TITLE NEWS

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OFFICIAL PUBLICATION

American Land Title Association ®

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A MESSAGE

from

THE PRESIDENT

January, 1965

Dear Friends in the Title Profession:

As we begin this bright new year, untarnished by mistake or transgression, Elsa joins me in wishing all of you a happy and prosperous twelve months in 1965.

This will be a busy period in our lives, with the opportunity to visit many of you at your state association conventions. We will take part in as many of the state meetings as possible.

This issue of TITLE NEWS contains a transcript of the Philadelphia convention proceedings. In reviewing the material contained herein, I cannot help but be impressed by the tremendous amount of effort put forth by a great many title men and women. Truly our National Association will continue to increase in prestige and influence as long as it enjoys such devoted support.

If you haven't already you will soon receive an announcement from Joe Smith regarding the 1965 Mid-Winter Conference scheduled for March 3-4-5 at the Statler Hilton Hotel, Washington, D.C. You will wish to take part in consideration of the important matters which will be under discussion at that conference. Please mark your calendars now.

I look forward to seeing you in Washington.

Sincerely,

Joseph H. Knapp Jr.

President

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Proceedings of the 58th Annual Convention

AMERICAN LAND TITLE ASSOCIATION

Philadelphia, Pennsylvania — October 20-23, 1964

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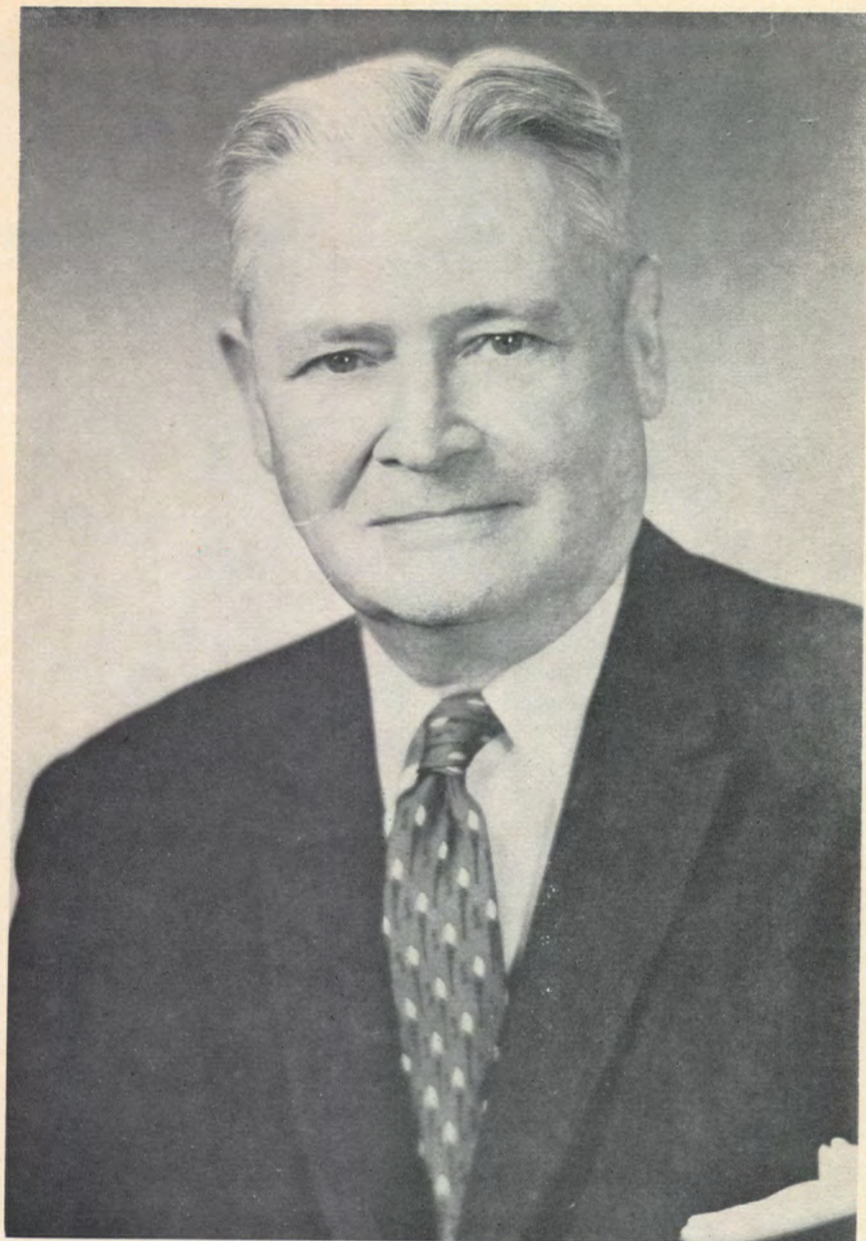

President, The Title Guarantee Company, Baltimore, Maryland
President, American Land Title Association
1964 - 65

WELCOME TO PHILADELPHIA

THE HONORABLE EDWARD G. BAUER, JR.,

City Solicitor, Philadelphia, Pennsylvania

It is a high pleasure for me to welcome you officially to the city of Philadelphia on behalf of Mayor Tate.

I must confess that I take pride in the fact that I am one of the few Philadelphia lawyers that fully appreciates, I think, your problems.

I undertook my legal clerkship in West Moreland County, Pennsylvania. And the first thing they taught me was how to run a title, and when the partners in the firm for which I clerked found that out, I got every title that came in the office for the full three months of my clerkship, which is an experience I can assure you that is probably unfamiliar to most Philadelphia attorneys.

As the City Solicitor of Philadelphia, I can speak to you as a well satisfied customer. The truth of it is that Philadelphia is the largest single customer of the title companies.

The city owns some thirteen hundred pieces of real estate valued in excess of $340,000,000. The city is always prodigiously buying and selling real estate, and in most of these transactions, title insurance is involved.

Despite all of this activity, to the best of anyone's memory here, Philadelphia has never had to institute a claim because of an unclear title which I declare is attributable to your research.

Also, if we are your good customer, you are also our good customers. Title company personnel are the most frequent visitors to our Department of Records.

In fact, our Department of Records houses equipment which belongs to the title companies here under a special arrangement, so that every deed and mortgage can be photographed by the title companies the day it crosses the business table.

We are quite proud of our Department of Records. It has been written up in several national publications.

We have an operational microfilm of every deed and mortgage for all 600,000 parcels of real estate in this city going back to 1685.

And when I say operational, I mean that the microfilm is used in the day-to-day operation of the departments, not backup material which is the case in most counties in the commonwealth.

The researchers work directly from the microfilm using the modern well lighted scanners in the department's offices.

Of course, a few old timers complain that they miss the exercise of carrying those 10-pound deed books back and forth, but we are quite proud of our department, and if you are interested in seeing how it works, let me extend to you a most cordial invitation on behalf of Mr. Clarence Dawkins, our Commissioner of Records, to stop in and look our operation over.

And we hope that while you are here in Philadelphia that you have some time between your business sessions to have some fun.

I might advise you that the harness racing season has just opened at Liberty Bell, and you might feel inclined to contribute a few dollars to the parimutuel windows to help this Philadelphia tax burden.

Also, you ought to take a look at our Penn Center Complex. It is our skyscraper complex just west of City Hall, and we are very proud of our Independent National Park which is a splendid green oasis in the heart of downtown Philadelphia.

These are two examples, we think, of what redevelopment can do in the way of bringing modern construction and yet preserving Philadelphia's priceless heritage.

Finally, I want to congratulate the officers of your convention for bring-

ing it to Philadelphia. We hope that your experience here will be rewarding, that you will return with pleasant thoughts of our city.

Now, if I might, I will read the proclamation that Mayor Tate has issued this day.

WHEREAS, the practice of ensuring ownership of land originated in Philadelphia and now provides for protection for the purchase of real property, and

The transfer of real estate is the nation's largest single business estimated to total nearly $72,000,000,000 annually, title insurance helping to assure the orderly process in this momentous activity and reducing the risk of fraud and forgery, undisclosed heirs, actions of mental incompetents, and unknown liens and other encumbrances, and

The already important role of title insurance will continue to grow as the American population, which has doubled in 60 years, climbs beyond 200 million by the century's end, portending heightened building and land development activities,

Members of the national convention of the American Land Title Association will convene in Philadelphia for a three-day meeting opening September 21.

NOW THEREFORE, I, James H. J. Tate, Mayor of the city of Philadelphia, do hereby designate the week of September 20-26, 1964, as Land Title Week in Philadelphia and urge all citizens to familiarize themselves with the purposes of title insurance and to recognize the importance of the forthcoming meeting, signed James H. J. Tate, Mayor.

RESPONSE TO ADDRESS OF WELCOME

JOSEPH S. KNAPP, JR., President,
The Title Guarantee Company, Baltimore, Maryland

The opportunity to make the response on behalf of the members of the American Land Title Association to the address of welcome by the distinguished Mayor of Philadelphia, James H. J. Tate, is a great privilege.

I am a Marylander and a resident of the city of Baltimore since birth, and this has given me many opportunities to cross the division line between the states of Pennsylvania and Maryland to work, visit and play in your great city and state.

A title question involved in the establishment of the division line between these two states, I will comment on briefly before closing, as I believe it has historical value.

Philadelphia is a great naval city and, before the attack on Pearl Harbor, my wife and I attended several Army-Navy games here with a group of United States Naval Academy Graduates. The headquarters for the navy for these occasions was this hotel, where all the festivities, both before and after the football games, were held. One of our best friends in this group was later an officer on the Oklahoma when she was sunk at Pearl Harbor, but, fortunately, he was among the survivors.

The History of Philadelphia is a history of the founding of this great country, the United States of America. Philadelphia originally encompassed two acres, but many adjoining counties were dependent on the city of Philadelphia. Accordingly, in 1854, when these counties numbered twenty-eight, they were consolidated with the city of Philadelphia by an act of consolidation, passed January 30, 1854 and signed by the governor on February 2, 1854.

The First Continental Congress convened in Philadelphia on September 5, 1774, in Carpenter's Hall, although

the then new state house, Independence Hall, was larger and arranged for legislative bodies.

The Second Continental Congress met at the state house on May 10, 1775 and, on July 4, 1776, the resolution declaring the colonies to be free and independent states was passed and the Declaration of Independence was read on July 8, 1776 in the state house yard.

Paradoxically, later that day, the first celebration of this resolution was held on the occasion of the first public reading of the declaration in Frankford by Thomas Jefferson, its author. The First Anniversary of the Adoption of the Declaration of Independence was held in Philadelphia on July 4, 1777, although its first reading and celebration was on July 8, 1776.

In 1914, President Woodrow Wilson made an address at the Fourth of July exercises in Independence Square. He was the first President of the United States to do this, and, in 1926, President Calvin Coolidge also made an address on the Fourth of July, at the same place. I have not attempted to ascertain whether any later presidents participated in such celebrations. It is recorded that the building of Independence Hall was started between 1729 and 1732 and was designed for a state house and first occupied by the provincial assembly in 1735. The Continental Congress held its sessions in this hall from 1775 to 1780. The sessions were held in the east room on the ground floor.

Historically, Philadelphia is the site of many governmental and national firsts. The first American flag is generally regarded as having been made by Betsy Ross at 239 Arch Street, although this was not her home. This property was purchased many years ago by an association and a public celebration was held there on Flag Day, June 14th of every year for many years and, I believe, still is.

The first mint in the United States, pursuant to an act of Congress, on April 2, 1792, was established in Philadelphia, and for many years this was the only mint in the United States. A lot, numbered 37 & 39 N. Seventh St., above Filbert Street, was purchased for the erection of this building and this is reported to be the first government building in the United States.

The first two banks of the United States were located in Philadelphia. The first bank was chartered by Congress on February 14, 1791, the charter expiring on March 4, 1811, and the charter was not renewed. The second bank of the United States was chartered by Congress on April 10, 1816, the charter having a duration of 20 years, and this bank is reported to have had such a stormy time that it resulted in the election of President Andrew Jackson.

On January 3, 1831, the Oxford Provident Building Association of Philadelphia County was organized in Philadelphia. This was the first building association founded in the United States.

It would be inappropriate if I did not record herein that the First Title Insurance Company, the Real Estate Title Insurance Company, was formed in Philadelphia on March 28, 1876 by a group of Philadelphia lawyers.

As this is a title convention, it seems that a brief reference to the title dispute between the Commonwealth of Pennsylvania and the State of Maryland is appropriate. This dispute was resolved by the establishment of the Mason-Dixon Line. Maryland was a much older colony than Pennsylvania. Cecil Calvert, the second Lord Baltimore, received his charter in 1632, forty-nine years before the date of William Penn's charter in 1681. Of interest in this dispute is the fact that if Maryland's claim had been successful, Philadelphia would now be located in Maryland, as the division line claimed by Maryland was about fifteen miles north of Philadelphia.

The dispute by the Penn and Calvert descendants over the boundary lines of the areas included in these charters continued through various courts in England for nearly one hundred years until the Mason and Dixon Line was approved in 1774. The establishment of this line was a

delicate piece of astronomical work, never before attempted in any country.

A few years after this historic survey, the state of Delaware was formed from the lower three counties of Pennsylvania, and the North-South Mason-Dixon Line became the Maryland-Delaware boundary.

A re-survey of this line was made in 1961-1962 by a U.S. Coast and Geodetic Survey, and a report, presented at the 23rd annual meeting of the American Congress on Surveying and Mapping, Washington, D.C. March 26-29, 1963, was published in this medium in March, 1964. This Survey and report show the phenomenal accuracy of the lines established by Mason and Dixon.

The City of Philadelphia and the Commonwealth of Pennsylvania have not lived on their historical laurels, but have continued to progress with the times and both the city and state are rich and modern in culture and achievement.

It is the good fortune of the members of the American Land Title Association to have the opportunity to visit and enjoy this great city during our convention this year.

Report of National President

CLEM H. SILVERS, Owner,
F. S. Allen Abstract Company, El Dorado, Kansas

When one's duty is a pleasure—there is no problem.

We remember best those things that are close to our hearts. My tenure of office has been filled with pleasurable experiences close to my heart, which will be long remembered and often re-lived. No fonder memories could any man have.

As Robert Milliken so wisely observed, "Fullness of knowledge always and necessarily means some understanding of the depths of our ignorance, and that is always conducive to both humility and reverence."

So, it is with even deeper humility and reverence than when I accepted this great honor one year ago, that I stand before you as your president to make my report.

It is impossible to look back without recalling the sad event that shocked and subdued a whole world just over a month after I took office—the assassination of our beloved President, John Fitzgerald Kennedy.

Though darkened by this tragedy, the eleven months which have elapsed since our 57th annual convention in San Francisco have been busy and productive ones.

The conditions for the growth of our industry are great. This has been a year of business prosperity. "By November, barring an unpredictable catastrophe at home or abroad, we will be into the 45th month of uninterrupted business advance. We are in a remarkable era of relatively stable prices. Money is no longer tight. Credit is fairly easy and inexpensive to get. Corporate profits since 1961, both before and after taxes, have been hitting a new peak after new peak and are still soaring. The unemployment rate fell to 4.9% in July, and is finally off the 5.5% plateau where it had been lodged for the past few years. We are living in the greatest and most prolonged era of peacetime prosperity in history."

The important and serious work of our working committees and our excellent section chairmen have been productive.

Much credit for the progress of our industry must go to these able men and women who give so freely of their time, talents, and energy to plan, to propose, and to promote—so that your problems can be met and your dreams realized.

It has been a tremendous inspiration to me to note the willingness with which these busy, successful people take time from their own businesses to serve our association.

May I express my sincere appreciation to each of you for your helpful assistance to me.

Your section chairmen will cover the detailed accomplishments of this year in their reports; as will the reports of the able committee chairmen.

Except for a brief review of some achievements of this year, I am not going to infringe upon their reports.

After three years of planning and tedious hours of research by the Title Insurance Code Committee, a Model Title Insurance Code was presented to and adopted by our association at the Mid-Winter Conference in Las Vegas, March 12. It is to be used as a guide or pattern by those states wishing to adopt a code.

The Villanova School of Law was authorized by your Board of Governors to up-date their report by supplement. That supplement was received last Thursday in the Washington office.

A committee has been working on a proposed model Abstracters Licensing and Plant Law which is ready for your discussion and revision at this convention.

The Regional Abstracters' Meetings, which were held for the first time this year, proved to be enthusiastically attended. My congratulations to the very capable chairman of our Abstracters' Section who conceived and planned these three most successful meetings.

State sponsored Abstracters' Schools and Title Insurance Schools have been held in at least ten and perhaps fourteen states. I strongly urge the state associations who have not sponsored such a school to do so.

Our Association is launching a program of financial assistance to law students made possible by the establishment of a "President's Scholarship Fund" by the A.L.T.A. Board of Governors.

A stepped-up Public Relations Program was made possible by an increased appropriation.

The addition to our Washington staff of another promising young man, Frank Ebersole, has relieved Joe and Jim of much routine office duty, so that they can devote more time to executive and public relations matters. This new staff position was authorized by your Board of Governors under the presidency of William Deatly, last year.

Twenty-four states have held their conventions since the National Convention in San Francisco. Five states which had held their 1963 conventions before the San Francisco meeting, will be holding their 1964 conventions after this Philadelphia convention. We actually have about thirty states who hold conventions each year.

Perhaps one of the main functions of the president's office (everyone knows that Joe and Jim do most of the work) is to be ALTA's "good-will ambassador" to the state and regional meetings. This, I have sincerely tried to be.

But, "My greatest inspiration is a challenge to attempt the impossible."

I honestly hoped that I could attend all the state conventions. This is actually an impossibility, because of so many conflicting dates. It is regrettable to your national officers that so many states choose simultaneous dates for their conventions.

But it has been my pleasure to have attended 23 state and national meetings; in so doing to have traveled roughly 33,000 miles across this beautiful land of ours. Happily, Nadine has been able to accompany me to ten of these conventions.

We hope we have been good ambassadors.

Certainly the greatest gain has been ours. Nadine and I just cannot express the joy it has been for us—getting to know and have friends in so many states has made us feel as though we are "your transcontinental neighbors" in a vast community of natural wonders and beauty.

To say thank you is not enough. We hope you can sense the depth of our gratitude and our pride.

The pleasure of traveling across the great American landscape, the friends and the knowledge from meetings planned by the excellent leadership within our state associations, has deepened my awareness not only of the importance of our industry to the economic welfare of

our nation, but of the necessity of strong state associations—the "grass roots" of our industry.

Of vital concern to all—the question most often put to your national officers (wherever they traveled) was "What is our Industry's Image?" This, of course, is recognized as necessary "grist" for the "Titleman's Mill." But it does confirm an opinion that I have held for many years. To see your image, you have to take a good look at yourself. You are the title industry in your community. An image is only a reflection of you and me and every individual and individual company and of our state and national associations. To improve our image you may need to "powder your own nose."

We must all continuously seek ways to "improve our make-up", so as to always present our "best image."

As I stated when I took office, it has long been my feeling that the best brands of "cosmetics" for us to use are state regulatory laws. Plant laws, licensing laws, and title insurance codes are necessary if we are to maintain a high standard of competency and prompt dependable service to our public.

Every industry has two images. The first and most important to the individual member is the impression held by the people in the local community. The second is the national image.

We have traditionally failed to translate into language understandable to the public just what our business is. Perhaps the most overwhelming problems that confronts us is this almost total lack of knowledge (on the part of the public) regarding the nature and value of our services.

We were all aroused (and "it is an ill wind that blows no good") by the unfavorable national publicity in last December's Reader's Digest. At a special meeting on December 5, 1963, your Board of Governors adopted a resolution directing your president to communicate with the editor of this magazine in an "effort to set the record straight." The letter was written, but its request was denied, as you all know.

Recently, another alarming article in the August issue of House and Home magazine has been directed toward our industry and other related businesses. There will be more of these! Progressive "service" industries will be subject to constant surveillance. We shall give careful thinking during this convention as to how best to explain our side of the "closing costs picture."

Once again, an example of how a strong national association is a safeguard for small businesses.

It is extremely important that we continue to pool our best efforts, knowledge and resources to expand our Public Relations program on a nation-wide scale.

Certainly, though, our Industry's Image is becoming brighter. And how much I have come to realize the increased prestige our American Land Title Association enjoys.

We were recognized at the United States Chamber of Commerce Public Affairs Conference in Washington in December. Your president, whoever he may be, enjoys prestige because of the efficient planning and skillful leadership of our Executive Vice President, Joe Smith and our Executive-Secretary and Public Relations Director, Jim Robinson. Their constant alertness to the challenges that face our industry keeps us on the Wheel of Progress.

Almost **any**where we can find examples to illustrate how greatly our civilization depends upon the wheel.

Almost **every**where I have been "struck" by how great a part the title business plays in the progress of our nation.

No more overworked metaphor could I choose for discourse than the "Wheel of Progress." I hope it is so trite that it will "nettle" you or "needle" you into listening to my thoughts.

As I have had the tremendous experience of traveling in to all sections of our country, I've come to a greater realization of how much progress has been made in our industry in just the past four to six years that I have

been in a position to observe. There is no doubt that the increased co-operation between the Abstracters' and the Title Insurance Sections, the putting aside of misunderstanding and distrust, the joining of hands, so to speak, have brightened the image and prestige of our industry, has brought benefits and rewards to us as individual businesses, to our associations, and to those communities we serve. In only a very few states, do I still sense a lack of understanding between the abstracters and title insurance companies. I believe it hurts their state associations. Many of you have heard me say that we should think of the two sections as two branches of the same tree. Working together to grow, we should bring our problems out into the open and kill the bugs that sap our "Title Tree."

A deeper respect for the contribution one section can make to the other, has brought and will bring increased rewards and progress, to keep up with our accelerating times.

Which set me to thinking how we—the Title Industry—can be likened unto a WHEEL.

Just as the wheel (often called man's greatest invention, a great improvement over dragging or packing a load) evolved—so has our industry.

The wheel started as only a hub—a round wooden disc, slow and cumbersome, small of necessity (lest it be too heavy), it took too many revolutions to advance. So evolved the outer, larger, rim and the spokes.

It is significant to me that for the most part, our Abstract States are located in the center, the HUB of our nation, the less populated, more rural areas, where property does not change hands as often. Reaching out to find faster methods of title evidencing in our more heavily populated Metropolitan areas, where competitive transactions means the wheel must turn faster—has evolved the system of Title Insurance.

Our state associations are the SPOKES that link us into cooperative effort.

