attorney from the heavy responsibility arising from an undisclosed flaw in the title. It protects the VA and the FHA lender against the loss of the government guarantee and the government insurance because of a defective title. To the banker, it means a more marketable portfolio in a tight money market. To the mortgage investor, it means security. Wherever land is a principal source of material wealth and wherever marketability is essential, title insurance has been used increasingly. It is regarded as the most effective, the most efficient, the most inexpensive and the most complete form of title protection that has yet been devised.

* * *

Perhaps one reason the dollar will not do as much for you as it used to, is that so many people nowadays do not want to do as much for a dollar as they used to.

THE COMPLEAT ABSTRACTER

By
PHIL CARSPECKEN, Formerly of Des Moines County Abstract Company, Burlington, Iowa

(As Ike Walton Might Have Written It)

The Compleat Abstracter, unlike the Compleat Angler, seeks not the Trout or the Pike in murmuring streams which flow through flowery meads, but pursues with exceeding patience and some cunning a slithery creature called The Title, being an ephemeral fish which coyly swims in the murky waters of multitudinous records. Verily it be strange sport, and not unattended with peril, for in bringing the creature to gaff it is ofttimes the Abstracter who gets "hooked," being jabbed with the dorsal fin called The Mortgage, or gashed with the poisonous fangs called Judgments.

The Compleat Abstracter must be a man of parts—or half-parts. Imprimis, he must be what is quaintly termed a Half-bottomed Barrister, and familiar with the archaic lingo affected by those of that fraternity, who speak not in good, honest English, but, flatulent with Profundity, emit ponderous and rumbling words and phrases such as "Enfeoffments, Messuages, Hereditaments and Shifting-and-Springing Uses," and such gibberish. He must know that "Livery of Seisin" hath naught to do with oddly seasoned liverwurst, and that a "Vested Remainder" is, what is not left after the pants are worn out. He must learn the ambiguous use of that twinned abortion "and/or," and slow up for the "towits," and never, never run an Estoppel Sign. With such skimble-scamble must he acquaint himself ere he be a "Compleat" Abstracter.

The Title hath aught to do with the alienation of a thing called The Messuage, and when the Abstracter hath thus messed around with The Messuage, and coralled the thing called The Title, and dressed and bound it in the Compleat Abstract, doth he receive the acclaim of those called "Dear Hearts and Gentle People?" He doth not! Too often the owner of The Messuage rails bitterly at the remuneration involved, and mutters darkly about some Angel of Vengeance called "Torrens," whose dire retribution he threatens to invoke. And that captious wight yclept "Ye Examiner," to whom the Compleat Abstract is handed for inspection, receives it gingerly and holds his nose, seemingly intent upon discovering some taint, whether there be any or no, and forthwith fulminates a sulphurous "Opinion,'" branding The Title as a thing akin to a stinking mackerel, and ripping Gehenna out of the Compleat Abstract, which doth mightily burn up the Compleat Abstracter.

In sooth, the Compleat Abstracter hath exceeding travail in thus stalking his prey through forests of Indices and morasses of Geneology, and some appreciation seems justly his due. But doth anyone ever say to him, "A good job, old Grub-worm!" or words to that effect? Hell no!—I mean, Gadzooks no!

Od's bodikins! The sport hath little to commend itself, and I should think that when the Compleat Abstracter hath compleated his Compleat Abstract, it were well to toss the thankless job out the window and go a-fishing for the Trout "and/or" the Pike!

A HEARTY WELCOME

MEREDITH SMITH JOINS ATA STAFF

Rounding out the Executive Staff at the National Headquarters, Meredith Reynolds Smith, Jr., enters the title industry as Assistant to the Director of Public Relations.

Smith comes to us with the highest recommendations. He is young, handsome and eager to report for work in the Detroit office. Meredith, who answers to the nickname of "R", has a splendid background of educational experience for the kind of career he is about to undertake. He was graduated from Michigan State University with a BA degree, majoring in Business Administration and Industrial Psychology. His major interests lie in Advertising Psychology, Market Research, Public Relations, Public Speaking and Business Communication.

His wife, Nancy, shares his enthusiasm for the new job. His hobbies are: competitive swimming, fishing, golf and bridge. His home is in Alexandria, Virginia and he is well acquainted with the Washington area.

As outlined in the resolution adopted at the 53rd Annual Convention, ATA's newest executive will assist in the publication of TITLE NEWS, the production of the Directory and the expediting of bulletins, publicity releases and similar matters.