Our National Association is the METAL RIM that **binds and strengthens us.**

The AXLE is our Code of Ethics, our regulations, model codes, the common purposes upon which our business revolves.

Now, keep these comparisons in mind as we review the evolution of the wheel.

The first wheel was simply a disc cut from a log, firmly fixed upon the axle—a very primitive axle. Later, the axle was fastened so that it could not turn and the wheels revolved on its ends. This was a great improvement.

When the wheels revolve on a fixed axle, it is easier to make turns. (And when placed on a vehicle, though both wheels turn together, the outside wheel revolves more rapidly.)

As man improved the structure of the wheel—we find three essential elements: the hub, the spokes, and the rim.

A large or a sound HUB keeps the wheel from wobbling.

The SPOKES are separately made.

ON THE COVER

The twelve-month period we are about to begin is just the flick of an eyelash in the long march of man toward his destiny; but for us in this time and place, it promises to be a most important and eventful year, both within and outside the title industry.

We pray that those men who have been selected by the hand of fate to guide our Nation and our profession will be blessed with the qualities of insight and good judgment.

For all the readers of Title News, the ALTA Staff expresses a sincere wish for health, happiness, and prosperity during 1965.

But a weak "spoke" can cause the wheel to break. One end of each spoke is fastened into a socket in the "hub", the other end into a socket in the "rim."

At first, the "rim" was made of six curved pieces of wood called "felloes"—fastened together to form a complete circle. Spoked wheels of this type could not carry a heavy load. The "spoked wheel" was not strong enough until men learned to "bind the rim", a heated hoop of iron or steel, heated red-hot and shrunk onto the rim as it cooled. (How many "rims" have we cooled?)

Our RIM is the American Land Title Association.

A poor HUB makes the wheel wobbly.

A weak SPOKE can cause the wheel to break and spill the whole load.

The FELLOES must be firmly joined to form a complete circle.

Without a strong RIM, in one piece, a heavy load cannot be pulled.

The HUB, the FELLOES, and the RIM must all keep turning together.

The SPOKES keep them turning.

Take away the wheel and most of the w o r l d s work (as well as its clocks) would stop.

Take away the Title Industry—our Abstracters, our Title Insurers, our state and national associations—and much of our country's business would be stalled.

WE ARE A BIG WHEEL.

GROUP LIFE INSURANCE

A VALUABLE SERVICE TO ALTA MEMBERS

BEYOND FULL EMPLOYMENT

LOUIS O. KELSO
Kelso, Cotton and Ernst, San Francisco, California

I should like to begin by introducing to you a new idea that may not, at first, **seem** like a new idea. It deals with how wealth is produced. It has an economic aspect, a political aspect, a physical aspect and a moral aspect. It is a simple idea.

That an idea so simple, so obvious, and yet so revolutionary in its implications, should still be unsuspected by the educated world at our present juncture in history is almost impossible to explain.

The idea — and prepare to laugh — is that there are **two** factors of production. One is the human factor, traditionally called "labor." It includes all workers — manual, skilled, executive, professional, entrepreneurial. The other is the non-human factor. It includes everything external to man that is engaged, under prevailing business customs, in the production of goods and services for market.

Upon first hearing this idea, you may well ask what is new about it. Men have been speaking of capital for a long time. Their discussions are far older than Marx and Engel's **Communist Manifesto** of 1848, older even than Adam Smith's famous **Wealth of Nations,** published the year the Declaration of Independence was signed. Today in our magazines and newspapers we read about capital expansion, interest on capital, concentration of capital, capital investment, etc.

But there is more to this new idea than just the two familiar words "capital" and "labor." Before I have concluded this commentary, I think you will understand that the assertion "There are two factors of production" implies things undreamed of in our present philosophy. What is really involved is the assertion that capital and labor produce wealth or income in exactly the same sense — physically, economically, politically and morally; that each can be and should be the subject of private property in the same sense, that is, a man should have private property in his labor power exactly as he has private property in his capital.

The essence of private property — and interestingly enough, it has never been fully comprehended except in the common law concept of land in English judicial history — is that it entitles the owner to receive all of the wealth (i.e., net income) produced by the thing owned. Those of you who are lawyers may remember the words of the famous English Equity Judge, Sir Edward Coke, who said of a conveyance of the profits of Black Acre in perpetuity that it is the equivalent of title in fee.

"For what," said Coke, "is the land, but the profits thereof?" He meant that you cannot eat land, you cannot wear it, you cannot enjoy it in any way except through what it yields. In the case of land, this distinction is well understood.

But today we live in a world where there are many other kinds of factors of production besides land. What I am saying is that private property in capital generally should be identical to private property in land or in one's labor in that the owner should be entitled to receive all the wealth that his labor or his capital produces.

This means in turn that no economic distinction can be drawn from the fact that capital, as a factor of production, requires the cooperation of labor. Often it is maintained that capital is not nearly as "important" as labor because without labor those great capital instruments would be just so much rusting junk. But the reverse of the argument is equally valid. Labor produces virtually nothing in an industrial economy without capital.

No matter how many men you put into the field, you cannot drill an oil

well with them. You cannot, without specially designed capital instruments, drill a well on land, much less 50 miles out in the Gulf of Mexico or elsewhere off-shore. You can have an army of labor, but you can't produce steel with it. Labor cannot produce aluminum. In fact, aluminum was unknown as a metal until capital instruments were devised to make it. Labor in any quantity will not transport people over the sea, or through the air, or even send messages across the nation. The fact is that industrial wealth, in its important forms, requires both factors of production. Increasingly, we are finding that it can be produced with very little labor and great amounts of capital.

The one important distinction between the two factors of production is that in a free society, ownership of the human factor, labor, cannot be concentrated while ownership of the non-human factor, capital, can be. In a slave society, it is possible to concentrate ownership of labor but we do not approve of slavery. Each man owns his own labor power and only his own. But there is no limit whatsoever to the amount of capital one man can own. Notice that the word I used was "can", not "should" or "ought".

If it is true that there are two factors of production, and that each produces wealth in exactly the same sense, it follows that a man who owns the non-human factor of production, or capital, or an equity interest in certain instruments, must be recognized as a producer (or co-producer, if his ownership is joint as in the case of stockholders) of the wealth or income produced by the factor owned. This means that morally, politically, economically, and physically, he is just as truly engaged in producing wealth as if he were using his mind and body.

As we further explore the idea that there are two factors of production, you will see that it leaves virtually none of our important current economic concepts unchanged.

Let us begin with technology. Implicit in the two-factor concept of production is a theory about technology — what it is, what its nature is. This theory holds that technology is a process by which the ideas flowing from science are applied to the development of capital instruments and the land, thus harnessing nature and making her work for man. Thus technology is a process by which man shifts ever more of the burden of production from labor to capital, from the human factor to the non-human factor.

Technology has no function, no economic function whatsoever, except to save labor, to maximize the production of goods and services and to minimize the input of toil.

Yet how often do we hear that the purpose of new capital formation, new plants, new enterprises, is to create jobs? That the purpose of economic growth is to create more jobs so that we have full employment? These statements are precisely the opposite of what I am saying. If the purpose of technology is to shift the burden of production from labor to capital because man wants to harness nature and to make her work for him **through his capital instruments,** then the objectives of science and technology are not to create full employment but to destroy it.

Whenever employment remains undiminished for any length of time in relation to economic output, it simply means that the progress of science in that particular area of production has been temporarily frustrated.

Let's explore this a little further. Implicit in the idea of there being two factors of production is yet another interesting idea. It is that the real meaning of the Industrial Revolution, now fashionably called the automation revolution, and by some the cybernation revolution, is that the average economic productiveness of the human factor is unchanged or at least insignificantly changed, with time.

In other words, if labor really were competitively evaluated: if, for example, the employed really competed on the basis of price and quality against the unemployed, wages would be but a fraction of their current level.

Where there is an excess of workers with even the highest skills, their

services may be worth little or nothing. A recent article in the **Saturday Evening Post** cites a cutback in artificially stimulated defense employment as an example of this. Automation attacks the eradication of toil on a broad front, ranging from the work done by the unskilled to the work done by the most skilled and most professional. While the increased sophistication of capital instruments may require new skills, frequently many other skills are destroyed.

What this really means is that, generally speaking, labor, competitively evaluated, produces subsistence; the non-human factor of production is the source of affluence. In other words, the universally accepted idea of the rising productivity of labor is a myth, a statistical illusion created by measuring combined output in terms of labor input.

Let us look at another aspect. President Johnson, in speaking to the United Mine Workers in Florida about ten days ago, declared that full employment is being made "the number one goal" of his administration.

This, as I am sure you recognize, is not a new idea. The Employment Act of 1946, known to economists and lawmakers alike as the full employment act, has been the official economic policy of every administration since the New Deal, even though it was not enacted officially until 1946. It has been incorporated into the official policies of both political parties.

Now, I should like to ask you an important question. If men really believed that there were two factors of production rather than just one, namely labor, why should we have a national policy, a universally accepted goal, of full employment? What is the logic of a goal of keeping one of the factors fully employed?

If there are really two factors of production and if the economic function of science and technology is to shift the burden of production from labor to capital, how could men justify either a full employment act or a political goal of full employment?

Are we really so stupid as to do utterly inconsistent things? Are we really so confused as to make our national goal, as declared by both political parties, the undoing of the work of science whose main purpose is to eradicate toil?

Each man must answer the question for himself. As for me, I say that the real error lies in the fact that while we talk about two factors of production, **we actually think and act as though there were only one, namely labor.**

The difficulty with the widely accepted but erroneous idea that capital, rather than being a factor of production in the same sense as labor, really functions only to raise the productiveness of labor, is that it doesn't square with the physical facts of how wealth is produced.

It is the machine that produces affluence. When it does so, it reduces the labor input per unit of output. It is only when you listen to the desperate nonsense of displaced men and to their political representatives rather than observing the farms, the factories, and the facts of science and technology that you conclude there is really only one factor of production and that the other, capital, somehow or other mysteriously amplifies the productiveness of labor.

I could spend weeks quoting to you the pronouncements of labor leaders, businessmen, economic leaders, political leaders and others, to the effect that mechanization or automation enables the worker to produce more.

Let me give you just one such quotation because it also happens, incidentally, to raise another point. It comes from the Sub-Committee on Economic Growth of the Committee for Economic Development in 1960. If prestige and position in industry and in economics is important, one could hardly find a more distinguished group. The passage I am going to quote is taken from a little pamphlet entitled "Economic Growth in the United States, its Past and Future." The title above it reads "Machine Power Added to Manpower" and the text (at pages 22-23) is as follows:

"Within the general background of ever-accumulating growth attributable to the profit-and-loss system itself, many identifiable causes of growth and rising output-per-manpower can be easily recognized. The most conspicuous of them, even to the casual observer, is the increase of the amount of capital goods behind each worker."

The word "behind", you see, begins to introduce the idea that somehow or other it is the **machine** that makes the **worker** more productive.

"A man is clearly more efficient when he digs with a shovel than when he uses his hands. He becomes immensely more productive when he has a power shovel to operate. The great role of this factor in the panorama of growth is suggested by the fact that manufacturing establishments now have available about 10 horsepower per wage earner as compared with 1.25 horsepower in 1879. Net investment in structures, equipment and inventories in manufacturing is now equal to about $9,000 **for each manufacturing employee."**

Let us interrupt the quoted text. In some industries, such as certain chemical and electrical power industries, the figure runs as high as 150 and 200 thousand dollars of capital equipment per employee.

"However, it is not only in manufacturing and other industries producing tangible goods — mining, agriculture, and construction — that mechanization plays an immense roll in pushing up the nation's total output. * * *

"Public capital goods to help our labor force produce more. Roads, harbors, port facilities, warehouses, waterworks, sewage disposal systems, hospitals, schools, forest clearance, irrigation — all represent capital accumulation **that increases output per man hour** substantially. * * *" The inference is that capital increases the output of the man substantially.

"Of vital importance are those forms of capital goods primarily designed to save time. The most striking examples are those that involve transportation and communication. * * * Their special role in increasing output per man hour comes from the fact that **they permit more work to be done in the same time."**

When you read statements like these, and there are millions of them, the complete rejection of the two-factor theory in favor of the one-factor theory is clear.

A worker becomes immensely more powerful, these gentlemen say, if he has a power shovel to operate. I recently saw a digging machine used by Morrison-Knudsen Company on the San Luis Dam in California. **Four** workers, four of them, in collaboration with the machine, have the digging output of about 5,000 workers with shovels.

Now, precisely which workers were made more productive by this machine? Only the four who operate it? But their work is not one one-hundredth as hard as working with a shovel. They are simply sitting up there pushing buttons. Pretty obviously, the machine is digging dirt in the same sense as the 5,000 workers who might have been doing the same job. And I might add that the 4,996 no longer required all have about as much right to share in the income produced by that machine as the four workers who are still working: namely **none whatsoever.**

If we have a private property economy, the machine is indeed owned by someone. But the 4,996 who are displaced don't own it, and neither do the four who were hired to operate it.

Now, you begin to see the point. It could be illustrated by an endless procession of other examples.

If one is going to use output per worker as a measure of what the increase in the productiveness of labor is, I suppose you would say that when you automate an elevator, so it requires no pilot at all, that the worker's output has gone up to infinity because there is no worker left, and the elevator is still running. You divide nothing by something, and you get infinity.

One of the eastern railroads has just brought out a new booster locomotive

that is used in the middle part of a train carrying heavy loads.

This locomotive used to have a crew on it. Now it is automatically controlled by pressure on the drawbars. There is no crew whatsoever. According to the erroneous logic of the popular productivity formula, here are some workers whose productiveness has become infinite. And the difficulty is they are no longer employed.

These examples bring to light one more interesting item that is implicit in the concept that there are two factors of production. It is important who owns the factors involved in each particular enterprise if we are to have a private property system in force. In the example of Morrison-Knudsen's digging machine, if one man owned that machine and the price structure for such work puts the machine directly in competition with shovel workers, the owner of that machine would be doing, under this two-factor theory, the work of 5,000 displaced workers less the wages, at competitive rates, that he has to pay four machine operators.

If we are to socially and legally protect private property in the non-human factor of production, just as we financially protect the title of it through title insurance, then this question of who owns the respective factors engaged in enterprises is of the gravest significance.

I will come back to this subject again in a moment.

If there actually are two factors of production, logical absurdity is not the only drawback to the goal of full employment. We are fond of pointing out that despite increasing automation, unemployment today is only five per cent of the labor force, while in 1932 is was 25 per cent. Our economists and politicians cite this proudly as evidence that advancing economic growth "creates" employment.

I can assure you that when we say unemployment is only five per cent of the labor force, it is evidence of our creating only one thing: improved techniques for deceiving each other and distorting the economic facts of life.

If we were to cease this self-deception in economic matters, we would find that today in a vastly larger labor force — twice as large in fact — unemployment is at least 25 per cent of the labor force, just as it was in 1932.

If, for example, we eliminate, as we should, from the category of the economically employed all those who would not be employed by the economy **as an economy,** we would eliminate the following:

all those engaged in jobs supported only by government subsidy;

all featherbedders;

all those engaged in producing military overkill;

all those employed because of coercively enforced work rules designed to artifically require the employment of more workers than necessary;

the young men and women who will soon be in work camps supported by the government's anti-poverty program, who will then be included in the statistics as employed;

all those engaged in producing crash space race goods, and hurling the fruits of our most sophisticated technology to the moon while nearly one and three quarter billion people starve for the want of it here on earth;

all the government employees engaged in administrating this nonsense, which would be half of our federal and state bureaucracy.

Add all the individuals in these categories up, and you could easily count about thirty million unemployed today.

What will happen as the pace of automation accelerates? And by the way, it is accelerating because it operates on the principle of a geometric progression. Mr. Richard Bellman, a scientist at Rand Corporation which, as most of you know, does high level thinking for the United States Government, estimated for **Life** magazine in February of 1964 that within 25 years two percent of our labor force, working with our vast capital equipment,

will produce all of the wealth it and the other 98% can consume.

When that time comes, will we still be claiming that we have "full employment" when, in fact, 98 percent of us are unemployed?

Why have we gotten ourselves into a position where we must invent myths as serious and dangerous as those contending that there is only one factor of production and that a person is employed if he merely gets a pay check, whether or not he is contributing to production?

I submit that the explanation must be found in an error deeply-rooted in the world of business finance. It can be succinctly described. We concern ourselves with making jobs for every able-bodied person, although labor is the least productive factor of the economy, and science and technology have made, and are continuing to make vast quantities of labor obsolete.

We specifically do not concern ourselves with financing industry in a way that makes more capital owners, although capital is the chief productive factor in our economy.

Many examples are available to illustrate the point. During the past five years, 96 percent of corporate growth was financed internally or by debt, which is a form of delayed internal financing. Only four percent was financed by the issuance of stock. And most of that four percent was sold to people who already had considerable wealth.

Thus, we are not creating new owners of the other factor of production.

In 1963, U.S. corporations retired a billion and half more dollars of stock than they issued in the aggregate, and in the first half of 1964, this tendency is up 55 percent.

General Motors announced last year a new two-year capital expansion program. A total of 3.2 billion dollars of new capital equipment was to be put in place during 1964-1965.

That is being done without creating one single new stockholder. Not so much as a share of stock is even being issued.

The object of that program is to raise the output of General Motors 20 percent in the United States and Canada. With one eye cocked on Walter Reuther, General Motors proudly announced that this expansion would create 50,000 new jobs.

You do not need a very sharp pencil to figure out that if those 50,000 workers spent what workers generally do on automobiles, they could not buy a fraction of that 20 percent increase in output of General Motors.

Now, what is General Motors asking the United States and Canadian governments to do? It is asking them to take away from General Motors and other employers enough purchasing power and to distribute it to people in order that they can buy the increased output. Substantially, all of our techniques of business finance are designed to concentrate the ownership of capital. They are the precise opposite of a system which logically builds up the economic power of individuals to consume by building up their ownership of productive capital at the same time as we build up the productive power of industry.

Thus, conventional corporate finance is forcing the socialization, or much more accurately, the economic communization of our economy by building the concentrated productive power of a few capital owners, instead of the generalized productive power of many capital owners.

It is a half rational economy. The production of goods and services is a fairly logical activity. Consumption, however, which is the end toward which all economic activity is presumably designed, is not in the least logical. Indeed, it is left to the most illogical of all doctrines, the doctrine of full employment. Most of the wealth is produced by capital, but only five percent of our households own capital to any significant extent.

The New York stock exchange is fond of saying, "We have 18,000,000 stockholders in the United States."

It is true. That is the quantitative statistic. But out of that 18,000,000 no

more than four million receive enough dividends to make any difference.

The other 14,000,000 cannot buy shoes with their dividends. That is how little they own. Thus, the bulk of the purchasing power arising from production, if we fully respected private property in the non-human factor of production, would flow to the five percent who own the capital.

But of course, that cannot be. A titanic depression would result. Under these conditions, the diversion, or redistribution, of income from the owners of concentrated capital to the non-capital owners must, and does, take place.

You are all entirely too familiar with the methods used. The corporate income tax which falls only on the wealth produced by capital, after all labor costs are paid off (more than half of all income), the coercive bargaining of wages, feather-bedding, social security taxes on employers, unemployment compensation, governmental subsidies and transfer payments, the graduated income tax on individuals — all these measures take much more away from the capital owners than from the non-capital owners simply because the capital owners have higher incomes. The same is true of the graduated estate inheritance and gift taxes.

I need not tell you that these techniques for redistributing the income that would otherwise go to the owners of concentrated capital are the chief source of strife, demoralization and frustration in our economy.

On the one hand, we concentrate the ownership of the most productive factor. On the other hand, we destroy private property in that concentrated ownership by redistributing the income.

Thus, it is perfectly clear that honest full employment is not a fact, nor is it even a healthy myth. It is equally clear that the concept of full employment and the concept of there being only one factor of production are monstrous falsehoods that cannot be much longer concealed.

What then lies beyond full employment? It is going to expire whether we like it or not. The answer, once you acknowledge that there really are two factors of production, is pretty easy. There are only two possibilities.

One, we may continue on the path we have been following since 1932 until we have arrived at its end — a full employment, economic communist economy. This is an economy that distributes all its income on the basis of need. We are already far down that road. "Need" here, of course, means need as defined by a bureaucracy. Please keep in mind that I am not talking about political communism. Economic communism is far more dangerous. This communism has nothing to do with Russia or China.

In fact, if you read current Russian history as I read it, they are retreating from their claimed goal of economic communism about as fast as they can go. They have come just close enough to know that it will not work; that it is, in practice, utter nonsense.

Let me show you an example of this. When a union steps up to the automobile industry and gets a fat package of financial benefits through coercive bargaining in exchange for a promise to do less work than ever before, then it is clear that workers are not asking more because they propose to produce more, but because they **need** more.

This is the underlying principle of economic communism. It attacks the effects of poverty while leaving its cause, namely low productiveness, untouched.

This is the course, in my opinion, that leads to the freedomless totalitarian economy. The same hands that wield the political power obtain predominant economic power through their power to distribute in accordance with need.

Economic power and political power are the two great sources of social power. Combined, no other force can match their might. That is one alternative.

There is only one other. We can recognize that there are two factors of production, that it is the non-human fac-

tor that produces most of the wealth of our economy, that its productiveness is increasing at an accelerated rate and that under these circumstances, equality of economic opportunity, in the context of private property, means equality of opportunity for the millions of capital-less households of today to buy, pay for, and employ in their lives the non-human factor of production, capital.

In a private property economy, general affluence or general welfare, is achieved by all households becoming more productive. This, under the facts of technology, is only possible by engaging in production as an owner of capital whether or not the members of the household are also employed.

Of course, all households cannot become capital owners at once, but I think that Mr. Adler and I in our two books have shown that it can be done in a reasonably short space of time, perhaps 10, 15 or 20 years.

If we look at the example of Volkswagenwerk in Germany (and now they are doing the same thing with another great segment of the West German chemical industry) we can see that instant capitalism is a possibility; the techniques for achieving it are at hand.

We have shown that the sole missing link is the recognition that the acquisition of capital ownership by the millions is an indispensable goal. That is the turning point — our recognition of the proper goal.

The means we can work out. The important thing is that we understand where we should go. These means, I might emphasize, must be means involving the strict protection of existing property. We cannot have a private property economy achieved by destroying the private property of anyone. It doesn't make sense.

We need, in short, a new political issue — not the "compassionate economy" or the "compassionate society," as our politicians like to call it, but which I prefer to call the Mommy Nurse Society — but a **just** economy.

— There is no justice in coercion, which is the basis on which our wages are determined today.

— There is no justice in redistribution.

— There is no justice in financing new capital formation so that only those who presently own capital can become the owners of future capital.

— There is no justice in forcing millions to pretend that they are employed when the truth is that in the economic sense, they are not.

It is too late to put this issue into the campaign of 1964, but as farsighted executives of the business world, I suggest you do your part toward getting it into the campaign of 1968.

A LIMITED SUPPLY
of Mr. Kelso's Address

Is Available in Pamphlet Form

From

ALTA'S National Headquarters

REPORT OF LEGISLATIVE COMMITTEE

HAROLD A. LENICHECK, President,

Title Guaranty Company of Wisconsin Division of Chicago Title Insurance Company, Milwaukee, Wisconsin

First of all, may I, on behalf of the Committee, say how grateful we are for this opportunity to bring to you a brief summary of our 1964 Legislative Committee report.

At Las Vegas this spring, the title insurance section requested, on behalf of the section, and on behalf of all the members of the Association, that the section and the Association be informed by the committee, the Legislative Committee, of any present or proposed uniform commercial code legislation.

It seems that all were interested in obtaining copies of any acts on the subject that were passed in any of the states as well as any amendments that were passed or proposed to any acts that had been passed or proposed for the purpose of possible use of this material by states where the subject was being considered.

So the report is primarily an informative report, and its concerned particularly with the uniform commercial code.

This is purely informative. If you want to get guidance on the commercial code, I am sure that at tomorrow's session, The Workshop Sessions tomorrow afternoon, you will get another look at the commercial code, and I am sure that there you will receive the guidance that you will be looking for.

I might just mention that in summarizing that the report indicates that the code has been adopted in 28 states. That is as of about the middle of August.

Three other states are considering it, and so far as the other 19 are concerned, I am sure that each of those remaining 19 will consider the code sooner or later.

The report itemizes this information and contains some comments by some of the title men reporting.

A copy of this report is on a table in the Clover Room right near the registration desk. On this table, too, are copies of statutory provisions adopted in several states, states that have reported and have sent them in. And they are there for your inspection.

I might just comment on two articles that I believe you will find of interest so far as reading material is concerned.

One is an article entitled "Uniform Commercial Code, Adverse Effect on Real Estate Mortgages." This was published by the United States Savings and Loan League in September, 1963, issue of the legal bulletin "The Law Affecting Savings Associations." This is an excellent article, and I commend it to you.

Now, there is to be an article published this fall entitled "A Transactional Guide to the Uniform Commercial Code." This is being published this fall by a joint committee on continuing legal education of the American Law Institute and the American Bar Association.

This should prove to be a very valuable article also. The report concludes with a few comments on other legislation in four other states.

One of them I think is worthy of comment. This is not legislation exactly, but it is contemplated legislation in Utah. And this is what is happening there. I think this is of interest to you.

The governor has requested title insurance people in Utah to prepare for his approval some regulations taken from the Insurance Code adopted last year—this is in Utah—to aid in regulating title insurance companies in Utah and agents for title insurance companies.

These regulations will have to do with rates, commissions, rebates and

have the qualifications of an agent in Utah to act for a foreign title insurance company.

I think this is something that we should be interested in knowing about. That about concludes our report. I appreciate very much the opportunity to bring this to you, and I want to say thank you to all the members of the Legislative Committee who were so helpful in the preparation of this. Thank you very much.

STATE LEGISLATION—UNIFORM COMMERCIAL CODE

Alabama—Not adopted.

Alaska—Code adopted.

Arizona—No legislation passed or proposed relating to the Uniform Commercial Code.

Arkansas—Uniform Commercial Code adopted under Act 185 of the Acts of Arkansas, 1961. Believed to be patterned after the New York Code.

Copy of a portion of Act 185 and copy of financing statement will be found on Exhibit Table.

One Arkansas company posts to its books each day all financing statements which affect real estate.

Financing statements are filed in both the office of County Recorder and the Secretary of State.

All financing statements which cover either movable or removable fixtures are shown by one company in its abstracts—and—this company makes exceptions in title binders as to any outstanding financing statement.

There are mixed feelings among title people and attorneys in Arkansas as to whether a search should be made for financing statements since they replaced the old Chattel mortgage.

California—Uniform Commercial Code as adopted by 1963 legislature will become effective January 1, 1965.

Copy of a memorandum to Uniform Title Practices Committee of California Land Title Association from Lawrence L. Otis on Exhibit Table.

Colorado—Not adopted.

Connecticut—Code adopted some years ago, but effective now for about three years. Code provides that security documents concerning fixtures may be recorded on the land records of the Town in which the realty to which the object may be affixed is located as well as in the central filing office which is the Secretary of State. See Statutory provisions on Exhibit Table.

Abstracters show the security instrument same as any other encumbrance.

Delaware—Not adopted.

Florida—Not adopted.

Georgia—Code adopted— Copy of portion appearing to affect title operations on Exhibit Table.—Apparently presents no problems to title people.—Only concern is to determine the character of the item as a fixture or as an item of personalty. If a fixture, under Georgia law, it is conveyed in the security deed along with the real property. If item is personalty, a financing statement is required and provisions of Uniform Commercial Code apply.

Hawaii—Has not adopted the code. Pending.

Idaho—Has studied the Code, but doubtful if it will be adopted for many years.

Illinois—Code adopted.

Indiana—Code adopted.

Iowa—Code not adopted.

Kansas—Code not adopted.

Kentucky—Code adopted — See Uniform Commercial Code—Practice Handbook—Secured Transactions by Oscar Spivack on Exhibit Table.

Louisiana—Code not adopted.

Maine—Code adopted. See Statutory provisions on Exhibit Table.

Maryland—Code adopted. See proposed amendment on Exhibit Table.

Massachusetts—Code adopted — See Uniform Commercial Code—Practice Handbook—Secured Transactions—by Oscar Spivack—on Exhibit Table.

See also—New England Law In-

stitute, Inc.—Outline covering ten lecture sessions on the Uniform Commercial Code—on Exhibit Table. Also booklet Mass. Uniform Comm. Code.

Michigan—Code adopted.

Minnesota—Code not adopted—being studied—see "A Study of the Effect of the Uniform Commercial Code on Minnesota Law—1964"—on Exhibit Table. It is hoped that the Minnesota law, if passed, will require (1) listing the name of the record owner (2) the address of the property, if not the legal description (3) maintenance of a separate index on fixtures by the Register of Deeds, and (4) exclusion of fixtures from the ten day "grace" period for filing.

Mississippi—Code adopted.

Missouri—Code adopted.

Montana—Code adopted.

Nebraska—Not adopted.

Nevada—Not adopted.

New Hampshire—Code adopted. See Exhibit Table for text on "Uniform Commercial Code of the State of New Hampshire."

New Jersey—Code adopted.

New Mexico—Code adopted.

New York—Code adopted. See Statutory provisions on Exhibit Table.

North Carolina—Not adopted.

North Dakota—Not adopted—but expect it to be eventually.

Ohio—Code adopted.

Oklahoma—Code adopted—See remarks of Mr. R. H. Godfrey, President, American-First Title & Trust Company, of Oklahoma City, plus forms, on Exhibit Table.

Oregon—Code adopted—See Chapter 79, Oregon Revised Statutes relating to Secured Transactions on Exhibit Table.

Pennsylvania—Code adopted.

Rhode Island—Code adopted.

South Carolina—Not adopted.

South Dakota—Not adopted.

Tennessee—Code adopted.

Texas—Not adopted.

Utah—Not adopted.

Vermont—Not adopted.

Virginia—Not adopted.

Washington—Not adopted.

West Virginia—Code adopted.

Wisconsin—Code adopted. See copy of Volume 1964, No. 3, Wisconsin Law Review, article entitled "The Impact of the Uniform Commercial Code on Wisconsin Law". On Exhibit Table. Also copy of Code.

Wyoming—Code adopted.

ARTICLES FOR READING: See September, 1963 issue of Legal Bulletin, The Law Affecting Savings Associations, article entitled "Uniform Commercial Code—Adverse Effect on Real Estate Mortgages." Published by The United States Savings and Loan League. See also "A Transactional Guide to the Uniform Commercial Code" being published this fall by Joint Committee on Continuing Legal Education of American Law Institute and the American Bar Association.

STATE LEGISLATION—Other

Maryland—See synopsis of laws enacted by the State of Maryland and John V. Gaughan letter calling attention to laws of interest to the title insurance industry generally. Particularly note Chapter 98 granting discretion to the State Treasurer in the administration and approval of deposits of securities, and Chapter 107 providing that insurance policies or endorsements may be countersigned only by independent agents and prohibiting the countersigning of policies or endorsements in blank.

Nebraska—Copies of seven bills relating to or having an effect upon real estate titles are on the Exhibit Table.

Utah—Legislature not in session in 1964—Next session will convene in January, 1965. The Governor has requested title insurance people in Utah to prepare for his approval some regulations taken from insurance code adopted last year to aid in regulating title insurance companies in Utah and agents for title insurance companies. These regulations will have to do with rates, commissions, rebates and the qualifications of an agent in Utah to act

for a foreign title insurance company.

Wisconsin—Adopted the Revised Uniform Federal Tax Lien Registration Act, effective July 1, 1963.

The United States Internal Revenue Service, by Technical Information Release, TIR-595, dated May 12, 1964, has announced that it will not follow the provisions of Revised Uniform Federal Tax Lien Registration Act, since it alleges that the provisions of this act are in conflict with Section 6323(a) of the Internal Revenue Code of 1954. As a result, it will only file notices of tax lien with the Clerk of the United States District Court in the judicial district in which the property is physically located.

While the ruling of I.R.S. is not necessarily conclusive and even though the District Director announced that notices of tax liens against real property as a matter of policy will continue to be filed with the Register of Deeds in the County where the property is situated and also with the Clerk, U.S. District Court, where the property is physically located, at least one title insurer requires that a Federal tax lien search be procured from the Clerk of the Judicial District in which the property is physically located.

Respectfully submitted,
Legislative Committee
American Land Title Assn.
HAROLD A. LENICHECK
Chairman

REPORT OF THE PLANNING COMMITTEE

JOHN J. LYMAN, Vice President,
Security Title Insurance Company, Los Angeles, California

The report of your Planning Committee this year will undoubtedly take the form which is most acceptable to any audience, as we intend to make it both succinct and to the point.

Last year our Association was fortunate in receiving a very thorough report from George C. Rawlings, the Chairman for that year. His Committee's report brought up-to-date the recommendations and programs of the Planning Committee over the past ten years. This was a most thorough and well documented paper and had the effect of launching our planning Committee for the current year into a virgin area. We had no past to consider.

It has been evident to the planning Committee this year that while its functions are defined under Article VIII, Section 15 of our Constitution and By-Laws as follows:

"THE PLANNING COMMITTEE shall study ways and means for improving the operations and methods of the Association for furtherance of a closer relationship between it and the membership. It's recommendations shall be submitted by the Chairman to the Board."

During the years that have elapsed since the original need for, and the founding of this Committee, other Committees of our Association have become increasingly active and more alert to the areas of their assignments.

As a result, this year many of the beneficial suggestions which in years past might possibly have originated through the Planning Committee came directly from the Committees delegated to handle a particular segment of our Association's interest. We refer specifically to the current proposal for a scholarship fund to be sponsored by the American Land Title Association; to the current draft from the proposal for a Uniform Title Insurance Code; the efficient and quick response of our Public Relations Office to several published arti-

cles appearing on a nation-wide basis.

Further, the duties of the Planning Committee have been further relieved by the efficient operation of our Association's Executive Vice President and our Association's Secretary and Director of Public Relations through the handling of the respective duties of each.

It is a tenet of this Committee's Chairman that meetings of any committee should only be called when the committee has matters to discuss and weigh. Our results this year indicates to us that the affairs of the Association have been expeditiously handled, that many of the current business projects which could have been in the area of suggestions and proposals of your Planning Committee were made directly and quite correctly by well-functioning specific Committees to the Executive Committee, with the result that no matters were left for us to consider for proposals. Consequently, no meetings of this Committee were called during the past year. This should not for a moment suggest to any member that the Committee is not functioning, or is not still of vital importance to the welfare and future health of ALTA. You do not disband the fire department because you have not had a fire for a year, or to continue the analogy, you do not throw away your first aid kit because twelve months have gone by and you have not suffered a cut or bruise.

Your Planning Committee is, and will continue to be, of vital importance to the well-being of our Association through its function of sifting and weighing various suggestions proposed by members of the Association in order to present those of worth and merit to the Executive Committee and the Board of Governors for further consideration.

We of the Committee have considered it a privilege and honor to work with the officers and governing bodies of ALTA this past year.

Respectfully submitted,
JOHN J. LYMAN,
Chairman

PRESENTATION OF ALTA PRESIDENT'S SCHOLARSHIP FUND AWARD

CLEM H. SILVERS, President, American Land Title Association, Owner, F. S. Allen Abstract Company, El Dorado, Kansas

Many times I have heard my late father-in-law, a veteran Kansas educator, say, "To educate a man is to give his hand, his brain and his heart their maximum life, power and skill."

Today, in announcing the establishment of a President's Scholarship Fund by your ALTA Board of Governors, we are launching a program of financial assistance which will be made available on a loan basis to needy law students.

In calling this the President's Scholarship Fund, it is the intent of your Board of Governors that this award be made each year to establish a scholarship at a law school of your President's choice.

In these days of continuing world tensions which challenge not only the American way of life but the very foundations of freedom under any system of government, it is more important than ever to foster our institutions of higher learning.

It is our belief that private businesses should feel both obligated and dedicated to the support of the colleges, the universities and professional schools upon which this great responsibility rests.

They alone have the broad programs of study, the facilities, and the inspired leadership which can provide the kind of education so vital to our very existence.

It is logical, considering the close relationship between members of the American Land Title Association and the legal profession, that ALTA's President's Scholarship Fund should be earmarked for the assistance of law.

I wish to pay tribute to those individual members of American Land Title Association who have already contributed substantial sums of money to institutions of higher learning in their own communities.

We are confident that this first important step, the establishment of the President's Scholarship Fund, will encourage other member companies to assist educational institutions throughout the United States, will lead the way for the many state and national associations to adopt similar programs and will be the beginning of an accelerating program of financial aid to education carried on by the ALTA.

I am happy that the Board of Governors inaugurated this project during my term of office, for it gives me the privilege of presenting this award to my alma mater, Washburn University School of Law at Topeka, Kansas.

ACKNOWLEDGMENT of ALTA PRESIDENT'S SCHOLARSHIP FUND AWARD

DEAN JOHN E. HOWE, School of Law,
Washburn University of Topeka, Kansas

First, I want to thank you and the Association on behalf of our University and School of Law and most especially the law students at the school of law, for this wonderful contribution that you have made.

Actually, I feel that I am a part of this Association. There are three reasons for that.

In the first place, many of you are lawyers. During the coffee break, I ran into Mr. Tully from the state of Washington, and he reminded me that when I was at Creighton I had instructed him in property law. I know that I have also met many lawyers from other schools. Of course, Mr. Silvers and I are sorry that they are not all Washburn graduates, but we are happy to have so many lawyers in the group.

Secondly, your hospitality makes me feel that I am a part of the group. From the very first time that President Silvers contacted me up until this moment I don't think that I have ever received more courteous and kind treatment than I have from your association.

In the third place, I feel that I was, at one time, in the title business. I practiced law for three years in Montgomery County, Kentucky. Those of the members here from Louisville, Kentucky, can undoubtedly tell you something about Montgomery County. We did not have any abstracters in Montgomery County; we did not have title insurance. What we used was a system which we called the one-shot system.

Suppose that a man wanted to sell a piece of real estate. He found a buyer, and they agreed on the price. The buyer asked the question of the seller, "Do you have a good title?"

The seller said, "Certainly, I have a good title."

Later it turned out that there would be a defect in the title. The buyer immediately shot the seller; the one-shot system. (Laughter.) I seriously doubt that your Legislative Committee can devise a more simple plan than they used in the hills of my home state.

Because I may have been involved in selling land at some time, I decided

to leave Kentucky. In 1946 I went to Omaha, Nebraska, and became associated with Creighton University. In '52, I went to Saint Louis and then in '59 I went to Washburn University. Washburn University is, we might say, a mixed-up school. Originally, it was operated by the Congregational Church. In 1940, due to financial difficulties, Washburn was taken over by the city of Topeka and became a municipal university.

At that time, the endowment fund was turned over to a separate corporation with instructions to pay the income to the newly formed municipal university to assist in their operation. About four years ago, Washburn began receiving state aid on a junior college basis; i.e., the state pays so much for each credit hour of instruction in the first two years of the college.

So, in a sense we are operating as a municipal university, as a private school and also as a state school by reason of our state aid.

Washburn consists of three schools; the college, the school of elementary graduate education, and our law school. The law school is a small school, if you measure it in terms of some of your eastern schools. This fall we have 258 students. Even though that is a small number, with our facilities, it is a large number.

Last Thursday morning, I had to go to school early because I found that I had a class in which we had enrolled 93 students scheduled to meet in a room set up for 50 students. We transferred classes around, we managed to have some of the students change sections, and I am happy to say that we now have seats for all students so that they can listen to their instructors. There are a number of problems that face, not only Washburn University and its law school, but also all other universities. I think these problems are so connected that it is extremely difficult for me to separate them, but I will pick out one that I want to mention to you, and that is the problem of financing.

Like Mr. Kelso, I have some thoughts on financing education. If you produce an entry in an abstract with an overhead of one dollar and then charge the client fifty cents for that entry, you will soon go out of business unless you have a tremendous amount of accumulated assets to take care of that differential. In education, we have continually sold our product at a price which is far below our cost of production. We have to make up this difference in two ways. One is through the use of tax funds, if the school is fortunate enough to be in a position to receive tax moneys. The second way that we make up the difference is through gifts from organizations such as yours, and from individuals.

I have always thought that the gap between our cost and the price for which we sell the product has been too great, and that this gap should be narrowed. We have made a step in that direction in the Washburn Law School this fall. We have increased our tuition 25 per cent, and the faculty has recommended an increase of 65 per cent. When you adopt this means of narrowing the gap, it creates a problem for your students. I believe that this problem can be solved through loan funds.

In the law school we do not have the resources, at the present time, to undertake major financing for the student body. Our students do borrow a considerable amount of money each year, normally under one of two plans, the so-called U.S. Defense Plan, and the U.S. Aid Plan. The U.S. Defense Plan is financed by the national government. The U.S. Aid Plan is a program formulated by private banking institutions. These two plans take care of the large needs of the students. At the same time, I have found in my 18 years experience that there are many emergency needs that must be met by the school itself.

I remember a Saint Louis University married student who suddenly lost his job. He received his final pay check, and as I remember, it was somewhat less than a hundred dollars.

He still had two and a half months of school, so he took the pay check, and purchased staples, flour, beans, etc., so that his family could eat.

When the dean learned of this he

called the student in and asked, "How are you going to make it?"

The young man replied, "Well now, I think that we now have enough to eat. We won't have meat or anything, but we will live."

It so happened that the dean had an emergency fund and was able to help this student finish school.

I have had similar experiences in my time at Washburn University, and in order to be able to help the students, we have to have financing to back it up. This check, this contribution of yours, will be added to what we refer to as the Law School Emergency Loan Fund. I believe that with this $1,000 we will have approximately $5,000 in the fund. About $3,300 has already been loaned to the students, and by the end of the year I know that the entire $5,000 will be in use.

The student is under an obligation to repay this money, but he is not charged interest until after he has completed law school, and even then we try to make the interest rate such that it will not be detrimental to his attaining a start in practice.

At this time, we have made something like 41 loans. There has only been one that has not been repaid or that repayment has not been started. I assure you that I will do my best to continue to see that this money is invested wisely in future lawyers.

I think this is a wonderful thing, and gentlemen, I thank you.

UNDERWRITING PRACTICES—EXTENSION OF NORMAL COVERAGES

Panelists:

Frederick R. Buck, of The Title Guarantee Company, Baltimore, Maryland

Harold Pilskaln, Jr., of First American Title Insurance Company, Santa Ana, California

John Ely Weatherford, of American Title Insurance Company, Miami, Florida

H. Eugene Tully, of Washington Title Insurance Company, Seattle, Washington

Moderator:

William A. Thuma, of Chicago Title and Trust Company, Chicago, Illinois

Moderator: Gentlemen, in setting up this panel, George Garber and Joe Smith asked that we arrange our program as a workshop session; that each panelist present short remarks on some phase of extended coverage; and that we then have a period of 45 minutes to an hour of open discussion on extended coverage in general.

We shall proceed in that fashion.

I am sure that our four panelists —all seasoned titlemen—are known to many of you. On my left are Fred Buck of Baltimore and Harold Pilskaln, Jr., of Santa Ana, California, and to my right are John Weatherford of Miami, and Gene Tully of Seattle. I shall give you some of their background as I call on each to make his presentation.

They will discuss briefly the subjects of:

1. Insurance over possessory rights, unrecorded easements and survey questions, and mechanics' liens where no notice appears of record.
2. Insuring priority on the basis of subordination clauses and agreements.
3. Insurance that easements on the property do not impair the use of existing improvements.

4. Insurance against right of entry where there are mineral reservations.
5. The coverage of CLTA Indorsement 100.

Their remarks should serve to get us well into the subject of extended coverage.

We hope that the words of the panel will prompt questions and comments from the floor so that after the several presentations we may have lively discussion, not only on the subjects covered by the panel but on any area of extended coverage.

For the purpose of this program, we are assuming that by "normal coverage" we mean that afforded to a mortgagee by the ALTA Standard Loan Policy-Revised Coverage-1962 and to an owner by the ALTA Owners Policy-Standard Form A-1962 (the nonmarketability form) with general exceptions under Schedule B of the Owners Policy as to possessory rights, unrecorded easements and questions of survey, and mechanics' lien claims.

Thus, as to companies writing policy forms other than ALTA, the coverage to a mortgagee as to mechanics' liens and as to enforce-ability of the mortgage lien given in the ALTA Loan Policy, and insurance of access both to a mortgagee and to an owner given by both ALTA Loan and Owners policies are treated as normal, and not as extended, coverage.