MEREDITH REYNOLDS SMITH, JR.

We should explain—the nickname "R" does **not** mean he is related to our Executive Vice President, Joseph H. Smith.

Hawaiian Escrow Company

The escrow department of Title Guaranty Company of Hawaii has been incorporated as Title Guaranty Escrow Services, with Kenneth Makinney as president.

Offices are at 850 Richards St. and 420 Nahua St.

Vice president is David T. Pietsch. He and Makinney are co-owners of the parent Title Guaranty Company of Hawaii, with which the new escrow company is affiliated.

Secretary-manager of the new company is Louis Cannelora. Howard Moir is treasurer and auditor; Verna M. Hemmy, chief disburser; Marjorie Miyahara and Jan Wasson, closing officers, and Vivian Filomeo, stenographer.

Patricia Brownell is in charge of the Waikiki office.

Petroleum Landmen Meet

American Association of Petroleum Landmen will hold their Sixth Annual Convention in Los Angeles, California, June 22-25. Attendance of approximately 1,000 landmen and 800 wives is expected. The Convention will get under way with registration beginning at 8 a.m. at the Ambassador Hotel which is the Convention headquarters.

A full program has been planned by the California Convention Committe headed by Ralph Cormany, Signal Oil and Gas Company, Los Angeles, the General Chairman for the three-day Convention.

On Thursday and Friday landmen from throughout the United States and Canada will hear leading oil industry executives, officials of government, and representatives from title companies and banks discuss oil industry problems as they relate to landmen and their work.

A full program has been set for the wives of the visiting landmen.

Landmen and their wives will be guests of Title Insurance and Trust Company, its branches, subsidiaries and affiliate companies, as a welcome reception on Wednesday.

A luncheon meeting for the officers and directors of AAPL will be held at noon Wednesday with the Los Angeles Landmen's Association acting as host.

A guided tour of the Wilmington Field and West Los Angeles operations will afford visiting landmen an opportunity to see town lot drilling operations firsthand.

Committee meetings and a golf tournament will round out the preconvention activities scheduled for Wednesday.

M. W. Hankinson, Humble Oil and Refining Company, Houston, Texas, is president of the Association. AAPL's national headquarters offices are located in Fort Worth, Texas.

Larger Quarters

General Title Service Corporation has commenced construction of its new office at Forsyth Boulevard and Meramec Avenue in Clayton, Missouri. Jas. S. Barnes, president, has stated that increase in the firm's volume of business and the desire to provide the utmost in customer facilities have necessitated the move to larger quarters.

General Title is engaged in all phases of the land title business, including the issuance of certificates of title, title insurance, escrows and construction disbursing, and is general agent in the St. Louis area and adjoining counties for Kansas City Title Insurance Company.

Founded in 1931 by the late W. H. Barnes, General Title's first home was in the old Claymo Hotel Building, and adhering to tradition and progress, the company will move to the remodeled offices in the site of its original home on May 1, the birth date of its founder.

The new offices will contain a total of 12,000 square feet. Located on the main floor will be a reception area, executive offices, conference room, and construction disbursement department. On the second floor will be the escrow closing department, including three large closing rooms, reception area, examiners' offices, bookkeeping and stenographic departments, and vault. Another customers conference room and large lounge

and powder rooms will be located on the third floor. The sub-level area will contain the office printing department, mail and photostat rooms, drafting department, stock and supply rooms, and storage area.

All floors are served by stairways and a self-operating elevator.

Parking will be available on a private lot and the new municipal lot to be erected directly across the street from the new offices.

Abstract and Title Sold

The purchase of over 93 per cent of the stock of Abstract and Title Guaranty Company, a Michigan company with assets of over $4,600,000, was announced May 2 by Lawyers Title Insurance Corporation, Richmond, Virginia. Abstract and Title Guaranty Company is Michigan's oldest company with a history dating back to the last century.

Lawyers Title's President, George C. Rawlings, disclosed that the purchase price at "around $4,000,000," made this by far the most important acquisition made by Lawyers Title up to this time. The Michigan company has had an operating income for the past five years averaging close to $3,000,000 per year. It's December 31, 1959, financial statement showed admitted assets of $4,686,911. Lawyers Title had assets of $24,223,267 for the same period.

Abstract and Title Guaranty Company, with headquarters in Detroit, has a branch office in Mt. Clemens, Mich., and operates the Washtenaw Abstract Co. at Ann Arbor as a wholly owned subsidiary.