Fred Buck, who will lead off for the panel, is Executive Vice President and a Director of The Title Guarantee Company of Baltimore. He is a native of that city. He obtained his A.B. degree from St. John's College in 1939 and immediately joined the former Maryland Title Guarantee Company as an abstracter.

He commenced the study of law at night school, but his study was interrupted by World War II. Fred went on active duty with the Navy from 1941 to 1946 and retired from the service with the rank of Lieutenant Commander. He completed his law studies in 1947 and obtained his LL.B. from the University of Maryland.

He is a member and a director of several civic and charitable organizations, a member of the Baltimore Mortgage Bankers Association, the Bar Association of Baltimore City and the Maryland State Bar Association.

To those of you who follow athletics, I should add that in his senior year in college. Fred was named an All-American La Crosse player, and set a national collegiate scoring record.

After preliminary remarks on underwriting practices in general, Fred will comment on insurance over possessory rights, unrecorded easements and survey questions, and mechanics' liens where no notice appears of record.

Mr. Buck: Extension of Normal Coverages — this topic, in one phase or another, is that aspect of title insurance with which we, as underwriters, are most involved in our day-to-day operations. Whether or not we will insure a particular risk, remove a standard exception, or add an affirmative statement to the coverage is the reason behind most visits to the company by attorneys representing purchasers or lenders; it is the subject matter of practically all conferences between members of the examining department and members of the legal departments and between issuing agents or approved attorneys and members of the legal department; it is what we discuss in shop-talk with our associates and with our competitors; and it is that thing which we most often take home with us at night — either in a brief case or only in mind.

It is probably safe to say that there is not an individual in this room who, on his last day at the office before coming to this convention, did not make or concur in some decision in this area. Each of you has the nagging knowledge that there will be several matters which are being saved up for you at this very moment and will have to be decided on the morning of the day you get back—and I am quite sure that more than a few of you were on the 'phone during the luncheon break and rendered a decision or gave instructions on an as-

sumption of risk which could not await your return.

Each underwriter, of course, has company policy as to the requirements to be met in order to remove a standard exception or to make an affirmative guarantee. When we discuss our respective policies and requirements we find that underwriters are in substantial agreement, and when we trade information with each other or, as an abstract proposition, render a curbstone opinion, we pontificate company policy and tick-off the requirements like 4th graders reciting the multiplication tables.

In actual practice, however, — you all know it — company policy is as flexible as the identity of the customer involved, and the requirements are as waivable as what we feel the competition might do or what we are led to believe the competition will do. Also, the Home Office may not be prone to chastise a large issuing agent who may be assuming risks in a manner not in strict compliance with his Manual of Instructions. The sheer size and regularity of his monthly remittances of premiums may render the Home Office staff most circumspect as regards this agent — and to even mention instances of corner cutting before some substantial loss occurs would be unthinkable.

It is a crying shame that the practices and procedures of different underwriters in a given locality are not uniform. Unless there is adequate compensation for the risk, competing on a casualty basis is suicidal, and, in the long run, nobody gains — everybody loses.

Perhaps stricter regulation is the answer to this problem. In certain states, for instance, no policy forms can be issued except those approved by the Insurance Commission, and, only authorized and approved extensions of policy coverage may be written. For example — if the approved form contains the usual zoning exclusion and the removal of such exclusion is not among the permitted extensions of policy coverage, then an underwriter who removes such exclusion, regardless of his reasons or indemnities obtained therefor, would be in violation of the law. The spread of this kind of regulation would help underwriters and their agents resist demands for coverages which are not the province of title insurance.

The particular area which was assigned to me on this panel has to do with three general exceptions which would normally be inserted in Schedule B of the policy and the circumstances which would allow removal of the same. In discussing them, it is necessary to distinguish between owner's and mortgagee's policies, since the risks differ and the requirements are not always the same. For instance, if the ratio of loan to value is only ¼th, the requirements of the underwriter might be less stringent than in the case of an 80 or more % loan — certainly the chance of loss under a mortgagee policy is reduced as the owner's equity in the property increases.

It is necessary to keep these remarks general in nature because of divergent practices and procedure in different localities.

Let us assume, however, an underwriter using only the ALTA forms of owner and mortgagee policies. As a starting point, these forms would have no exceptions in Schedule B but there would be three general standard exceptions to be inserted in the owner's policy in all cases. They are:

1. Rights or claims of parties other than the insured in actual possession of any or all of the property.
2. Unrecorded easements, if any, on, above or below the surface; and any discrepancies or conflicts in boundary lines or shortage in area or encroachments, which a correct survey or an inspection of the premises would disclose.
3. Possible unfiled mechanics' and materialmen's liens.

We shall call them the possession, survey and mechanics' liens exceptions from here on, and I would guess that all three of them are inserted in all but a small fraction of the owners' policies issued. On the other hand, it would be rare for any

of them to be inserted in the mortgagee policy.

If the title company determines, either from its own inspection or by examination of a location survey plat that the improvements lie wholly within the boundaries of the property and that no restrictions or setback lines have been violated; exception as to survey would not be made. A location survey is, of course, required by most lenders to make certain that the improvements they inspected are actually located upon the property which is described in the mortgage.

An exception as to possession in the mortgagee policy is usually ignored. The mortgagee, as distinguished from the owner, is normally not entitled to possession unless a default occurs in the mortgage. However, on income producing property, most mortgagee policies would contain a specific exception as to tenancies.

There is not much point in repeating to this group the extraordinary risk assumed by an underwriter in guaranteeing against unfiled mechanics' and material-men's liens. The law as to such liens, and the time for filing the same, varies from state to state but, generally, the effect of no exception as to mechanics' liens is to insure that all bills for labor and material that went into the improvements have been paid. Mortgagees demand policies which protect them against unfiled liens and, therefore, the underwriter must be adequately indemnified against loss or take such assurances as are necessary to minimize any possible loss.

Some of the requirements of underwriters in this respect are:

1. On construction and construction permanent loans — that an inspection be made and photographs taken subsequent to the recordation of the security instrument to obtain evidence that no work had been started or materials furnished. This solves the problem in jurisdictions where the law provides that a mortgage or deed of trust recorded prior to the commencement of work comes ahead of subsequently filed mechanics' liens.

2. On mortgages made during the course of construction — bond against liens naming underwriter as obligee with corporate casualty company as surety.

3. On mortgages made on older properties — affidavit that no work has been done during a stated preceding period of time for which liens could be filed.

4. On mortgages made on completed construction, but where the period for filing liens has not expired — this is the most difficult area. The requirements depend upon the credit rating, financial and business standing, and moral reputation of the builder, and they could run the gamut from corporate bond to waiver or release of liens plus affidavits, to personal indemnity, to a statement by the builder that all bills have been or will be paid. This is the area where builders play the underwriters in a locality one against the other on easing the requirements — and it is **the most important** area where underwriters should trade information, and hold the line on what the mechanics' lien requirements as regards a particular builder should be.

The extensions of coverage, by the non-inclusion of possession, survey and mechanics' lien exceptions in mortgagee policies are initially brought about by the demands of knowledgeable and sophisticated mortgagees. The average purchaser is not in the same category and, generally, owners' policies are issued containing these standard exceptions — either because no request for removal was made, or because the underwriter refused to remove them upon request.

Exceptions to this would be —1) in the case of owners' policies issued to oil companies or large national companies; and 2) owners' policies to one who is usually a mortgagee in a sale/leaseback, for instance — where the insured is looking upon this type of financing essentially as just another mortgage.

In these exceptional cases it would seem to be the practice to delete the standard possession and survey exceptions from the owner's policy if the underwriter is furnished with a survey and certificate made in accordance

with the Minimum Standard Detail Requirements for Land Title Surveys as adopted by American Title Association and American Congress on Surveying and Mapping which was adopted by ATA on March 2, 1962.

This leaves us with the question of the issuance of owners' policies without exception as to unfiled mechanics' liens. I have the feeling that the issuance of owner's policies is not as widespread as we would like to believe, that agents and approved attorneys, acting for mortgagees, make no particular effort to sell owner's insurance, and only give an owner's policy when it is requested. I am distinguishing, here, a home office or branch office operation, where simultaneous issue on a new residence is almost automatic.

I also have the feeling that, where there is simultaneous issue after new construction, it is not sufficiently explained to the owner that, although his mortgagee is protected against unfiled mechanics' liens, he is not. Have you ever, after a mechanics' lien has been filed, explained to your insured owner's satisfaction, that he is not covered under his policy — and that he, your insured, stands between you and the possibility of a claim by his mortgagee against you on the mortgage policy?

It seems to me, particularly in the case of a high ratio of loan to purchase price, that we should — for an additional premium — offer the owner the same protection that we are giving the mortgagee and, if he declines to pay the extra premium, to let the file show that the offer was made to him. After all, we are already on the hook to the mortgagee in these cases — the additional income could be set up in a special reserve for mechanics' liens losses, and our image as seen by an insured owner would hold up better, because we would be certain that sufficient explanation had been made to the owner before he became our insured — not after the lien is filed.

By no means do I imply that this additional charge should replace the procedures and safeguards that we all now take before issuing the mortgagee policy free of exception. The extra charge should be made for removing the exception from the owner's policy only where it has already been determined that mortgagee policy can be issued without exception.

Moderator: Although, as Fred indicates, many companies include unrecorded easements as a part of the survey exception, and waive the entire exception upon production of an ALTA survey, some companies raise the easement exception as a separate item on the premise that it also partakes of a possessory right, and, before eliminating the exception, may personally check municipal records or may require estoppel letters from all the utilities and the municipal departments doing business or rendering service in the particular area stating whether they do or do not claim any easement right in the premises in question or whether they have any underground installations in the premises.

Steve Carrier (who, as perhaps all of you know, is Counsel for Investments for the National Life and Accident Insurance Company of Nashville, Tennessee) wrote a paper entitled "The Customer's Viewpoint" that appears in the January, 1960 TITLE NEWS and that presents an interesting suggestion on behalf of home purchasers. Steve says: "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."

Steve then reviews the four main types of preliminary title reports being used throughout the country and makes this observation:

"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."

If Steve is present in the room, he may wish to comment further on his suggestion during our discussion period.

Our next speaker is Harold Pilskaln, Jr., Vice President, Counsel and a Director of First American Title Insurance & Trust Company of Santa Ana, California.

Here I should put in a "new business" plug and mention that First American has 22 affiliates and subsidiaries in 22 California counties and throughout the States of Arizona, Nevada and Utah.

A native of Ohio, Hal went East to receive his Bachelor of Arts degree from Princeton and his law degree from Harvard.

He served two years in the U.S. Marine Corps, including duty as legal officer at the air facility in Santa Ana. He liked what he saw in Santa Ana and joined the staff of First American upon his discharge from the service in 1958.

He has made remarkable progress since then!

He is a member of the California, District of Columbia and American Bar Associations, a member of the Legislative Committee of the ALTA, and of the Executive, Legislative and Uniform Title Practices Committees of CLTA.

Hal will speak on insurance of priority of a lien over an earlier recorded encumbrance, whether relying on an automatic subordination clause contained in the earlier encumbrance or on a specific subordination agreement. The matter of automatic subordinations has given rise to a great amount of litigation in California and the problem in general has been a real headache to titlemen for several years. I do not find that this subject has been discussed in past ALTA meetings, and I am sure we will all profit from Hal's remarks.

Mr. Pilskan: The first question that may come to mind is why the topic of Subordination Agreements is included under the general topic of "Extended Coverage". I believe its inclusion is proper since a number of the problems that arise will be due to facts that cannot be ascertained by the title company's examining public records.

By a subordination agreement, I mean a document wherein the holder of a security interest agrees that upon the occurrence of conditions or circumstances specified in such an agreement, his security interest will become subordinate to that of another real property security instrument which would otherwise be of lower priority.

Typically this involves the beneficiary of a purchase money trust deed taking a junior position to a loan that is made primarily for the purpose of improving the property.

This discussion will not include any examination of the subordination provisions that may exist in a lease or contract of sale which allow the lessor or contract vendor to encumber his interest without further action by his tenant or vendee. Some of the experience and law would undoubtedly be relevant to those situations but to date they have not been a source of as many problems.

Subordination agreements may be broken down into two types: 1) the automatic subordination agreement, whereby a person agrees that his security interest will become subordinate to the security interest of another at some future time under certain specified conditions, and 2) the specific subordination agreement wherein the party holding a security interest in the property executes a document which subordinates his interest to a new security interest created at that time.

Our prime concern over the years has been with the so-called automatic subordination clause. Some guide lines were received as to automatic subordination clauses in the cases of **Gould v. Callin 127 CA 2d 1; Roven v. Miller 168 CA 2d 391 and Kessler v. Sapp 169 CA 2d 818.** These cases involved the

issue of granting of specific performance under the terms of such agreements. To grant specific performance the courts insist upon complete lack of ambiguity in the document being considered. The courts stated that the agreement must be clear, definite and certain in the following items: 1) a definite ceiling on the principal amount; 2) definite maturity date; 3) a definite rate of interest. Title Companies thus started to require these particular elements in any automatic subordination agreement upon which they would rely at a later date.

The real problem for the title companies involved the purpose clauses that were contained in these automatic subordination clauses. These agreements would state that the party was subordinating to "a construction loan" or a "loan for construction purposes", or "a loan made primarily for the purpose of constructing improvements on said land". For a long period of time title companies went along without any concern as to this language, or in the alternative, if they had any concern they assumed that the lender was taking care of this area, a brief which turned out to be unfounded.

Unfortunately, we really should have been aware of our problem because there had been a case in California back in 1932 on this same problem. **(United States Building & Loan Association v. Salisbury 217 Cal. 35).** A second deed of trust had the following language therein: "Party of the first part, for themselves, their heirs, executors and assigns, reserve the right to pay off said prior mortgage and execute a new note and notes and mortgage to secure the same covering said property in any amount or at any time, and on such terms and conditions as said parties of the first part herein named, their heirs, executors and assigns, shall arrange, and such other mortgage when duly executed and recorded shall be and remain prior and senior to the lien of this deed of trust, with the provision, however, that the new mortgage is placed for the purpose of constructing a building on said premises, and all funds derived from said mortgage in excess of $20,000 be actually used in the construction of said building on said premises." In this case, a new deed of trust was put on for $20,000. The proceeds of the loan were used to pay off the existing first $13,500 loan, $362.25 to discharge back taxes, and an assessment paid of $1,-876.35. Balance of $4,262.40 was disbursed according to order of the borrower. The court said that if the new lender was not able to establish the priority to the full extent of the subsequent mortgage because the funds derived were not used for building purposes, he should be given partial relief and equity by according it priority to the amount of principal and interest paid to discharge the prior mortgage, (together with interest). Although that case would indicate that equity would require priority in part if the new loan proceeds were utilized in part for the purposes approved by the subordinating party, this doctrine may well not be applicable in most situations. The tenor of the judicial thought would seem to be that a party is taking a junior position only because the funds of the new senior loan are being utilized to improve the property and thus theoretically enhance his security. If the subordinating party is placed in a worse situation because of the misapplication of funds (i. e. to uses not contemplated by him), the decision may well be that the conditions of subordination were never fulfilled and you then have your insured first trust deed becoming a second.

We have found that the courts do not consider the following utilization of funds to be proper when one has subordinated to a loan for instruction purposes: loan fees, advertising costs, land draw, title company fees, title insurance premiums.

An argument has been made that if the terms of the automatic subordination agreement have been disclosed to the new lender in the preliminary report; and it makes a loan which violates the conditions of subordination, such a loss is not covered by the title policy. The theory is that your insured had priority at the time of recording and the loss of priority was

caused by the insured's own action at a later time.

A variation of this theory was reduced to a CLTA indorsement 120 which reads in part "The Company assures the Insured that the lien or charge of the mortgage referred to in paragraph —— of Schedule B was, by provisions set forth therein, subordinated of record to the mortgage referred to in paragraph —— of Schedule —.

The Company hereby insures the Insured against loss which the Insured shall sustain in the event that the assurance herein shall prove incorrect, provided, however, if it be judicially determined that the priority of the last mentioned mortgage was lost — in whole or in part — because the proceeds of the indebtedness secured thereby were not in fact applied in accordance with said subordination provisions, then the Company shall be relieved of liability under this indorsement to the same extent and in the same proportion as such priority is so determined to have been lost."

This indorsement has been met with almost a universal non-acceptance by lenders.

Automatic subordination agreements have been appearing far less frequently than in the past and they are carefully examined by all title companies. **Those that are relied on by title companies at this time will undoubtedly contain no language that will limit the use of funds from the new loan.**

The specific subordination agreement was not believed to be much of a problem since there were generally no conditions of subordination but only a flat unequivocal statement that an existing security holder was hereby taking a junior position to a specified loan with a specified lender. In fact specific subordination agreements were used quite often when the loan to be acquired would not meet the terms of an existing automatic subordination agreement. This happened when for example the terms of the subordination agreement called for an institutional lender and an individual was making the new loan, or the new loan was a blanket trust deed rather than the individual trust deed's called for in the original agreement. Naturally when some of the problems became evident in an automatic subordination agreement which contained language limiting the use of the funds to be obtained, specific unqualified subordination agreements were called for by the title companies.

We were informed that this latter practice was inadequate in **Collins v. Home Savings & Loan Assoc. 205 CA 286.** The court found no consideration for the specific subordination agreement and stated it did not change the conditions of the original automatic subordination agreement. This led to a substantial change in the form of specific subordination agreements with the result that they contain extensive waiver language. Also we are "certain" that our insured new first lender is relying upon said language so as to hopefully create an estoppel defense should subordinating party attempt to set the agreement aside.

The California legislature took an interest in the subordination field. (Civil Code 2953.1-2953.5). The result, as clarified by an opinion from the Attorney General basically only required that certain heading and notice provisions be contained in subordination agreements or in trust deeds containing subordination clauses. The absence of such notice provisions may cause the agreement to be voided.

One other problem that should be mentioned is the subordination agreement that you the title company may never see. This may be embodied in the sales contract between the parties wherein the seller may agree to take a second trust deed only under certain conditions. The documents delivered to the title company may be a first trust deed and the "2nd Trust Deed" which will contain a recital "This trust deed is second and subject to a trust deed in favor of XYZ recorded concurrently herewith". Subsequently you may discover that the document so recorded did not meet the conditions of the seller in his sales contract. The subsequent suit for recission is not a joy to behold.

Moderator: As an interesting supplement to Hal's remarks, I suggest you reread the paper by James F. Healey, Jr., Vice President and Chief Counsel, Title Insurance and Trust Company of Los Angeles, entitled "Future Subordination Agreements" that appears in the March, 1963 TITLE NEWS.

Mr. Healey discusses three cases which have gone through the courts of his state that in his judgment exemplify "the new trend in the thinking of the judiciary" with respect to subordination clauses and agreements.

John Ely Weatherford, our next speaker, Senior Vice President of American Title Insurance Company of Miami, was born and raised in Missouri. He obtained his law degree from the City College of St. Louis, and was admitted to the Missouri Bar in 1933.

He was in private practice in St. Louis as senior member of a law firm for several years. He gave up the practice in 1940 to join Title Insurance Corporation of St. Louis as Escrow Officer. He was with that company in varying official capacities for sixteen years, leaving in 1956 to assume his present position with American Title.

John is past President of the Florida Land Title Association and a member of the St. Louis Bar, Missouri Bar and American Bar Associations.

He will discuss briefly affirmative coverage against loss or damage due to exercise of easement rights, and insurance against loss or damage by reason of excercise of rights of entry where there are mineral reservations in the titles.

Mr. Weatherford: The normal procedure in issuing title insurance policies is to include in Schedule B thereof reference to all recorded easements and reservations of mineral rights. There are many occasions in which the insured under the policy requests affirmative coverage as to certain violations of easements by existing improvements or right of entry in connection with mineral reservations.

Normally speaking, the types of easements more frequently encountered where this type of affirmative insurance is requested would relate to easements for driveways, sewers and other public utilities. In those cases in which some part of the improvements encroach onto the easement strip, the insuring company may, in its discretion and on request of its insured, provide insurance against loss or damage by reason of the existing encroachment. It is difficult to establish any rule of thumb which would control the extent of the violation within limits that would permit the insurer to afford the coverage. It becomes necessary in each case for the underwriter to determine the exact amount of the encroachment and to determine whether all utilities for which the easement was created are now in place and poles, lines and other equipment in the easement strip have been installed. If the extent of the encroachment does not materially interfere with the use of the easement by the entity in whose favor the easement was created, then affirmative insurance may be afforded. The form of affirmative insurance may be as follows:

> This policy insures against loss arising from physical damage caused to that part of the improvements encroaching on said easement by reason of the exercise of such easement.

Another instance in which there may be a request for affirmative insurance would relate to what I would choose to call "roving easements". By this I mean that type of an easement given by the owner of a large tract of ground to a utility to install poles, lines and so forth, on, over, across and along said tract of ground without defining specifically the location of such easement rights. Following the development of the tract of ground into a subdivision, or other use, and the utility has installed its poles, lines and so forth, the title company may give affirmative insurance as to the exact location of the easement by obtaining from the utility involved a letter in the nature of an estoppel recognizing that its easement rights are now restricted to the present location of its poles, lines and so forth and that it makes no claim for any additional easement rights. This type of affirm-

ative insurance may take the following form:

> This policy specifically insures against loss or damage occasioned by the exercise, or attempted exercise, of the above mentioned easement rights to locate poles, lines and so forth elsewhere than as presently situated.

We now turn to possible extended coverage in connection with mineral reservations. The insurer should first determine whether or not the interest has been terminated. In making this determination we should keep in mind that possession of the surface is not construed to be adverse to the holder of a mineral interest and, therefore, the date of the creation of the interest is not a conclusive factor. If, however, the interest is so conditioned as to terminate upon non-production or cessation of production for a specified period, and satisfactory proof is obtained to show these facts, then such interest may be disregarded. If the interest is still in existence and outstanding then there should be an appropriate exception in Schedule B of the policy by making reference to the mineral interest created by a specific instrument. In some cases it is possible to provide extended coverage in connection with mineral interests to provide protection against either disturbance of the surface or damage to improvements. If this is done the following language might be used:

> This policy insures against loss or damage to the insured arising from future physical damage either to the surface of the land described in Schedule A hereof, or to the improvements now or hereafter constructed thereon, or both such surface and improvements, occasioned by the exploration for, or removal of, the above minerals pursuant to the foregoing reservation.

In some areas of the country this type of extended coverage seems to be granted quite regularly, however, your speaker does not look kindly on this type of coverage and believes that it goes beyond the ordinary field of title insurance. If the insurer is willing to afford this type of protection it certainly should satisfy itself as to certain facts which might justify giving the protection. These facts might be first, whether the real estate is situated in an incorporated area subject to an existing ordinance specifically prohibiting surface operations, second, that the property is in an area already developed with improvements for residential or business purposes, or third, where there are restrictive convenants in the chain of title which would be violated by surface operations for mining purposes.

In the past there have been, and perhaps even now there may be, requests for affirmative insurance against loss or damage resulting from subsidence, or cave-in, of the surface. Without any question or doubt, this would seem to be far beyond the scope of title insurance and should not be afforded by a title company. As a matter of fact, at one time a number of years ago, a casualty company, not a title company, in the Minnesota area, did write coverage as to subsidence of the surface of the ground.

Moderator: John Turner has called my attention to a case just decided in Kentucky that should be of interest to companies that afford affirmative coverage against damage caused by exercise of easement rights. The case is still in the Advance Sheets and is reported in 380 S.W. 2d 82, entitled **Blair v. City of Pikeville.**

It appears that Blair purchased a residence property in 1932. The title was subject to a reservation created by a former owner in favor of the City of Pikeville for the installation and maintenance of a public storm and sanitary sewer line across the premises.

The easement was general as to the property; that is, it was a "floating easement," — not limited to any particular described portion of the lot.

The city did not exercise its easement rights until 1958, at which time in laying the sewer line extensive damage resulted to the house, landscaping, etc. Blair sued for $10,000 damage; the trial court held for the city, it appearing that the city was not negligent in making the installation. The upper

court reversed and remanded the case for another trial with instructions that the question be submitted to a jury whether the path and width of the easement selected by the city were reasonable and whether the method of construction was reasonable. The court said that the general rule is well established that where an easement is granted in general terms which do not fix its location, the owner of the servient estate has the right in the first instance to designate the location of the easement; that such right must be exercised in a reasonable manner; that in this case the construction of the residence on the property was clearly an election by the servient owner that the easement be not located so as to unreasonably damage or interfere with the use of the residence; and that in the absence of proof that the particular route of the sewer line in this case was the only reasonable one which could have been selected by the city, the owner Blair was entitled to recover for the damage that resulted to his property.

Our last speaker is H. Eugene Tully, Senior Vice President, Secretary and Manager of Operations for the home office and all branches of Washington Title Insurance Company of Seattle.

Gene is a native of Nebraska, having attended the University of Nebraska and thereafter earning his LL.B. degree from Creighton University.

He met his wife-to-be (a Seattle, Washington girl) in college, which explains why he joined Washington Title in 1950 as a title examiner. He has progressed over the years to Title Officer, Assistant Vice President, Law Department, then a Vice President, and in February, 1963 promoted to his present title.

Gene is a member of the Seattle-King County Bar Association, Washington State Bar Association and American Bar, and is Vice President of Washington Land Title Association.

He will discuss coverage that is afforded by that singular, yet plural, document popularly, or as someone has been heard to say "notoriously," identified as CLTA Indorsement 100.

Mr. Tully: While my topic is designated as a discussion of the California Land Title Association Form "100" indorsement, I should explain that I do not come from California and have no extended working experience with this indorsement. The CLTA "100" is simply the first and the most widely known of a type of indorsement now used in many western states to provide extensions of normal coverage in connection with ALTA loan policies. In both Oregon and Washington we have borrowed liberally from the "100" in devising similar, but not identical, indorsements. The CLTA form provides the broadest coverage of any indorsement of this general type and therefore provides the best basis for discussion here.

Basically, the California indorsement deals with four elements of extended coverage: 1) interpretation of covenants, conditions and restrictions and the effect of violation thereof; 2) encroachments across boundary lines; 3) encroachments into easement areas; and 4) damage to improvements resulting from surface use in exercise of an existing right to explore for or extract minerals. Most of these coverages had been given in separate forms by California companies for many years prior to 1951. In December, 1950 the "100" was adopted as a state association form in California and it was expanded to its present content in 1958.

The indorsement insures first that there are no covenants, conditions or restrictions under which the lien of the insured mortgage can be cut off or subordinated. This imposes on the insurer the burden of analyzing all covenants, conditions or restrictions appearing in Schedule B to determine that a violation will not result in cutting off or subordinating the lien. Generally, this coverage can be given if limitations are stated as a declaration of restrictions or covenants without express provision for forfeiture or reversion and without the use of the word "condition" in relation to the imposition of the limitations or restrictions. Even if violation would normally result in reversion of title, this coverage can be given if inspection establishes that there is no present

violation **and** the holder of the reversion included in the same instrument, or provided by separate instrument, a "good faith clause," the effect of which is to preserve the lien of a lender in good faith and for value notwithstanding a violation occurring during the life of the mortgage.

In order to provide coverage under this clause it is also necessary to ascertain that the declaration of covenants or restrictions does not include a provision under which a "private" lien arising in the future will take priority over the lien of the insured mortgage (for example, a provision under which a private community club or private maintenance commission may in the future levy maintenance or improvement assessments, payment of which is secured by a lien "which shall have priority over all other liens and encumbrances except general taxes").

The indorsement next insures that "there are no present violations on said land of any enforceable covenants conditions or restrictions." The key word in this clause is "enforceable." Inspection may disclose a present violation of restrictions but the insurer may be willing to provide insurance against enforcement on the ground of express waiver or on the ground of estoppel or simply because the violation is so minor that attempted enforcement in any manner is extremely unlikely. If the violation is other than minor but insurance against enforcement can be given on the basis of estoppel, some companies show the violation in Schedule B, as information the lender is entitled to have, followed by a note insuring against loss resulting from enforcement.

The next clause relates to the "race restriction" certification. If restrictions on the basis of race, color or creed have not been imposed subsequent to February 15, 1950, this section will enable the lender to establish the fact as required by FHA and VA regulations without the necessity of any typewritten certification in the policy. If such restrictions were imposed subsequent to that date the lender is assured that they are set forth in Schedule B, and it is therefore essential in such cases to make certain the full race restriction, including date of imposition, is shown in Schedule B.

The fourth clause relates to encroachment coverage and assures the lender: 1) that there are no buildings, structures or improvements located on the mortgaged property which encroach onto adjoining lands; and 2) that there are no buildings, structures or improvements located on adjoining land which encroach onto the mortgaged property. This coverage is dependent on survey or inspection and we regard this clause as a clarification of a coverage which is inferentially given by the ALTA policy itself.

In the CLTA "100" the next paragraph relates to **future violations** of covenants, conditions or restrictions. The first clause insures against loss arising from **future violations** which occur prior to acquisition of title by the mortgagee, provided such violations result in loss or impairment of the lien or result in loss or impairment of title if the insured lender shall acquire title in satisfaction of the mortgage debt. On first impression, insurance with respect to future violations may seem to be **extremism** in the pursuit of premiums but careful analysis will, I believe, establish that this particular element of coverage is justified. The future violations referred to must: 1) occur prior to the lender's acquisition of title, and 2) result in loss or impairment of the priority position of the insured lien or result in loss or impairment of title to the land in the event the lender acquires title. We think this is just another aspect of insuring that future violation of existing covenants, conditions or restrictions will not work a forfeiture or reversion of title; if a violation will result in forfeiture or reversion, the indorsement cannot be issued without deletion of this section. Bear in mind that this first clause does not relate to unmarketability of title resulting from future violation nor to the possibility of loss of value due to physical damage to the security which might result from enforced removal of an improvement or addition made in violation of restrictions subsequent to

the recording of the insured mortgage.

The next clause relating to future violations is the one which really causes raised eyebrows because it insures against loss arising from unmarketability of title by reason of violation of restrictions occurring prior to acquisition of title by the insured lender. This element of coverage is not given in Oregon or Washington and I doubt that it can be given in very many states. It is my understanding the California companies take some comfort from the fact that California Civil Code Section 1466 provides that broken covenants do not generally run with the land. Under this section it might be held that a convenant or restriction violated prior to the insured lender's acquisition of title is eliminated as an enforceable covenant immediately upon transfer of title to the lender and could not later be the basis of a claim of unmarketability. I understand there are no cases construing this statute, at least in this context, and most California titlemen report that this coverage is really given on the basis of insurable risk. The only further explanation or comment I can offer is that to those dealing in California real estate, insurability of title seems to be of greater concern than marketability of title and that the experience of the California companies over a period of many years certainly argues that this element of the indorsement is a proper coverage in California.

Another element of coverage under the California indorsement relates to damage to existing improvements located or encroaching upon any portion of the mortgaged land subject to an easement shown in Schedule B, and resulting from exercise or maintenance of the easement. Note that this covers only damage to improvements existing at the date of the policy and also that the clause does not relate to depreciation in land value resulting from an exercise of easement rights. This coverage is also given or withheld on the basis of survey or inspection, as well as consideration of the nature of the easement involved; i.e., if the easement is unrecorded, but is disclosed by inspection, has the scope of the easement been finally fixed by the existing use? If Schedule B discloses a recorded easement but the right has not been exercised at date of policy, is the easement location floating or fixed — what is the likelihood of exercise in future — if exercised, what is the anticipated effect on existing improvements?

The next clause under the CLTA "100" provides insurance against damage to existing improvements, resulting from the exercise of any right to use the surface of the mortgaged land for extraction or development of reserved or excepted minerals. The clause does not cover oil rights created by lease, nor does it relate to any depreciation in land value resulting from the exercise of mineral rights. Most important, it does not relate to subsidence, settling or other damage resulting from underground operations. This is by no means an automatic coverage and it is not offered at all in certain localities. If an express or implied right of entry on the surface for development and extraction of minerals exists, the coverage is given by most companies only with the approval of management, based on consideration of such factors as history of mineral activity in the particular area, and the existence of zoning regulations which prohibit mineral development, combined with improvement of the neighborhood in such degree that granting of a variance is unlikely. This clause is not included in the Washington indorsement which is generally patterned after the CLTA "100."

The last coverage under this indorsement insures against any final court order or judgment requiring removal from any land adjoining the mortgaged land of any encroachment shown in Schedule B. If no encroachments are shown in Schedule B, the section has no application but need not be deleted from the indorsement. If an encroachment is shown in Schedule B and the issuing company is unwilling to insure the lender against enforced removal, the indorsement can be issued only if this section is deleted. Under circumstances which permit the company to give such assurance, the en-

croachment is shown in Schedule B as information the lender is entitled to have, and insurance against enforced removal is given by this section of the indorsement.

Moderator: Of interest is the explanation by Ben Henley as to why the California title companies acquiesced in the request of insurance companies throughout the East to provide the Indorsement 100 type of coverage.

In an article in the February, 1949 TITLE NEWS, Ben states that the companies had long been operating at the disadvantage of distance; that when it took five days for mail to get from San Francisco to New York, if it was necessary to submit to the New York office of a life insurance company a copy of conditions and restrictions for the company to determine whether or not it would accept a loan, a great deal of delay occurred in the loan closing. He states that much additional work and expense devoted both upon the title company and the insurance company in working out the condition of the title and the assurances to be afforded as to the various covenants, conditions and restrictions, and that gradual coverage was afforded as to one matter and then another until Indorsement 100 finally resulted.

Also of interest is the paper by Ben Henley entitled "What Investors in Mortgage Loans are Demanding in Title Insurance" appearing in the May, 1956 issue of TITLE NEWS. All of us should reread it. The paper in general makes the point that mortgage holders are often inclined to make unreasonable demands on title companies to insure matters that properly are outside the scope of title insurance. The following comments are made with respect to CLTA Indorsement Form 100:

> "Indorsement number 100 . . . insures against loss resulting from any future violations on the land of covenants, conditions or restrictions. It is difficult to reconcile protection of this type with the theory of title insurance. It recognizes an encumbrance upon the property and the possibility of the encumbrance causing loss to the insured and obligates the title insurer to pay that loss. * * * It contains insurance against any loss which would be suffered if existing improvements, including lawns, shrubbery or trees, are damaged by the exercise by the owner of the easement of his right to use the easement if the improvements encroach upon such easement. What has this to do with title to the property?"

With that, gentlemen, we complete the set portion of our presentation. We shall now proceed with questions from the floor and open discussion.

(Open discussion followed for 45 minutes but was not transcribed.)

We should like to conclude our program on this note: We all wonder from time to time whether we are doing a good title insurance job, — whether we are meeting the needs of our customers. It goes without saying that there are varying views on the kind and entent of coverage that we should afford.

At the Title Convention at Oklahoma City in 1938, Mr. W. R. Nethercut, then Assistant Counsel of Northwestern Mutual Life Insurance Company of Milwaukee, speaking on "Title Insurance From The View point Of The Mortgagee," said:

> "To sell title insurance, and to do it with safety to the company, there must be a proper blending of the legal and the insurance attitude. It is entirely natural that the balance will not always be perfect. We have come a long way from the day of the fire insurance company of which it was said that it would write a risk on nothing but pig-iron under water. If there is no risk there is no reason for insurance and no justification for the insurance part of the charge. * * * I believe * * * that the insurer can safely liberalize the coverage given and that it would be wise to do so in order to increase the saleability of title insurance. Except in certain parts of the East where it originated and in California where they do things by main strength anyway, title insurance is like life

insurance, it is not bought, it is sold."

Mr. Lawrence R. Zerfing of Commonwealth Land Title Insurance Company of Philadelphia, when Chairman of the Standard Underwriting Practices Committee of ALTA in 1959, expressed the view that "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."

In 1942, at the Title Convention in Colorado Springs, Ralph Hoyt of Milwaukee, a leading real estate lawyer in Wisconsin, spoke on the subject "An Outsider Views His Former Industry." He said he had arrived at two basic conclusions with regard to title insurance, namely, (1) that title insurance, like life insurance, should not be too easy to obtain, and (2) that title insurance once obtained should give the utmost possible protection with all doubts resolved in favor of the policyholder. In discussing the first of these conclusions, Mr. Hoyt said:

"It appears to me to be a fundamental rule of policy that title insurance should not be a haven for sick titles.

"Why * * * should title insurance companies reach out for sick or crippled titles, or make special rates for special risks? * * * Other kinds of insurance companies do not go out after extrahazardous risks. The life insurance companies require an excellent state of health in their applicants, and we look askance at those companies which let down the bars in that respect. Fire insurance companies want only sound and well cared for structures; automobile liability insurance companies want only safe drivers; public liability insurers of buildings and elevators make constant inspections to see that the hazard is kept low. It is my firm belief that a title insurance company only cheapens and lowers itself and its product when it adopts the contrary course and knowingly insures titles that are definitely hazardous, whether at regular rates or at extrahazard rates of charge."

Finally and perhaps most important is the view expressed by the special committee appointed by the American Bar Association Real Property Section to study and report on "Title Aspects of Real Estate Transactions." That committee surveyed title assurance methods and risk coverage being afforded in 32 states. The committee reported that the net result of its survey is that "present methods of title assurance produce a generally satisfactory service for the client — both purchaser and mortgagee." The committee reported further that despite the diversity of title assurance methods (proprietary title insurance, examination of the abstract or original records resulting in the attorney's opinion, Torrens, the lawyers' guaranty title fund), the principal risks are covered and the exceptions to coverage are justified by existing recording acts.

Report of Chairman, Abstracters Section

DON B. NICHOLS, Owner
Montgomery County Abstract Company, Hillsboro, Illinois

This will of necessity be a brief report. I have discontinued long talks on account of my throat—several members have threatened to cut it.

A busy, active, and enjoyable year. No new abstract display, but most of last year's abstracts from the display are here at Philadelphia; 3 Regional Meetings as a new venture; continued work on the Abstracters License and Plant Law; and 2 new section committees on CLS and Abstracters Schools.

In November and December preli-

minary work on, and approval by the Board of Governors at its Special Meeting in Chicago, for the Regional Meetings for Abstracters. Each Abstracters Section officer and executive committee member accepted the assignment to contact specific State Association Presidents, Secretaries, and Bulletin Editors to publicize the meetings. Three locations at Denver, Kansas City, and Chicago were selected after surveying the "Abstract States" and considering transportation facilities. No attempt was made to limit attendance at any one meeting to a geographic region, but each abstracter member of ALTA was encouraged to attend the meeting that best suited his personal schedule. The 3 consecutive-day schedule was the subject of considerable discussion, but the 4 of us (Clem Silvers, Joe Smith, Jim Robinson and myself) who attended all 3 of the meetings agree it was the most economical use of our time and energy. The 3 consecutive-day schedule made it simpler for our ALTA abstracter members to remember the dates of the meetings as they were all in the same week and not a week or more apart.

I had concern regarding the transportation for 3 of us between Denver and Kansas City as there was only one flight out of Denver for Kansas City after 4:30 in the afternoon (when the Regional meeting in Denver would be over) that would get us into Kansas City in time for the 9 a.m. beginning of the Regional there. Jim Robinson served as "advance guard" and left each meeting site around noon each day to get to the next city ahead of the other 3 of us. Railroad schedules and rental car facilities were checked to be sure as possible some alternate transportation was known about if the weather was bad and no flight could be made. No apparent problem on the Kansas City to Chicago portion, as flight schedules were numerous and trains frequent. As it turned out, my anxiety about the Denver-Kansas City flight was unnecessary as it was strictly routine. Our Kansas City-Chicago flight was far from routine and was the one I apparently should have been concerned about. In our seats, and ready to go, when the TWA Constellation failed to check out on the ramp—"speedy" Joe Smith raced off the plane, back into the terminal, got us 3 seats on a Continental Jet which was to leave in just a few minutes and then we gathered our coats, hats and brief cases and ran to the jet. Bad weather at O'Hare airport in Chicago, so we were "stacked" in the landing pattern and it took much longer to get to our turn to land than it did to get from Kansas City to Chicago. After we got into the terminal we found our baggage hadn't made the transfer at Kansas City and we had to wait another 2 hours for it to get there, and the plane the bags were on take its turn to land. We thought this was a long delay until Jerry Cunningham told us the next day of his flight from Waterloo, Iowa to Chicago and having been in the "stack" waiting their turn to land—low on gas—had to fly to Rockford, Illinois, land, refuel and then get back into the "stack" again.

Wednesday, April 1, 1964, at Writers Manor Motel in Denver, Colorado, there were 82 registrants, 31 of whom had never attended an ALTA function of any kind before, they were from Colorado, Texas, Iowa, Wyoming, North Dakota, South Dakota, Nebraska, Utah, Kansas, and New Mexico.

Thursday, April 2, 1964, at Hilton Motor Inn, in Kansas City, Missouri, there were 88 registrants, 21 of whom had never attended an ALTA function before, they were from Kansas, Texas, Missouri, Oklahoma, Arkansas, Iowa, and Tennessee.

Friday, April 3, 1964, at the Drake Oakbrook, in Chicago, Illinois, there were 89 registrants, 26 of whom were attending their first ALTA function, and they were from Indiana, Illinois, Wisconsin, Iowa, Minnesota, North Dakota, Michigan, Kansas, and South Dakota.

In all 259 registrants, with 78 at their first ALTA function, and from 19 states.

The planned programs for all 3 Regional Meetings were identical but with people from the different regions

as speakers. Each morning topics presented more or less formally by speakers, with open forums following each presentation, were: Public Relations; Employee Training; How Modern Methods can help the small Abstracter do a better job; and State and National Trade Associations; at lunch each day we had a report from our National President. The afternoon period was exclusively Open Forum. Here the subjects varied completely—in some instances carrying over from the morning's topics and in others they were new subjects presented from the floor by those in attendance. Topics discussed in the open forums included: Owner-Manager Problems; Forms used; Cost cutting ideas; Time savers; Problems at the Court House; Regional items of special interest; Name indexes; Filmed take-offs; Equipment (photo and mechanical) for the small abstracter; and agent and title insurance underwriter relationships. In each of the 3 Regional Meetings it was necessary to cut off discussion in order to adjourn at the announced hour. Registration charged for the meeting was a modest $6.00 which included lunch.

Here are samples of the comments some of those in attendance took time to write to me:

"Have just returned from the Denver Abstracters meeting and want to thank you again for doing this for us. I was with a group of four and we all agreed that this was one of the most interesting and beneficial meetings that we have ever had. To me it brought the American Land Title Association down to the 'Country Abstracters' level. Thanks again and you have my vote for more meetings of this type."

Another: "I wish to thank you and all of the members of the National Staff for pioneering this successful change in our annual program. Most of us are not aware of how much effort it takes to attempt such a change but for this effort I know that all of us in the membership are humbly grateful and prouder of our association."

Another: "I enjoyed your program here in Kansas City last Thursday very much."

Another: "I want to congratulate you on your Regional Meetings. I thought our meeting was a humdinger and the number attending certainly proved there is a need for meetings of this nature."

From a title insurance top level executive who did not attend, but who was represented by some of the company employees: "This is the first opportunity I have had to drop you a note of congratulations on the tremendous success of your ALTA Abstracters' meetings. The attendance, as we all know, was very impressive, but, more important, reports to me indicate that the material presented was of paramount interest to those who took time out to spend the day with you. For example, (name) informs me that this was one of the most valuable get-togethers that he has ever attended and that he found the meeting particularly helpful in the areas of plant maintenance and personnel training. He is looking forward to the next one."

And finally: "Congratulations to you for the successful launching of a new concept that should develop into a permanent thing in ALTA. I know how hard you worked, and at what personal cost. The grass roots membership is—I am very sure—grateful to you and they won't forget it."

At each of the 3 meetings a majority expressed the desire to have the Regional again next year. There was some discussion of carrying them over into 2 days, but a large majority voted for the single day meeting. Since our Regional Meetings had no official status and could not formally adopt resolutions, if it is the desire of the Abstracters Section that Regional meetings be held this next year, it would be helpful to the new Section Chairman if our Section, here at this meeting, adopted a resolution requesting they be held, if possible.

My personal thank you to ALTA President, Clem Silvers, ALTA Executive Vice President, Joe Smith, and ALTA Secretary and Director of Public Relations, Jim Robinson, for not

only their participation in each of the meeting programs, but also for their work in publicizing the meetings and making luncheon and housing arrangements for them. Also my thanks to all of the ALTA Abstracters Section Officers and Executive Committee members for their work in contacting state officers regarding the meetings, and to Louis Hickman, Logan, Utah; Carleton Hubbard, Jr., Glenwood Springs, Colorado; James Gray, Little Rock, Arkansas; Melvin Collier, Smith Center, Kansas; Gerald Cunningham, Waterloo, Iowa; and Otto Zerwick, Madison, Wisconsin, for their well prepared and well presented contributions to the meeting programs. Most of all, my thanks to those who came to the meetings themselves, many of whom are here today.