Rawlings said the operations of the newly acquired company would be combined with Lawyers Title's Michigan operations. Lawyers Title maintains one of the largest of its 40 branch offices in Detoit, along with the company's Detroit National Title Division. It also has Michigan branches in Flint, Grand Rapids, Mt. Clemens, Pontiac and Royal Oak, as well as Brooks Abstract Company, an agent in Lansing.

While the Michigan company is the largest company Lawyers Title has thus far purchased, it is the fourth major acquisition within the past 19 months. In August, 1958, the company purchased the Atlantic Title Company in West Palm Beach, Florida; in October of that year the company announced its purchase of Title Guarantee & Trust Co. of Toledo, Ohio, together with a Sandusky subsidiary; in November of 1959, Lawyers Title announced the purchase of the Central Abstract Corporation of Orlando, Florida.

GEORGE RAWLINGS

Good Loan Experience

Mortgage loan delinquencies over the country showed an overall total for the quarter ending March 31 of 2.21 per cent, as against 2.24 per cent in the first quarter a year ago, the national delinquency survey of the Mortgage Bankers Association of America disclosed today. This percentage of mortgage loans in arrears was the lowest for the first quarter since 1957 and third lowest since the national study was inaugurated in 1953.

The study covers 2,763,299 mortgage loans on 1 to 4-family units, of which 61,155 were delinquent at the end of the first period.

Veterans' mortgages, while showing a somewhat higher delinquency ratio than FHA insured mortgages and conventional loans — those not backed by government insurance or guarantee—continue to make a favorable credit showing nation-wide. Veterans' loans one month overdue amounted to 1.95 per cent, as against 2.01 per cent a year ago. Veterans' loans three months or more overdue fell sharply to .38 per cent, as against .39 per cent a year ago.

FHA insured loans one month in arrears amounted to 1.44 per cent, as compared to 1.43 per cent a year ago. Loans three months or more past due fell to .25 per cent, as against 19 per cent a year ago.

Conventional mortgage loans a month delinquent amounted to 1.01 per cent, as against 1.09 per cent in the first quarter of 1959. Loans three months or more overdue were .20 per cent, as against .19 per cent a year ago.

FHA Revisions

FHA Commissioner Julian Zimmerman announced recently the new schedule of minimum down payments authorized by the Housing Act of 1959. The effective date of the new schedule is April 29, 1960, but the new terms may be utilized, if desired for any loan subject to an outstanding commitment or pending application.

Arizona Changes

Henry Kavanaugh, 934 E. Berridge Lane, Phoenix, Arizona, has begun his new duties as manager at the office of the Phoenix Title and Trust Company.

Kavanaugh joined the Company in 1952 and was assigned to the North Central Branch, and was assistant manager prior to his promotion.

He was brought up in Pendleton, Oregon. He joined the Navy and saw service in the South Pacific as Pharmacist Mate from 1942-45. He credited his assignment to this branch of the service because his father was a Doctor. He graduated from the University of Oregon in Salem, 1949. His first business experience was in Real Estate. He has a wife, Mary Lou and there are four small daughters, Katherine, Patricia, Amy Lou and Clare. He holds memberships in Alpha Tau Omega, and the Casey Toastmasters clubs.

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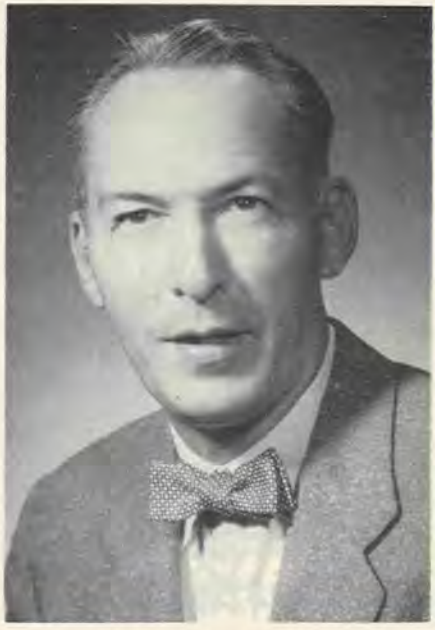
Appointment of David L. Stehr as vice president and senior title officer of Lawyers Title of Phoenix, Arizona, was announced jointly by Harry V. Cameron, President, and Robert S. Vaughan, Executive Vice President.

Stehr, an attorney, has been engaged in title insurance work in Phoenix for the last 17 years. He is a graduate of Fordham University Law School.