Briefly, a mention of the other Abstracters Section activities in 1963-64.

By resolutions adopted at the Las Vegas, Nevada, Mid-Winter Conference in March, I was directed to and did appoint 3 committees:

The first, to consider the possibility of expanding a program similar to the Florida CLS (Certified Land Title Searchers) program on a national scale. Tom McDonald, Sanford, Florida, is chairman of this committee and he and his committee members presented their recommendations to a work shop session Monday afternoon.

The second committee, was to determine whether the Abstract States wanted the Section to go ahead with work on a pattern Abstracters License and Plant Law and if they did then to draft a pattern law to present to the Section at Philadelphia. James Hickman, Denver, Colorado, is chairman of this committee and one excellent result of their work is the model law which was mailed to each ALTA member the end of August and will be presented this morning by Jim and his committee for your approval.

The third committee, was to assemble information on the short courses of instruction held by various state associations and be a continuing committee to receive this information. Frances Elfstrand, Bloomington, Illinois, is chairman and she and her committee will have an interesting presentation of their work on our Section program this morning.

All three of the committees have worked hard and, in my judgment, have accomplished their assignments with great credit to themselves, and the Abstracters Section of ALTA.

I know many of you attended the workshop Monday afternoon on "Picture Tours of Title Plants and Equipment" at which Jerry Cunningham of Waterloo, Iowa, presided. This is an unusual opportunity to see our fellow abstracters' title plant and have him describe in detail the equipment he uses and the methods used in plant operation and maintenance. A similar workshop, with different plants pictured and described, will be at 2 o'clock this afternoon, again in the North Garden Room, and Bill Galvin of St. Petersburg, Florida will be our chairman. If you missed Monday's tours be sure to join us this afternoon —if you made the tours Monday I'm sure you will not want to miss those today for more views and descriptions.

Our Section Officers and Executive Committee have cooperated and participated in every activity of the Section again this year. We had two early breakfast meetings, one at the Mid-Winter Conference at Las Vegas in March, and one here in Philadelphia this morning. At each of these breakfasts our ALTA President, Executive Vice President, and Secretary and Director of Public Relations joined us to add their counsel to our discussions. The Section Officers and Executive Committee members responded promptly to requests for suggestions for programs and section activities and contributed their own thoughts, pro and con, for the benefit of our Abstracters Section. I therefor want to recognize and openly thank Gerald W. Cunningham, Waterloo, Iowa, Vice-Chairman; B. G. Bowman, Claremore, Oklahoma, Secretary; and Louis C. Hickman, Logan, Utah; Hugh Robinson, Carrollton, Missouri; George Faller, Marinette, Wisconsin; and Dan Price, Cody, Wyoming, Executive Committee members of the Abstracters Section of ALTA 1963-64

for their contributions to the Section.

Vera Rose and I have attended state association annual conventions at Des Moines, Iowa; Casper, Wyoming; and Bismarck, North Dakota, this year, the last in North Dakota only 10 days ago. We thoroughly enjoyed each of these opportunities to represent ALTA at these important state association meetings and to meet and make new friends in each area.

To you, the section members, my personal gratitude to have served this second year as chairman of the Abstracters Section. I have enjoyed every minute of it and thank you sincerely for the honor you have given me.

In conclusion, it would appear this has been the year of the "C",

A Chairman's Challenge; the year ahead and what could be accomplished.

A Co-operative Caper: the 3 untested, untried Regional Meetings.

Complimentary Comments: The letters I received about the Regionals.

Committees: 3 in number—CLS, License Law, and Schools.

Customary Closing: My appreciation.

Report of Chairman, Abstacters' Pattern Law Committee

JAMES O. HICKMAN, Executive Vice-President, The Title Guaranty Company, Denver, Colorado

For some time many of the states have expressed an interest in amending or adopting an Abstracters' Licensing Law. At the American Land Title Convention in San Francisco a majority of the members felt that more work and study should go into the pattern law before it should be adopted by the Association.

Chairman, Don B. Nichols, of the Abstracters Section, at the Mid-Winter Meeting, appointed a committee of James O. Hickman, George E. Harbert and Thomas J. Holstein to present a proposed pattern law at the Philadelphia Convention. The committee enlisted the support of J. Mack Tarpley, Don B. Nichols and James M. George, and this group has spent many hours and meetings to arrive at the draft that is herewith submitted.

It is not the committee's aim that the Association actively push the passage of this law in any state. Rather, the committee feels there should be available a pattern law that has had the benefit of thought and study and which could be used by states that are interested in passage of an Abstracters' Licensing Law. The committee is aware that the practice and laws vary from state to state and has endeavored to make the pattern law broad enough to meet these situations. However, each state would have to examine its own practice and laws to ascertain how this pattern law would affect it. The pattern law has been drafted so that the states that do not desire an abstracting plant law may delete the portions indicated within the pattern law and still have a workable Abstracters' Licensing Law. I probably have the dubious honor of being Chairman of this Committee because of my past experience, working with a licensing law. The State of Colorado has had similar legislation since 1929 and the public and the abstracting profession have found this to be beneficial. I have served as Secretary of the Colorado Abstracters' Board since January, 1957, and as secretary have been responsible for the administrations of the Board.

I will not try to go through the pattern law point by point, but will discuss some of the important features of this proposal.

First—it provides that abstract certificates must be executed and that each office must have engaged in the

business, a registered abstracter or a duly licensed attorney. A registered abstracter is an individual who has evidenced to the Board that he has the experience and knowledge to prepare abstracts. The law provides he can acquire this certificate in three ways:

a. A grandfather clause provides anyone who has been engaged in the business of abstracting for seven years prior to the passage of this act may apply to the Board and secure his certificate, or

b. Satisfactory passage of a written examination administered by the board, or

c. A temporary registration or certificate for a person succeeding to ownership, other than sale, will be granted by the Board for a period of six months to allow a business to continue until the operator becomes a permanent registered abstracter. Registered abstracter certificates are to be prominently displayed in the office and is permanent with no reissuance required. The certificates are effective unless surrendered or revoked by the Board for violation of the act or upon the conviction of the holder of a crime involving moral turpitude or if the holder is found guilty of habitual carelessness or fradulent practices in the conduct of business.

The designation of registered abstracter certainly gives dignity to our profession. Many allied professions have similar designations. It also acts as an inducement for key people to make a conscientious effort to study our industry and endeavor to achieve this distinction. There is no limit as to the number of these certificates that may be held in an office.

Second—The law provides that each office or person engaged in the business of abstracting must secure a Certificate of Authority.

To receive such a Certificate of Authority, the applicant must show to the Board that the applicant has a registered abstracter or licensed attorney in the office, that he has complied with the bond requirements, and depending on each states own determination that the applicant has an abstract plant.

Some states' law and practices will not dictate that a plant be necessary. The pattern law is drawn in such a manner that those states not desiring that the abstracter has a plant, may readily delete the provision from the pattern law without changing the effectiveness of the rest of the act. This draft is also drawn so that states desiring a plant law, may determine whether both a tract indices and a general indices should be part of the plant requirement. The draft further allows each state to determine the length of time to be covered by plant records and indices. As an example some states may desire a plant from inception of title while others may only desire a five year plant. For states desiring a plant section, the law provides for a temporary Certificate of Authority, while a plant is being built. Another facet of this section is, it provides that the holder of a Certificate of Authority shall have access to public records in any office in the City, County or State for purposes of abstracting. The Certificate of Authority must be renewed annually so that the Board may determine if the applicant is complying with the provisions of this act. Again the Certificate is to be prominently displayed in the office.

Third—This pattern law provides that before an office can engage in business of abstracting the holder of a Certificate of Authority must provide a satisfactory bond. The amount of the bond is determined by the size of the County in which the abstracter operates. A corporate surety bond, or public bonds or securities deposited with the State Treasurer are acceptable. This section certainly is for the benefit of the public — to give the assurance that an abstract office may pay damages that may be sustained by a person by reason of an error in an abstract issued under its authorized signature and seal.

FOURTH—To administrate the law, this act sets up a Board of Examiners of five members to be appointed by the Governor—not less than three must have the qualification of a reg-

istered abstracter and not less than one must be a layman. It further provides for the term of office and duties of the Board. The law further goes into the definitions, penalties and appeals allowed under the act. The committee feels that the draft as proposed is a very workable and simple law and would certainly further the elevation of the title industry. We realize that it is not necessarily the ultimate for every state, but from this pattern a proper law could be enacted. Again, I will say that it is not the aim of the committee or the American Land Title Association to secure enactment of this law in any state, but to provide a pattern so states may have workable law if they desire.

I would like to express my appreciation to the two other committee members, Mr. Thomas J. Holstein, who is with us today and to Mr. George E. Harbert, who was unable to attend this convention because of a trip to Europe. In addition to the committee members there was much help and benefit given to the committee by Mr. Don Nichols, Chairman of the Abstracters Section and Mr. J. Mack Tarpley, who did the memorable task of chairmaning the Title Insurance Code Committee and Mr. James M. George, who lent valuable legal advise. We sincerely hope that you will be pleased with this pattern law. The committee members are on the platform with me today and we would be glad to endeavor to answer any questions you may have.

Short Course of Land Title Instruction

Panelists:

Alvin Robin, President, Guaranty Title Company, Tampa, Florida
Robert Kniskern, Secretary & Treasurer, Oneida County Land & Abstract Co., Rhinelander, Wisconsin

Moderator:

Frances Elfstrand, Vice-President, McLean County Abstract Co., Bloomington, Illinois

MISS ELFSTRAND: At the 1964 Mid-Winter Conference of the American Land Title Association the Abstracters Section passed a resolution directing Don B. Nichols, its chairman, to appoint a Committee on Short Courses of Land Title Instruction. The purposes of the committee are to gather information on schools and conferences which have been sponsored by state land title associations and to serve as a clearing house for such future educational projects. The committee's findings to date have been assembled into this Handbook. State Land Title Associations desiring to initiate short courses of land title instruction as well as those which have already conducted such programs hopefully may utilize the compilation of ideas contained here.

To the current edition of the Handbook it is contemplated that yearly supplements will be added. Therefore in the interest of flexibility, whether for the removal and copying of pages which may be of special interest now or of future data, a loose leaf format has been adopted.

Appreciation is herewith expressed to the secretaries of the various Land Title Associations. Without the information which they supplied this Handbook could never have come into existence. Much credit is due to the Chicago Title and Trust Company for the excellent job of printing which it contributed.

Continuing title education has a threefold purpose: promoting the interest and efficiency of the title employee and the broadening of his horizons; benefiting the sponsoring company through the upgrading of

its personnel; and focusing the attention and implementing the ways in which a State Land Title Association can better serve its members. This Handbook is designed to contribute in some measure to all these objectives.

MR. ROBIN: I think I should say in the beginning, that all of the information and all of the facts that we have, concerning the curriculum of our state sponsored title courses, and the reaction of the students and their evaluation of the worth of these courses, is very clearly and comprehensively set forth in our newly published Handbook. It is intended that this booklet be added to from time to time, as new information and experience becomes available. Because of that, I feel that it is more appropriate to attempt some observations, and perhaps draw a conclusion or two, concerning this material, rather than repeat and reiterate facts and figures, all of which are clearly and concisely set forth in the book.

Little more than a casual reading of this material, which represents the experiences of ten states, will show that in this initial period there has been a considerable amount of experimentation in the development of satisfactory curricula. Keeping in mind that the basic purpose of these schools is to help our employees have a better understanding of the industry in general, and to specifically assist them in performing their own duties more efficiently, I think it is interesting to note that an analysis of the curricula of all of the past schools, as reported in this booklet, reveals many similarities among the various states on how this objective has been approached. This is so, even between states of widely separated geographical locations. There have, of course, been many different angles of approach, each influenced and tailored by local customs and procedures, but the underlying strategy has been pretty much the same. Thus, there has evolved a reasonably standard pattern of instruction, which places emphasis on certain basic essentials, but which also includes other subject matter, as well.

To be more specific, the subject of land descriptions in one form or another, has appeared on the program of every state reporting in our booklet. In most cases it appears repeatedly, year after year. Obviously, this is one of the most important basic subjects. Some schools have treated it in more depth than others, but we all agreed that it is one of the cornerstones of the business, which must be taught regularly in our schools.

There are other subjects which also appear repeatedly on most of the programs. General abstracting, oil and gas abstracting, and abstracting of specific instruments have come in for considerable attention. The subject of title plants, their make-up and how to use them, has also been treated. Title insurance, both generally and from specific standpoints, is another topic that has appeared on many of the programs. In addition, such matters as public relations, both from a customer and employee's standpoint, have been discussed.

I think it may also be appropriate to comment on the level of our school instruction, and the category of employees to whom the subject matter has been addressed. In the beginning almost without exception, the material offered was elementary and general. This approach was intended to benefit almost any employee, but was most helpful to the new and inexperienced person who naturally had the most to learn Later efforts brought forth more specialized subject matter, and greater depth to the material. As the programs developed, several states have offered two levels of instruction at the same school, one elementary and the other advanced. Indiana has offered a rather unique round-robin three year program, that could be completed in one year, if an ambitious student so desired. It could also be taken one step at a time and be completed over a three year period. In addition, it was so arranged that a student could make up a course that he may have missed, by attending two courses the following year. Profiting from experience and initial mistakes, the trend

has been toward more sophisticated programs and more advanced instruction, the impact of which will be more fully felt in future schools.

I might also point out that the curricula of our schools has included a liberal sprinkling of such necessary and popular subjects as coffee breaks, social hour and entertainment. Although I say this in jest, this has provided the students with an opportunity to get to know one another, and to discuss mutual problems. I am convinced that one of the greatest bi-products and side benefits derived from our schools has been the interchange of information between students from different areas of a state, and the corresponding discussion that goes with it. The results tend to give the employee student a broader concept of the business in general, as well as new ideas about how other companies function, including the knowledge that they are not the only ones who have problems in this business.

Probably one of the best ways to measure the degree of success and effectiveness of such a school, is to ask for the opinions of the students. This procedure has been followed, and at the conclusion of the courses the students have been asked to express their opinions by answering questions on a critique or evaluation sheet. In most instances they were also asked to make any comments that they might care to, in addition to answering certain specific questions. Much of the detailed results of these questionnaires is in our Handbook, and I do not intend to read it to you. I would like to say, however, that the replies are very frank and candid, ranging all the way from high praise to justified criticism. The overwhelming preponderance of student opinion is very favorable, and indicates that our employee students regard these courses as a very beneficial and extremely worth-while effort. The proof of the pudding is, of course, in the eating, and this is the strongest evidence that we could obtain to show that our school pudding has been properly accepted and satisfactorily consumed by those for whom it was intended. This should encourage us, not only to continue our work, but to make every effort to improve it for future schools.

The material contained in our Handbook is comprehensive, factual and well organized. It is the finest reference available, and to my knowledge is the only formal collection of information on this subject, that has ever been made. It can be of almost immeasurable value to anyone planning a school of this kind. From it the experience of ten states and 31 separate state sponsored schools is available. There is a wealth of information here, and I heartily recommend it as a reliable guide for planning future schools.

MR. KNISKERN: I have been asked to comment on, and try to analyze the time and place, registration fees, attendance and extra-curricular activities of the Schools.

I must make this remark to begin with, that on my first perusal of this fine Handbook, I find all ten states who have held Schools are wholeheartedly in favor of continuing them.

Place—The places where schools were held range from resort areas to motels, hotels, country clubs, state colleges and universities. Most school committees have open minds on places, but the majority are leaning toward the use of state college or university facilities. Kansas remarks that they use the Broadview Hotel at Wichita because of it's central location, **but** this means a careful attention to running on a **school** and not on a convention basis.

Time—Schools were held in February, April, May, June, August, September and November. A little difficult to draw any conclusions on this. I suppose each state would have to decide on time according to local situations.

Days—Most schools convened on Fridays and Saturdays, and were generally 1½ day affairs, closing shortly after noon on Saturday. For beginning stages, this is good, but some of us who have held one or more schools feel that a full two days should be devoted to the operation.

Attendance—Here again, it is hard to draw meaningful conclusions, as so much depends on the number of Title Association members participating in a given state, and whether the school was held in one central location or on a regional basis. I can tell you that—

Colorado held 2 schools and reached 112 people.

Florida held 4 schools and reached 485 people.

Illinois held 3 schools and reached 159 people.

Indiana held 2 schools and reached 507 people.

Kansas held 4 schools and reached 378 people—they gave no attendance figure on their 5th school.

Minnesota held 1 school and reached 34 people.

Missouri held 5 schools and reached 790 people.

Oklahoma held 1 school and reached 25 people.

Texas held 2 schools and reached 83 people.

Wisconsin held 2 schools and reached 86 people.

Apparently Indiana, by taking their schools to their members regionally, has reached the most employees. Missouri reached 325 their first year by holding schools in 5 different places. Obviously this is more work for the school committees and instructors, but it is an important point to consider when our primary object is to reach a maximum number of employees.

Registration fees—ranged from $3.00 to $20.00, with much discrepancy as to what these fees included. Most did include tuition, supplies and one or two meals. It averaged out to $15.00 per person, and at that figure the local Title Association must underwrite part of the expense. $15.00 just isn't enough.

Extra-curricular activities—All but Indiana and Texas had banquets or dinners. Some states had light entertainment, some had educational movies. As far as a social hour, or as we in Wisconsin call it, a cocktail party—only 3 states reported that they had one. We in Wisconsin, found ours successful, in that the attending employees became better acquainted and began to talk about their common interests. Incidentally none abused the party.

In closing, may I say that it has been a real privilege to work on this Committee. Frances has done most of the job and she is to be highly commended.

This is a marvelous Handbook, and I know it will be of much value to the States already holding Schools, and even greater value to the States considering the operation of their first School.

The Mortgage Market Now and for 1965

CAREY WINSTON, President, The Mortgage Bankers Association of America; President, the Carey Winston Company, Washington, D.C.

To say that the Mortgage Banker considers the title company his friend and protector is an understatement. The originator and holder of a mortgage and a property, no less than the owner of the property himself, is concerned that the title is good and merchantable. In these times, the mortgagee may often have reason for more concern even than the owner, because, with the liberal Mortgage terms now prevalent, he may, at least in the early years of a loan, have the only real stake in the property.

Consequently it is pleasant for me to be here and to have the opportunity to thank you for the assurance and safety that your industry has brought to real estate and mortgage lending transactions. Without the confidence that is obtained from title

insurance, this vast activity, which represents by all odds our greatest field of investment, could at best be carried on only in a halting, restricted, and uncertain way.

This is especially true of the type of activity that is carried on by Mortgage bankers. We deal in a national investment market. We deal for the most part with institutions that are remotely located from the communities in which the mortgage loans are placed. For the most part also, we deal with institutions that have wide latitude in the choice of investments. They are not in any way limited to mortgages. They need acquire them only if they consider them sound investments. They have no way of determining soundness except by the assurances we can give them as to the characteristics of the properties and the borrowers and the warranties you can provide as to title. In the final determination, it may be that it is the last that counts most, since without the certainty that, if necessary, the investor can repossess the property and dispose of it freely, he would have little incentive or justification for engaging in this business. So again, I salute you, with gratitude, as friends and partners.

You have asked me to talk about the mortgage market as it is now and as it will be in 1965. In self defense, I shall begin by saying that, except for the narrow range of one's own operations, it is difficult enough to chart with accuracy where the mortgage market is now. It is not much more than mere speculation to say where it will be next year.

The eminent economist, Dr. Arthur F. Burns, who was President Eisenhower's Chief Economic Adviser, used to reply, when questioned by congressional committees about the future course of affairs, "I am not blessed with the gift of prophecy." The best I can do—the best that any of us can do—is to assemble all the available facts—and unfortunately not enough are available—and then to make a judgment as objectively as possible as to what they mean and where they lead.

It is at least better to do this than merely to jump to conclusions on scattered reports, rumor, and insufficiently supported opinion. As a warning, it seems to me there is too much of this sort of hit-or-miss analysis going on right now. Such a long extended period of annual increases in construction activity as we have had, and such a spectacular increase in the amount of all types of income-producing properties as we have recently experienced are bound to lead to apprehension; and apprehension leads quickly to prophecy, whether gifted or not.

Those of us who were about a generation or more ago cannot forget a similar period of expansion in the late 1920's and the disaster that it led to. It is easy to come to a conclusion that all periods of expansion lead to disaster and that the longer the expansion the more certain will be the ultimate disaster. But this is judging from the facts of the 1920's rather than from the facts of today. What then are the facts of today?

First of all, the facts of today are in many ways different from the facts of the 1920's. The mortgage system has been drastically modified. In the 1920's, the amortized Mortgage was uncommon; today it is general. In the 1920's the mortgage structure was underlain with a huge amount of junior financing, also for the most part unamortized. Today, junior mortgage financing, in spite of its apparent revival in recent years, is not generally a disturbing factor. In the 1920's, the financing of income-producing property was widely dependent upon the rickety base of mortgage bond financing. Today it is almost wholly in strong institutional hands.

These structural changes, among others, have made the mortgage market of today greatly more shock-resistant than it was in the 1920's. There is also a very significant difference in the environment in which the market operates. In the late 1920's, we were in a period in which the rate of net new family formation was declining and in which population experts could foresee a leveling

of population to occur at just about this time, when now we are certain to have acceleration in the rate of new family formations. Today both population growth and economic growth are on the side of a strong mortgage structure in a way that was not present in the 1920's.

What then, beyond a false analogy to a previous unhappy period, are the facts in the present situation that might reasonably lead to apprehension? Here are some of them.

(1) The number of home foreclosures has taken a notable upturn since about 1958 and is now at the highest level since the late 1930's.

(2) A number of real estate corporations and syndicates have come into troublous times.

(3) An unprecedented volume of construction of apartments, office buildings, shopping centers, and hotels and motels has taken place during the past seven years.

(4) The volume of construction being put in place has leveled off and the recent volume of building permits, contract awards, and housing starts gives evidence of a possibly impending decline in activity.

(5) The amount of funds available for mortgage financing continues to be large.

Beyond this there are scattered local reports of overbuilding, increased vacancies in various types of buildings, rental concessions, and the like. This is about the limit of the solid evidence that may be summoned to frighten oneself. How is this to be interpreted, especially in the light of such counter-evidence as may be cited? Let me go back to the points I have just mentioned.