At the same time it was announced that Leslie Lewis, a vice president of the company, has been transferred from the title department to public relations.

Lewis has been with the firm since it was established here, and has been in title work for more than 12 years. He is a resident of Glendale.



DAVID L. STEHR

Florida Mortgage News

William A. Martin, vice president and treasurer of the Federal Title & Insurance Corp., Miami, Florida, took over recently as president of the Mortgage Bankers Association of Greater Miami.

He and other officers were installed at a banquet in King's Bay Yacht and Country Club.

One new director elected to the Board of Governors, W. L. Randol, was also installed. He is treasurer of the National Title Insurance Co.

Title Insurance Aids

Commonwealth Land Title Insurance Company, Philadelphia, Pa., named Christopher Davis assistant vice president, and Edward J. Coghlan, William Gilbert and LeRoy D. Schoch assistant title officers.

Washington Co's Acquired

American Title Insurance Company of Miami, Florida, has acquired controlling interest in the Columbia Title Insurance Company and the Real Estate Title Insurance Company, both of Washington, D.C.

Announcement of the action came at a meeting of the boards of directors of the two District of Columbia companies at the Washington offices of Berens Securities Corporation which handled negotiations in the transaction. Terms of the transaction were not announced immediately.

The two District of Columbia companies are among the oldest title insurance companies in the country, having been organized in 1881. Operations, which have been conducted on a joint basis, cover the District of Columbia and the surrounding counties of Maryland and Virginia.

A combined balance sheet of the companies at the close of the last fiscal year, Nov. 30, 1959, showed total fixed assets of $1,287,000, and capital, surplus and legal reserves of $1,224,000.

American Title's consolidated balance sheet for the fiscal year ending Dec. 30, 1959, showed total admitted assets in excess of $11 million, and capital, surplus and legal reserves over $5 million.

In a joint statement to the boards, Joseph Weintraub, chairman of the board of American Title, and Harry J. Kane, Jr., president of both the Washington companies, said that no changes in the officers or personnel were contemplated, and that both Real Estate Title and Columbia Title will continue to operate as subsidiaries of American Title.

At the board meetings, Mr. Weintraub and Jay R. Schwartz, president of American Title, were elected to the board of Real Estate Title, and Mr. Weintraub to the board of Columbia Title.

It is contemplated that Mr. Kane and George W. deFranceaux, a director of Real Estate Title, will be named to the board of American Title.

Mr. Kane announced that he contemplates both Columbia Title and Real Estate Title will enter the national field as a result of the affiliation with American Title.

Celebrates Anniversary

Milton T. Vander Veer, Chairman of the Board, Home Title Guaranty Company, at the Company's annual meeting, announced that Harold W. Beery, President, had just celebrated his fortieth year with the Company.

Mr. Beery joined the predecessor company February 16, 1920 as a title examiner. After serving many years as an executive officer, he was elected President in December, 1957.

"The basis of our government being the opinion of the people the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate for a moment to prefer the latter. But I should mean that every man should receive those papers and be capable of reading them." —Thomas Jefferson

From Kansas City

Eugene T. Phillips, for the past eight years a special representative of Kansas City Title Insurance Company, has been named assistant secretary of the company.

In his new post, Phillips will have direct supervision over the order and closing (non-escrow) divisions. Phillips resides at 4022 the Paseo.

Elected

Floyd B. Cerini, executive Vice-president of Security Title Insurance Co., Los Angeles, California, Operations, has been elected to the Board of Directors of the Southern California Mortgage Bankers Association.

In Memoriam

Wisconsin Titleman

Truman E. Davis, 52, well known Rhinelander, Wisconsin businessman and sportsman, died April 13 in St. Mary's Hospital after a long illness.

He was associated with his father in the Oneida County Land and Abstract Co. for many years and was vice-president of the firm. He was also active in the Wisconsin Title Association.

Born in Rhinelander July 9, 1907, he was the son of Mr. and Mrs. Charles E. Davis. A graduate of Rhinelander High School in 1925, he was married to the former Bernice Carlisle in Minneapolis, September 2, 1933.

He served for two and a half years with the educational department of the U.S. Army during World War II, being discharged in September, 1945, with the rank of staff sergeant. He spent 18 months in the China-Burma-India theater. During his stay in the CBI area he taught bridge for a year in the Red Cross Club at Calcutta, India, and won the CBI bridge championship in May, 1945.

An ardent trout fisherman, he also excelled in golf and bowling as a participant.