The number of home foreclosures, while exceeding that of the early postwar years, cannot be considered abnormal, in the light of the exceedingly easy terms and the lapse in credit practices that were prevalent, especially around the mid-1950's. Nor, irrespective of these circumstances, should they be considered abnormal in a period of relatively stable realty values. What was abnormal was the low level of foreclosures in the earlier period, when inflation usually provided the troubled borrower with a painless means of escape. Moreover, the most recent reports from FHA, VA, the Federal Home Loan Bank Board, and our MBA Delinquency Survey strongly suggest that the acceleration in both numbers and rate has ceased and that a plateau has been reached. A continuance of a foreclosure rate close to the present one—which would permit some increase in numbers—should not be surprising nor necessarily alarming. Recent improvements reported in house sales, including sales of foreclosed properties, give added reassurance on this score.

The difficulties which some real estate investing—or speculating—corporations have come upon are often taken as an indication of weakness in the income property market as a whole. This, to my mind, is a broad jump to a conclusion. The difficulties, spectacular as some of them are, are few considering the enormous volume of activity that has taken place; and, in the spectacular instances, they have involved pyramiding of financing and trading in existing properties in the expectancy of a continued inflation of values, much more than they have the creation of new properties. It is fortunate also that the difficulties have occurred at a time when the realty structure as a whole is in a sound condition; and, as I have already noted, the mortgages on these properties are in strong hands, capable of coping with such problems as may arise.

There is no denying that the recent expansion of the types of construction I have mentioned has been phenomenal or that the expansion appears currently to be abating. However, I find good reasons for the expansion that has taken place, and I find the present slackening a favorable rather than an unfavorable circumstance.

First, Let's look at the apartment situation. Taking the postwar period as a whole, apartment building is a

fairly recent phenomenon. Prior to 1957, the number of units in multi-family buildings, including two-family structures, exceeded 10 per cent of total new housing units in only three years, 1948, 1949, and 1950. For the period 1945 through 1956 as a whole the proportion was only 9 per cent. The prior under-emphasis on apartment building is, of course, now being reversed. The higher volume of such construction, while it was encouraged by the changes in tax depreciation allowances in 1954, is in direct response to a change in the age distribution of American families which began to become clear in the late 1950's.

There is today no evidence of a general overbuilding of apartments. National figures on vacancies have shown little change quarter-to-quarter, and a recent survey of the National Association of Real Estate Boards indicates that over-expansion is much less widespread than some of the scare stories would imply. Since building markets are local rather than national markets, national figures tell only part of the story. But even in detail, the picture is not a bad one. In 78 important metropolitan areas for which economic conditions were recently surveyed by **U.S. News and World Report**, new residential building was reported to be better than a year ago in 47 and slower than a year ago in 31.

The situation with other types of income-producing property appears to be similar. What we are having is a sort of rolling adjustment, in which saturation appears here, while activity is still strong there, and in which, as saturation reaches additional places, renewed activity follows in others. At the moment, the whole thing adds up to a moderation in the rate of expansion, with the possibility of leveling or perhaps a slight decline in 1965. At this time, a short pause— which is the worst that I see ahead—would be a healthy thing. It would prevent the development of serious market congestion and would prepare the way for a quick recovery. It would be a pause that refreshes, not one that depresses.

It is notable that the current adjustment is in no way related to a stringency of mortgage credit. Tight credit did play a part in previous periods of market construction in the postwar era. But not this time. Funds remain in ample supply for construction purposes, and lenders continue to be desirous to obtain mortgage loans. This situation has led to concern about the alleged deterioration of credit. Like the alleged weakness of the housing market, however, the concern over the soundness of the credit structure to my mind has been much overplayed.

Credit terms **have** been liberalized —steadily liberalized both as to downpayments and maturities during the postwar period. There is no doubt about that, as to both insured and conventional mortgages. There undoubtedly have been cases of over-appraisal by lenders and over-optimism by borrowers. There always are. But there have also been distinct improvements in credit reporting, especially for FHA-insured mortgages, and there has been increasing attention paid by lenders to the location and quality of the properties offered for mortgage security. Considering again the strong and responsible hands in which the bulk of the financing rests, no collapse of the mortgage structure is possible.

I have said that next year is likely to see a moderation in the rate of construction activity. I want to em-phasize my view that any abatement ahead will be mild and that it will be temporary. First, there will be no lack of funds to sustain any volume of construction that the market will absorb. Interest rates will not rise to inhibitive levels. Second, notwithstanding the adjustment in activity that I see as being in process, the construction market is basically in an expansive and not a contractive phase.

We have passed through the trough in the rate of new family formation and the beginning of a period of revived growth rate is at hand. The demands that this new growth phase will bring will exceed anything that we have seen even in the most

frantic of the postwar years. According to revised estimates that the census bureau has recently issued, the number of private nonfarm dwellings started reached a record high of 1,900,000 in 1950. But the average yearly number since the end of the war was 1,344,000. The next decade will require an average production much exceeding this. It will, in fact, require an average production exceeding that of the peak of 1950.

Between now and the mid-seventies, we shall have the opportunity of providing housing for from ten million to fourteen million net additional families. At the same time we should be able to replace from five million to seven million houses and apartment units that are in the existing supply. To do this, and to take care of demands resulting from the shifting of people from place to place and from the upgrading of housing standards in response to rising income, an average production of two million dwelling units a year will not seem excessive.

The increase in family formation means more than merely an increase in the demand for housing. It means also the development of properties for all the commercial, industrial, recreational, religious, and educational activities that the increase of the number of families will require. It means the creation on the average every year of the whole range of properties needed for a metropolitan area larger than that of greater Philadelphia, including Camden and Chester, with the Wilmington Metropolitan Area thrown in. It means that we shall be talking of total spending for new construction in terms of $100 billion instead of the $66 billion we may expect in 1964.

Such a prospect overshadows any difficulties that may be facing the realty market and mortgage financing at this time. We should, of course, do our utmost to keep the market structure sound so that it will be able without serious impairment to move vigorously into its next phase. But we need not magnify the present task of adjustment. The future is on our side and its stimulus is close at hand.

Title Insurance on Sales of FHA Acquired Properties

A. M. PROTHRO, General Counsel,
Federal Housing Administration, Washington, D.C.

This opportunity to discuss an FHA problem with members of your Association is sincerely appreciated. It is a mutual problem, and one that has provoked great interest among title companies and bar associations.

Before getting into matters which may be considered controversial, let me say a few words about the Federal Housing Administration. Created just 30 years ago, the FHA has established a remarkable record. More than $90 billion in loans have been insured. Last year was the third in which $7 billion in loans were insured during a 12-month period. The ownership of homes for families throughout the country has grown by leaps and bounds, and the current census figures show that 63% of our families own their homes today.

We are proud of steady advances being made in construction standards, improved financing methods, better design and land utilization—all without expense to the taxpayers. The FHA is administered on a business-like basis; and all of our expenses, including insurance losses and operating costs, are paid—not from appropriations — but from the fees and premiums collected from those participating in our insurance programs.

Substantial reserves have been accumulated to cover future claims, and all funds advanced by the Treasury in the early years of FHA's existence have been repaid with interest.

The FHA pays real estate taxes on the same basis as private citizens. As I shall explain, we also pay for title evidence and title insurance on a large scale.

THE FHA AS A PURCHASER OF TITLE INSURANCE

The amount of an FHA-insured mortgage is determined at the outset by a value estimate which takes into account the borrower's total acquisition cost. Most lenders require title insurance, and it is safe to say that the cost of this insurance is included in the typical mortgage.

If the borrower fails to pay the mortgage debt, the lender incurs additional expense in bringing title down to date for foreclosure purposes or the acceptance of a deed in lieu of foreclosure. More title expense is incurred by the lender in providing evidence that good and marketable title is vested in the Federal Housing Commissioner at the time claim is made for the benefits of FHA insurance. Most of these costs are reimbursed to lenders in the FHA insurance settlements.

The last step is the FHA sale of the property, which sometimes takes place within a few days—even on the same day if we can arrange it—after FHA acquisition.

In some of our past transactions, it is reasonably accurate to say that the FHA, directly or indirectly, has paid for title insurance three times on the same parcel of property within a period of less than a year!

THE OLD POLICY

Prior to April of 1963, FHA financed the sales of these acquired one-to-four-family home by taking back purchase money mortgages. The sale and take back transaction required a relatively simple closing and no title evidence. The purchaser from FHA, although at liberty to do so, seldom asked for a title examination. After all, the purchase was from a government agency and purchasers were willing to trust FHA to deliver good marketable title, especially as we were taking back a purchase money mortgage.

FHA then sold these mortgages, usually in large blocks, to institutional investors—or in some cases to FNMA who, in turn, sold them in large blocks to institutional investors.

The usual mortgagee's title policy did not accompany the sale of these purchase money notes and mortgages. Title policies were not necessary in these transactions. As the holder of a purchase money mortgage, FHA was not greatly concerned with any title problems. We were willing to rely on the title evidence we received at the time of acquisition of title. This evidence showed the condition of title at the time of the deed into FHA. We were also able to rely upon the fact that we knew whether or not we had done anything during the period in which we held the title which would adversely affect that title. We also knew that there is very little that will disturb the primacy of a purchase money mortgage taken by the vendor of property in any state.

In order to make these mortgages marketable to large investors, without the usual mortgagee's title policy, all that was needed was the issuing of a very simple regulation by FHA. This regulation, which forms a part of our insurance contract with each holder of an FHA-insured mortgage, reads as follows:

> "§ 203.390 Waiver of title-mortgages formerly Commissioner-held. If the Commissioner sells a mortgage and such mortgage is later reassigned to him in exchange for debentures or the property covered by such mortgage is later conveyed to him in exchange for debentures, the Commissioner will not object to title by reason of any lien or other adverse interest that was senior to the mortgage on the date of the original sale of such mortgage by the Commissioner."

Under this regulation, the investor would be saved harmless from loss from any defect in title existing at the time we sold the mortgage. No problems were encountered, and lenders apparently accepted the regulation as the equivalent of title insurance.

THE NEW POLICY

In 1963 we began to re-evaluate our policy of financing sales of acquired properties with Commissioner-held purchase money mortgages. The origination, servicing and selling of mortgages was burdensome and unnecessary. Mortgage money was readily available from private lending sources, and it made sense to utilize the resources of private industry to the maximum extent. The policy was adopted of taking back purchase money mortgages only in those sales for which financing by private investors on reasonable terms could not be found.

Let me explain how we determine what "reasonable terms" are. We circulated by letter to every investor in each state or insuring office jurisdiction the information that, in the future, sales of Commissioner-held property would be privately financed. We gave each investor the opportunity to inform us of the terms under which these sales would be financed. We then established maximum discounts and other costs of sales that we would be willing to pay in order to have these sales privately financed. If, for example, some lenders said that they could obtain the necessary survey for $25 and others said $35, the maximum that FHA would pay was set by the insuring office director at $25. If some lenders said they wanted a 1% discount to handle these loans and others said 1½%, we set the maximum at 1%. In short, we endeavored in these "salvage" operations to conduct our business like you would conduct yours.

One of the items that FHA agrees to pay for in our contract with the purchaser is the cost of title evidence. We considered this necessary in order to hold down the amount of initial investment or downpayment required of our purchasers. Our objective is to return the properties to private ownership as soon as possible, and low downpayment requirements are essential in achieving this result.

The FHA owns approximately 50,000 home properties at present and we are acquiring additional homes at the rate of 40,000 a year. Sales in recent months have been at a rate slightly in excess of the 40,000 acquisition rate. You can see at once that the savings of a few dollars in each sales transaction means important and substantial savings to the FHA. If we could save just $10 on each sale, we would be talking in terms of $400,000 per year. As responsible managers acting in the public interest, we have sought to make these savings.

One proposal for money saving which was given much thought was the complete elimination of the need for a title policy. This could be accomplished in much the same manner that the need for title evidence was eliminated when we sold by taking back a purchase money mortgage. We believe a regulation guaranteeing the condition of title and the primacy of the mortgage lien at the time of our sales would serve the same purpose as a title policy. At one time, in a conference with representatives of your Association, this was described as a "red, white and blue" title policy.

We preferred not to move in this direction. We believe that the use of the mortgagee's title policy, as issued by title insurers, is more readily acceptable to lenders. Moreover, our purpose is simply to sell as promptly as possible on a sound basis. We have no interest in attempting to establish new fields of government enterprise.

Let me digress to make one point unmistakably clear. We are not trying to establish prices for title insurance in sales from one private party to another. We have never had any intention of doing so, whether sales are financed with FHA-insured mortgages or not. We are here concerned only with the cost of title insurance to the FHA in its own sales.

THE LAWYERS TITLE AGREEMENT

One of the leaders of your industry, Mr. E. Gordon Smith, Senior Vice President of Lawyers Title Insurance Corporation, knew of our dilemma and made the initial offer that made our present program possible. He took the initial steps in the interest

of the title industry as a whole to find a solution for the FHA. He recognized that the solution must afford us the savings we sought without changing the requirement by lenders that title policies accompany the movement of mortgages in the secondary market.

In conferences with Mr. Smith, we agreed that FHA is distinguishable from the usual seller of property. First, we are a governmental agency. We can deliver general warranty deeds if deemed to be in the best interests of the government, and, in any event, the integrity of the United States is behind every sale. We considered the possibility of competitive bidding in view of the large number of title orders which could be contracted for on a national basis. Finally, we agreed that an indemnity running from the FHA, as an agency of the United States, could be the proper basis for a reduced rate. We agreed that FHA's indemnity cannot be compared at all with an indemnity of a private firm or individual.

Based on the indemnity agreement, which I will explain, Lawyers Title offered to furnish both a mortgagee's and an owner's title policy, standard ALTA forms, for $75 a case in each privately financed sale of FHA-acquired homes selling at $25,000 and under. The $25,000 figure was used because this was the maximum mortgage FHA could insure on a single family home and almost all of the properties with which we were concerned are single family homes. In actuality, the average sale runs about $13,000 and few exceed $16,000 to $17,000.

In order to induce Lawyers Title to make this offer, we agreed to furnish them with all title evidence from our files which showed the condition of title at the time FHA acquired the property. This is the evidence upon which FHA determines that the title is acceptable to FHA. In some cases this title evidence may be in the form of an attorney's opinion or Torrens certificate rather than title policies as such. In addition to furnishing the title evidence, FHA agrees to indemnify the title company for any loss that might be suffered by reason of the fact that the title company accepts as correct the furnished title evidence and runs title from that point forward only. We also agree to indemnify against the risk of mechanics' liens attaching since the date of FHA's acquisition of title and against the risks of parties in possession. This indemnity, coupled with the fact that FHA sells with a special warranty deed, comes very close to what could be called, although not technically accurate, a land patent from the federal government. We believe, based on the reduction in the risk and the reduced examination necessary, that $75 is an equitable price to pay for the end product—the title policies.

EXPERIMENT IN GEORGIA

Based on the offer from Lawyers Title, last December we decided that we should see if this offer would really work by trying it on an experimental basis in Georgia. The way in which we tried this experiment was to inform all title companies doing business in Georgia of the offer made by Lawyers Title and stating that we intended to limit what we would pay for title evidence to a $75 maximum. All companies were informed that we would be pleased to enter into similar indemnity arrangements with any other title company. After allowing a suitable time for title companies in Georgia to join in this program, we then announced to all mortgagees participating in the private financing of sales of Commissioner-held property that $75 would be the limit for the purchase of title evidence. To this announcement, we attached a list of those companies who had agreed with FHA to furnish the evidence at this price.

We did not, in any way, limit the mortgagee's free choice of the company which would furnish the title evidence nor, in fact, did we prescribe the form of title evidence which the lender was to use. Under this plan, if a lender prefers the opinion of an attorney without a supporting title policy, it would be prefectly satisfactory insofar as FHA is concerned.

Some objections have been raised,

especially by the Bar Association in Georgia, but we consider the experiment to be a success.

CLOSING CHARGES

Our agreement is that for $75, the title company produces title policies. The services the title company furnishes are all of those services necessary and incidental to the writing of the policy except the handling of the actual closing of the transaction. For $75 the title company prepares or contracts for the abstracting, the examining of the abstract and the opinion of title. FHA is not concerned with, nor is FHA a party to, the arrangements under which the title company obtains these services.

For the closing, FHA continues to allow charges considered reasonable and customary for the locality. In the states in which these closings are conducted, as a matter of practice, by attorneys, we do not attempt to set fees for professional services. What we do is to establish the maximum we will pay for these closings. In any case, the maximum we will pay is set by our local insuring office and is based upon general knowledge of going rates in the community for similar work or upon actual offers to handle these closings at the figure established as a maximum. As in our allowance of $75 for the title company, based upon a reduction in the work and risk to which the title company is exposed, the maximum closing fees we believe are equitable rates for services actually rendered.

PLANS FOR THE FUTURE

Since trying this program out in Georgia, we have received offers from other title companies doing business on a national scale and the original 31 states included in the offer by Lawyers Title have been expanded so that we now have offers to produce the evidence necessary at the same $75 rate in 38 states. A large number of companies are now participating in the program, and a cordial invitation is extended to each and every member of the title industry to take an active part.

Permission is being sought from State Insurance Commissions, in some states in which title fees are regulated and controlled by these Commissions, to make this offer in those states. We believe that the equity of reduced rates which reflect the reduction in risk and work involved can be demonstrated to the satisfaction of these Commissions.

At present, this program has been put into effect in the following states: Arizona, Arkansas, Colorado, Georgia, Illinois, Indiana, Kansas, Missouri, Nebraska, New Jersey, New Mexico, Oklahoma and Utah. In addition, we have informed our directors in the states of Idaho and Montana of the offer and have directed that this offer be put into operation in those states within the immediate future.

Although proceeding slowly, on a state by state basis, a rough estimate of the amount of money we have saved since last January is in excess of $350,000. We believe that with the program extended to other states, during the fiscal year beginning July 1, 1964, FHA will save in excess of $1,000,000.

The FHA is accustomed to working as a partner with private industry. We earnestly solicit the cooperation of the entire title industry in this important undertaking which we sincerely believe is mutually beneficial.

Thank you very much for inviting me to attend your convention.

Management by Intent

VICTOR J. TOWN,
Ernst and Ernst, St. Louis, Missouri

How easy it is for us to over-complicate a simple, natural process. Isn't it odd how we like to use too many words and over-embellish a subject when a few simple facts would suffice. We often create so much fog that we completely enveil facts and principles which have been tested for

years and years. We enshroud in a cloud of mysticism a common sense method because we sometimes believe that people will not accept the simple explanation. We are very much prone to do this when we talk of management. There has been so much written about management, the Executive Function and Organization that the whole field has been engulfed by a sea of words and a flood of rhetoric formidable enough to make us shake and quiver when we start to discuss the subject academically.

Management has been called an art, a science, a process, and a number of things. We talk an awful lot about the science of management. But is it really a science? Management can be compared to a piece of machinery. It may seem complicated in the beginning but once you have an understanding of it, it becomes reasonably simple. The same can be said of management. There are a few basic principles that must be learned but once they have been mastered, things should operate smoothly. Any piece of machinery can be kept going by giving it reasonable care and maintenance. Usually programs are set up which the industrial engineers call preventive maintenance. Management can follow this same principle and install just such a program. Likening it to the preventive maintenance program, it could be called a Program for Management by Intent.

Management by Intent means following the basic concepts of sound management and following them purposively without the over-complication and mysticism we so often use.

Let's treat management as a simple process composed of four major responsibilities:

1. Planning
2. Organizing
3. Directing
4. Controlling

Sometimes I agree with Louis B. Lundborg, the Executive Vice-President of the Bank of America, who said "We have exalted the tools of scientific management to the status of sacred cows, with incredibly severe effects on our organizational ability to move swiftly and decisively." So let's not exalt these tools. Let's talk about them in a common sense manner.

PLANNING

The first essential function to be performed by a manager is to determine what must be done by people in order to accomplish the work or the objective. Planning encompasses the whole field of deciding what you want human beings to accomplish. This involves the careful determination of needs, the establishment of objectives and the specific component contributions of each member.

ORGANIZING

Closely coupled with Planning is the second tool of so-called scientific management. That is Organizing.

If it is impossible to build a house without a blueprint, without some indication of what the carpenters, electricians, masons, plumbers, and painters are to do, how can we expect to manufacture a product or render a service without the same careful planning and organizing. When we organize we group and assign all our component activities so that we can accomplish an objective with minimum effort, time and cost. We build an organization chart. And what is an organization chart? Nothing but a blueprint for present and future action. I want to talk more about organization charts later on. It is a tool of scientific management that should be used carefully. The organizing function should be thought of as making the plan, created by management, meaningful to each member of the group.

DIRECTING

Our third tool or function of management is concerned with the measures necessary to get things done. Among the more common of these measures that should be utilized to put things into action will be leadership, orders, communication, discipline and counselling. It involves the delegating of responsibility and authority to other people in order to get things done.

CONTROLLING

Control requires the use of various

media which will impel the people in the organization to work in accordance with the plan. It is the follow-up on what is being done. It is supervision. How well should the work be done? How well is it being done? This is Controlling. The function of Controlling or supervision is to close the gaps between desired performance and actual human performance. If the mere issuance of policies and instructions would induce people to do what they are supposed to do, supervision would not be necessary.

Having outlined these as the fundamen'al tools of management you can see that there really isn't anything very scientific about it. The primary management function is to determine what you want people to accomplish, organize a plan of action, put that plan into effect, check periodically as to how well they are accomplishing it, and to develop methods by which they will perform more effectively. You can readily see that these functions are inextricably interwoven and interrelated. The performance of one function does not cease entirely before the next is started and they normally are not carried out in a particular sequence but as the situation being considered seems to require.

This all leads to a rather simple truth: Management is the development of people and the planned direction of those people. It is an intentional thing that we can plan for and control. If this fact were more generally accepted, many management difficulties would disappear. The executive or supervisor who says that he would rather exhaust himself doing things correctly than spend the time and patience necessary to get other people to do them correctly is admitting that he cannot manage. He has no intention of managing.

If management is the development of people how can we use the so-called tools of scientific management to aid us in this development?