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Wilbourne F. Harris

The Oregon Land Title Association lost one of its most prominent members in the passing of Wilbourne F. Harris. Mr. Harris was the president of the Douglas County Title Company. In addition, he was the last surviving member of the original board of directors of the Umpqua Savings and Loan Association, and former mayor of the City of Roseburg. He was born in Topeka, Kansas, but was a long time resident of Oregon.

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R. S. Rodgers

Many friends throughout the title fraternity were shocked and saddened on March 24 by the sudden death of Robert S. Rodgers, president of Lubbock Abstract and Title Co.

Mr. Rodgers also was a regional vice-president of Texas Title Association and a civic and business leader of his community. Lubbock Abstract and Title Company represented Dallas Title and Guaranty Company in the Lubbock area.

A graduate of Texas Tech and the University of Texas Law School, Rodgers had been a Lubbock resident since 1926, when he moved there from Bonham, where he was born in 1910.

Rodgers was a member of St. Paul's Episcopal Church.

He formerly was associated with the Federal Land Bank. In World War II, he was a Chief Warrant officer and saw overseas service, participating in the Battle of the Bulge.

Survivors include: his wife; two sons, Robert and Stephen; and two sisters, Mrs. C. A. Tubbs, Lubbock, and Mrs. Charles Fagg, Hobbs.

Warranty Deed

39478 . . . $2.00

KNOW ALL MEN BY THESE PRESENTS: That for and in consideration of the sum of One Dollar, cash in hand paid, the receipt of which is hereby acknowledged, I, the undersigned HERBERT M. BACON, have this day bargained and sold, and by these presents do hereby bargain, sell, grant, transfer, and convey unto D. B. ROWE and COLONEL A. D. MARTIN, each owning an undivided one-half interest, as equal tenants in common, their heirs and assigns, the following described outer space situate south of the Mason-Dixon Line in the southern portion of the United States of America, to-wit:

> All that portion of outer space which hovers and is now hovering all over Dallas County, Texas, together with all the purities and impurities floating around therein. Being a part of the same outer space laid claim to by Herbert M. Bacon by instrument duly recorded in the Register's Office in Knoxville, Knox County, Tennessee. (Tennessee is also known as the Volunteer State.)

TO HAVE AND TO HOLD unto the said D. B. ROWE and COLONEL A. D. MARTIN, each owning an undivided one-half interest, as equal tenants in common, their heirs and assigns, the above described outer space, together with all the hereditaments and appurtenances thereunto belonging as an estate in fee simple forever.

AND I DO COVENANT with the said D. B. ROWE and COLONEL A. D. MARTIN, their heirs and assigns, that I think I am lawfully seized and possessed of the said outer space, that I think I have a good and lawful right and power to sell and convey the same, that I think the same is unencumbered except for some wildcat claim made by a Yankee from Illinois, (which is invalid as Hades, I'm sure), and also any unrecorded claims owned by the Men from Mars, and I think I will warrant and forever defend the title thereto as long as I do not incur any expense of any kind from so doing.

The grantees herein assume all unpaid taxes which have accrued against the subject outer space.

The subject conveyance is not immune from litigation by any means but I feel sure any lawsuits which may arise in connection with the grantor's title will be resolved in favor of the grantor if such lawsuit or lawsuits are tried in the Deep South by a tribunal of honorable and solid southern gentlemen.

WITNESS my hand on this the 27 day of February, 1960.

(signed) Herbert M. Bacon
Herbert M. Bacon, Owner and Agent for all outer space south of the Mason-Dixon Line.

STATE OF TENNESSEE)
COUNTY OF SULLIVAN)

Personally appeared before me, the undersigned Notary Public in and for the State and County aforesaid, HERBERT M. BACON, with whom I am personally acquainted, and acknowledged that he, as the within named bargainor, executed the foregoing instrument for the purposes therein contained and expressed.

WITNESS my official signature and seal at office in Hamblen County, Tennessee, this 27 day of February, 1960.

(signed) Blake F. Piercy, Jr.
Notary Public

My commission expires: October 27, 1962.

Filed for Record on the ..... day of ..... A.D. 19 ..., at ..... o'clock ..... M.
Duly Recorded this the ..... day of ..... A.D. 19 ..., at ..... o'clock ..... M.
ED. H. STEGER, County Clerk

Instrument No. .....

5290/521
Mr. Knight Dallas County, Texas
By ..... Deputy


AMERICAN TITLE ASSOCIATION
EST. 1907