The first step is to build our organization carefully so we can know where to spot organizational problems easily. If we are building from scratch or if we are rebuilding we should recognize the fact that a good proportion of our problems are organizational problems. Good management development is predicated on a sound organization. The proper grouping and relating of human abilities and establishment of decision centers in the enterprise set the stage for success or failure. The ideal organization is something that glimmers fitfully on the horizon from time to time — something the architect would like to achieve but seldom does. Using the tools of planning and organizing, the framework can be established that will aid companies immeasurably in the development of managerial talent. I happen to believe that an organization chart is essential but I do recognize that there are numerous pitfalls in its use that must be avoided.

Asked to state the reasons that led them to develop organizational charts, 118 firms in a survey conducted by AMA gave answers that could be grouped in two classes: (1) deals with charting for communication purposes —to inform the employees and outsiders of the nature of the organization structure, and (2) charting to discover and cure organization defects. Many companies naturally use the charting process for both kinds of activity. Communication may have been the original reason but before long, in the process of setting the organization down on paper, conflicts, duplications, inconsistencies, lack of delegation and burdensome reporting responsibilities become apparent. The first penciled sketch of the organization may cause astonishment in top management circles. The reaction is often surprise that so many previously undetected weaknesses exist. This organization charting process is much more important sometimes than the finished product or chart. I'm not suggesting, of course, that you go through the whole process, complete the work, then simply throw the final chart away or fail to use it in any way. The process of developing an organization chart entails studying extensively every job in the organization and its interrelationship with every other job. Written job descriptions should be prepared and these analyzed for overlapping and incon-

sistencies. If wage and salary problems become evident then some form of job evaluation should be considered. All during this information gathering process and this job analysis the organization chart should never be accepted as complete. It is not static but dynamic. Unless it is reviewed frequently, it will bog down, supervisory levels will be neglected and management development retarded. Some companies I know make a point of examining their charts every two or three months even though they are not conscious that a change has taken place. It is astonishing how little relationship to reality some charts actually have, simply because revisions have not been made when they should have been. Unless the organization structure is simple, is reviewed repeatedly and unless all who are part of it understand it, it will defeat its own purpose, which is to enable people to work together in groups as effectively as they would work alone. If there is misunderstanding about individual and/or departmental authority and responsibility, or about interrelationships between individuals and organization units, people cannot work effectively.

The other two tools of management concern leadership and supervision. Our aim in building any organization should be to people it with the proper personnel who can supply the leadership to attain the objectives of the company. We can build all the organization charts, write all the job descriptions and make all the work flow charts we want but none of them will work if we forget the human element. Even IBM has not come up with an acceptable substitute for the human being. We have said that management is actually the accomplishing of a predetermined objective through the efforts of other people. Getting other people to work requires leadership and supervision. It requires managers and supervisors. The capacity to enlist full measure of energy, enthusiasm and ability of all employees toward a given objective is the vital work of a successful manager. The present-day qualifications of a manager are far more than matters of material endowment. Most managers are developed; few are born managers. Twenty-five years ago it was considered improper even to use the terms "management training" and "manager development" because it was assumed that when a man became a manager he knew enough and had the skills required to do the job. Today we cannot wait for leaders to be born and managers to grow into their jobs. Dependency solely upon the efforts of individuals or upon informal association with immediate supervisors is slow, incomplete, and frequently ineffective. Today the need is for a definite program designed specifically for managerial or executive development.

The job of the manager is more difficult today than it was before because no one person is capable of making all the decisions required. This means that the modern manager must rely upon the judgment of others. It is easier to exercise one's own judgment than it is to obtain, evaluate, and have confidence in the judgment of other people.

The average person has much more confidence in his own judgment than he has in the judgment of someone else—even when he knows the other person is more qualified to exercise that judgment. He feels more secure in his own judgment because at least he knows how he arrived at his opinion and he is not sure what processes the other person went through.

We talk today about the shift from the autocratic, one-man type of operation to the democratic, consultative type of supervision. What we are talking about is the person who exercises judgment versus the person who gets others to exercise judgment. We talk about centralization versus decentralization. What we are referring to is having all the decisions made in one place versus having them made at many places by people in much better positions to make them.

The shift from exercising one's own judgment to selecting and developing those who can exercise judgment is real and dramatic. It is no longer a matter of choice. A manager either

makes this shift or goes down to defeat.

This, therefore, is in my opinion one of the factors contributing to all the current interest in management development. More and more managers today are concerned with how to find people who can make good decisions than they are with making decisions themselves. No one is born with good judgment. It is acquired through the accumulation of know-how, practice, and experience.

Know-how, practice, and experience normally come with the years. That is why judgment usually improves with age and maturity. This process, however, can be speeded up. Practice may be intensified by stringent periods of programed and supervised drill. Experience can be attained through conscious, concentrated exchange with other people engaged in the area of experience desired. Know-how can be greatly enlarged through well-known scientific educational processes.

These are the basic purposes of management development. When we speak of courses, conferences, seminars, clinics, and round tables, we are identifying carefully prepared and directed media for supplying a background for good judgment more rapidly than if the development of the modern manager were left to time and chance.

There is much curiosity, discussion and research about methods for determining how good a manager really is. "How can a manager be measured?" is a question frequently asked.

Personal productivity can be measured but to judge a manager upon that alone ignores the basic definition of management, that it is getting things done through other people. The sales made by a sales manager, the output a foreman gets from a machine, the number of escrows closed by an escrow department, even the number of title or abstract orders processed are not measurements of managerial effectiveness. To give complete attention to them puts the emphasis in exactly the wrong place.

How about the output of the manager's subordinates? Would that not be a fair measure—if the manager's job is to get his people to attain results? In part it would be, but even that has to be analyzed. Frequently the results attained by an organization reflect conditions over which no one has control. A rising economy can carry a business along with it. A new and aggressive public relations campaign can increase profit. In neither case would the skill of immediate supervision be indicated by the figures.

I think there is one positive way to measure how good a manager is. In my opinion, a fair and constructive way to measure the performance of a manager is to measure the improvement shown over specific periods of time by those individuals who receive their day-to-day supervision from him.

Acceptance of this idea depends upon acceptance of the principle that a manager's job is to develop people, to help them realize their fullest potential in character, personality, and productivity. Even though, actually, people are not developed but must develop themselves, it is a manager's obligation to offer full opportunity for and assistance in such development.

If a manager's job is to develop people we can easily evaluate a manager by having a thorough understanding of the knowledge, skills, habits and attitudes of each of the individuals who report to the manager directly without intervening supervisors. How has he developed his people. Is he able to evaluate their performance accurately. Can he give you an objective accounting of each individual's performance compared to their performance of the previous year? Or does he just answer "Oh, everything is fine and Sally is doing a good job." Well, Sally may have been doing that same fine job for 15 years. You should be able to accurately appraise each person's performance periodically and measure it against an acceptable standard. This should be a major part of the manager's job.

It takes time to evaluate managers and for managers to evaluate people but what better use can managers

make of their time? Very little should be allowed to interfere with a manager's evaluating and helping to develop his people.

Of course you can point out that people do not like to be inspected and measured. We do not like many phases of life that are good for us. Many children dislike school and some of their teachers. Young people often resent chaperones. Most grownups object to many of the restrictions placed upon us by society and its institutions. Human development, however, requires certain disciplines, unpopular though they may be. We are better for them.

Individual managerial effectiveness should be determined. If a manager's job is to influence others to do what should be done, then his effectiveness can be determined by measuring his influences upon others. If he is led to think constantly of his influence upon others, he is more likely to be organized and careful about it—and thus to exert a greater and a wiser influence.

It has been stated on numerous occasions that management, as a profession, is in the same position today as the medical profession was in when doctors decided that working in a drugstore or helping doctors was not sufficient training to be a doctor. This means that exposure to managers or helping managers is no longer considered sufficient training to be a manager.

This is substantiated by the tremendous and dramatic growth in manager training activities and in the use of professional management techniques during the past decade. According to the AMA, the number of managers enrolled in formal management training programs within their own companies, in universities and colleges, with management consultants, or in professional societies has grown from less than 10,000 a year in 1948 to over 700,000 in 1964. Professional management techniques, intelligently and ably used by a few isolated managers in the late 1940's are now a matter of common practice by thousands of managers.

This fantastic growth in manager training and the resultant use of scientific management techniques have thrown many people into complete confusion as to what it is all about. There are those who think manager training is just a fad, and it is true that some aspects of it can be so classified. Many people who have no fundamental understanding of what it is are participating in it simply because it appears to be the popular thing to do.

Learning to be a manager reminds me of the young lady who, when entering the golf club one afternoon met a friend coming out. "What have you been doing?" she asked. The reply was, "Learning to play golf." The young lady then replied, "Isn't that nice! I learned yesterday!"

How long do you think it would take an individual to learn the title business? Now, how long do you think it would take to make a manager?

Before you decide that, let's see what the manager must know about management principles and techniques. Let's go back to our functions of management.

First, he must know how to do long-range planning. Mastery of this subject requires that he understand the following: how to forecast; how to set clear-cut, attainable objectives; how to formulate courses of action; how to determine the performance that is required to attain the objectives and how to get his performance standard understood and accepted by all; how to define and appraise the factors of performance; and how to set up measurements to determine whether the desired performance is being maintained. Just how long do you think it would take a manager to become knowledgeable and skilled in this area of activity?

Secondary, the manager must know organizing. This means he must be able to arrange and relate physical and human resources required to attain his goals. He must be able to determine specifically the resources required and make provision for their proper assembly. Few things will break a manager's back quicker than inadequate or surplus inventories of

things or people. Make your own estimate on how long it would take a man to conquer this subject and become skilled in it.

To be a good organizer, a man must understand the different types of organization structure. He should be adept at the use of position specifications, position descriptions, organization charts, and work measurement techniques.

A third area of management competency is known as executing or carrying out the plan to attain established objectives. This means that the executive must be sure that the decision to act can be made at the appropriate spot and time and with adequate authority. He must see that the decision and plan have been communicated to those responsible for taking action and that both are understood and accepted by them. He must know how to supervise the various people in putting the plan into effect to achieve the desired objective on schedule.

The manager who is learning how to execute the work to be done must have ways of comparing actual results with expected performance. Results must be available to him soon enough to institute corrective action, and must provide clear indication of variations from expected results. Analysis has to be made of reasons for the variations and corrective action determined.

How long do you think it will take an individual to master all these skills and to understand the principles behind their use? Believe me, this is no job for an amateur, and there is no justification for over-simplifying it.

Manager training and development cannot be thought of in terms of weeks or years. It should better be thought of in the light of five steps:

1. Basic training
2. Internship
3. Individual practice
4. Current developments
5. Research

Basic training involves the time dedicated to learning the business and the principles and techniques of professional management. Internship is practiced under skilled guidance and no manager should ever be given his first management responsibility without close expert daily supervision.

Individual practice gives a manager a chance to be on his own with full responsibility as a qualified professional executive who knows not only the business but also the way to manage it. Current development means that the modern manager must always keep up to date on the latest developments in his industry and in management practices. No man learns for all time. No manager is ever completely educated any more than any doctor is.

Research covers that activity by which the manager devotes some of his time, either within his own job or company or through some outside organization, to the discovery and validation of new principles, practices, and developments.

Manager training is a life-long proposition. The difference between today and yesterday is that today we are conscious of it; we plan it and evaluate it; we estimate the effectiveness of it in the practice of individuals who have received it. Yesterday this was all left to chance; it was a hit-or-miss proposition. It was not known what managers should know nor was there an organized attempt to see that they were *taught*. They learned through exposure, and their know-how was a great mass of unrelated, unorganized information.

Managers in the past have done well, let there be no doubt, without specific organized and conscious management development programs. But it is only a matter of time before the manager who left his training to chance will be in the minority. His chances of success will be far less than they have been in the past.

Even with good managers, good management development practices and good organization you are still going to have troubles. But Management by Intent will help you prevent these troubles before they strike or at least their impact can be lessened. People-related troubles and organizational problems will always be a threat to management and to any manager. Management by Intent

means that you should be alert to these problems.

People-wise, a manager's problems can be intensified by managerial deadwood. Every company has personnel with years of service who cannot keep up to the tempo or display the skills required by changing company objectives. If they remain too long in managerial positions beyond their capacities bureaucratic practices and stagnation will result. Mismatching is another story. Poor matching of man and job at the managerial level is to be avoided at all costs. Then there are the trespassers. These are people who resent the management processes. They violate communication channels, invade the activities of other managers, and make decisions without alerting their colleagues. Executive trespassers have little respect for well-established boundaries. They cross organizational lines at will without informing the managers most concerned regarding their action or their decisions.

Organizational troubles present a special kind of challenge. They usually concern clashes over who has authority to decide what, misunderstandings as to responsibilities, duplication of effort, or lack of coordination between two or more departments. Definite indicators of such trouble are: the failure to make decisions on time, passing the buck, and antiquated policies that no longer work.

So you can see that management is truly an art and managers are artists. Managers are paid for their dedication and their skill in keeping things in balance in the best interests of company objectives — whether it be people or the organization. In this effort to achieve balance they must be concerned with both too much and too little control, with too much centralization and acceptable decentralization, with too many risks or too few risks, with decisions, decisions, decisions. But in-balance in an organization cannot be tolerated, it leads to trouble and it is the manager's fundamental task to spot and correct trouble and to bring things back into balance.

Let me recapitulate by giving a Bakers' Dozen set of Principles for Management by Intent:

1. Examine your organization carefully and make periodic management audits to get a clear picture of what is going on, openly or concealed.
2. Continually work to modernize the organization. You don't hesitate to change your physical layout if it is unwieldy—why not the organization.
3. Check your personnel policies. Update them—keep them current. Take the fog out of your personnel policies.
4. Make sure these policies are communicated to your employees. Don't be afraid to let them know what is going on.
5. Get as much in writing as possible—rules and regulations, organization charts, job descriptions, manuals.
6. As you grow, change your organization to fit your growth but always try to keep your organization structure as simple as possible.
7. Re-evaluate the organization periodically to uncover duplications, inconsistencies, poor management and confused lines of authority and responsibility.
8. Make periodic staff audits. Examine your manager to staff ratio. Do you have too many chiefs and not enough indians?
9. Exercise quality control over your personnel—just as you do over the service you render your customer.
10. Pick your management personnel carefully. The best technician does not make the best manager.
11. Develop your managers, remember managers are made not born.
12. Don't be afraid to change personnel for added effectiveness.
13. Finally, plan carefully, organize properly, direct efficiently and control effectively.

Report of the Chairman, Directory Rules Committee

G. ALLAN JULIN, JR., Vice-President,
Chicago Title and Trust Company, Chicago, Illinois

The present Directory Listings Rules for ALTA were originally adopted at the 1963 Convention in San Francisco, California, and modified slightly by an amendment adopted by the Board of Governors at the Mid-Winter Conference in Las Vegas in March, 1964.

One directory has been published since the original adoption of the present rules. A few problems appeared and the Directory Listings Committee was asked to determine whether further amendments were needed in order to cure those problems.

All members of the committee have carefully considered the nature of the problems that have come to light and viewed those problems against the present provisions of the listing rules. The committee's conclusions were as follows:

A. The Committee considers it inadvisable to change the directory listing rules annually or at such times as problems appear to come up. It is recognized that individual situations will arise but these should not require constant rule changes. All members of the committee feel that the rules are adequate if three things are done:

1. Those sending in listing materials should read and follow the Directory Listing Rules.

2. The staff at National Headquarters should see that the rules are enforced.

3. The state associations must assume their responsibility in policing the listing when the galley proofs are received from National Headquarters.

B. The committee recognizes the fact that as electronic equipment is further developed new situations will arise in which a company in one county will maintain in its offices in that county the necessary plant for adjoining counties. It is believed, however, that until this becomes more of a factor no change in our rules is needed.

C. The committee has expressed the desire to once again point out that the responsibility for the enforcement of our rules rests with National Headquarters and with the affiliated state title associations. The rules have a provision for the handling of questions in dispute which calls for the filing of a protest with National Headquarters, the writing of a letter of affirmation by the contested company, by a notice to the objector who has the final right to file a complaint with the Grievance Committee of the Association.

In short, the committee recommends that no changes be made in the Directory Listing Rules at this time.

REPORT OF THE EXECUTIVE VICE PRESIDENT

JOSEPH H. SMITH, Washington, D.C.

It is a pleasure to again report to the members of the American Land Title Association as your Executive Vice President. At the meeting of the ALTA Board of Governors held last Sunday, my report was more or less a detailed synopsis of activities of the Association since our meeting last March. The report to the Board is a factual one. This report to you

contains some of the material from my official report to the officers plus views on the future of your Association.

ACCOMPLISHMENTS WITH GOVERNMENT AGENCIES

Our relations with federal agencies in the nation's capital continue to reflect well upon members of our Association. Workable programs have been effected as a result of discussions between representatives of our member companies and officials of agencies in Washington. You have heard from the General Counsel of FHA, Mr. A. M. Prothro, and are thus aware of the arrangements between the Federal Housing Administration and members of our Association.

Earlier this year representatives of the Standard Forms Committee of ALTA and officials from the Justice Department of the United States met in the Association's Washington headquarters. From this meeting the United States Standard Policy Form was devised. It is the hope of this Association and the Justice Department that the new form will be accepted and used by all agencies of the federal government. In the near future this U.S. Policy Form will be printed in the 1964 edition of "Standards for the Preparation of Title Evidence in Land Acquisitions by the United States," published by the Justice Department, Lands Division. This publication will be available within the next few weeks to member companies desiring a copy. It may be secured from our office.

Just a few weeks ago preliminary discussions were held with representatives of the Department of Interior with the thought this agency would approve and adopt the new U.S. Policy Form. As many of you already know, the Interior Department has its own approved policy form which it has authority to use. Although, generally, necessary evidence of title is approved by the Justice Department, the Department of the Interior has retained authority over the years to approve evidence of title when it acquires land in the name of the United States. Naturally, the Interior Department is reluctant to subscribe to the new U.S. Policy Form without sound reason. It is my belief that through the efforts of our members, we can convince the government of the advantages of a single policy form for all agencies of the United States, and efforts designed to achieve this understanding are now in progress.

During the summer, officers of ALTA were advised of the anxiety on the part of the Labor Department, President's Council on Consumer Affairs, about so-called closing cost. Fortunately, the Association office has maintained contact with officials of the Labor Department on a regular basis, and even before the recent publicity in **House and Home Magazine**, assurances were given to this agency that our Association was willing and able to be of assistance to them, should any investigation be contemplated in this area. Since this article appeared in the magazine above mentioned, we again contacted the Special Assistant to the President for Consumer Affairs, Mrs. Esther Peterson, and repeated our willingness to be of assistance when and if some meaningful statistics on the total closing cost picture are needed.

We maintain regular contact with other government departments with whom our members do considerable business, and it is safe to say our relations continue to be amicable.

Every year for the past four years my report carries word of the pending Federal Liens Legislation. Once again this has been proposed to the Congress in the forms of HR 12545 and HR 12546. A companion bill is promised in the Senate. This legislation is the result of many years of effort on the part of representatives of interested associations in Washington who call themselves the "Washington Task Force on Federal Liens." Each year for the past three years proposed legislation has never come out of committee. The need for corrective legislation to remedy the effect of federal lien priority is apparent. The federal government, however, is not willing to forego what it has achieved in federal district courts throughout the country, and the suc-

cess of this legislation depends upon an agreeable compromise between officials of the Treasury Department and representatives of the many trade associations who have labored so long to bring about the corrective measures this legislation would provide. Appended to the legislation submitted to the Congress was this note, which is self-explanatory:

"Introduction at this time does not, of course, expect that this law will be passed during this session of Congress. It merely indicates our desire to have the various legislative committees, tax committees, treasury representatives, give it complete study and then present it to the House Committee on Ways and Means in the next session of Congress so that something really effective can be done."

At the moment the situation appears to be encouraging.

LAWYERS TITLE GUARANTY FUNDS

Efforts continue on the part of the American Bar Association Committee on Lawyers Guaranty Funds to interest other states in the formation of these business enterprises. Proponents of the Fund have recently achieved the required capital of $125,000.00 for operation in part of the State of Illinois. On the other hand, the lawyers of Minnesota, who were attempting to interest members of its bar association in such a program, were unable to acquire sufficient funds from its members to comply with Minnesota regulations, and have recently attempted to offer stock to the public.

We know of new interest being shown by lawyers in the State of New Mexico and Wisconsin. We have heard that continuing discussions take place within bar associations contiguous to the State of Colorado. In the states surrounding Colorado, they are considering the possibility of making some arrangement whereby they will not have to organize their own state bar facility for the issuance of title insurance policies, but will issue the policies of the Attorneys Fund of Colorado.

Interesting, also, is news that the Indiana Bar Fund has continued to be a "non-profit" business in that state. It has not been a successful operation, and they are considering moves which will take the Indiana Bar Association out of the title business altogether.

SUPPLEMENT TO "PUBLIC REGULATION OF TITLE INSURANCE COMPANIES AND ABSTRACTERS"

An important package was delivered to the ALTA office just before our staff departed for the City of Philadelphia. It contained the copies of the new supplement to our publication "Public Regulation of Title Insurance Companies and Abstracters." Professor William H. Painter of the Villanova University School of Law will describe some of the high points of this supplement when he appears on our program this afternoon. This new addition to our book will be available to you through national headquarters upon request, and in the near future an announcement to this effect will reach all members.

FINANCIAL POSITION

You have heard from our National Treasurer, Mr. Laurence J. Ptak, on the condition of finances of your Association. Under Mr. Ptak's watchful eye, we have continued to live within our total budget for the eight months ending August 31, 1964. Although it is too early to anticipate a surplus by the year end, our projected expenses point favorably in this direction. The operation of your headquarters office in some way parallels what many of you have reported to me about your own particular business conditions: "income has increased but so have expenses, and it appears that at year end the net **might** be favorable." Rest assured, however, that under the direction of our National Treasurer and the Chairman of our Finance Committee, Mr. John D. Binkley, the Association will continue its healthy financial posture.

REGIONAL MEETINGS

At regional meetings of title insurance executives during the past

year, all elected new chairmen for 1964-65.

Mr. Bob Blaese, President of Title Insurance Company of Minnesota was elected chairman of the central regional district. At the eastern regional meeting, which took place in New Jersey, Gordon Burlingame, President, Title Insurance Corporation of Pennsylvania, was elected chairman for the coming year. The southwestern regional conference elected William J. Harris, President, Houston Title Guaranty Co., chairman for the 1965 meeting.

You have heard from President Clem, but the record should again reflect what a great job he has done while attending, (since our mid-winter conference), 16 various state association meetings and other conferences as the representative of the American Land Title Association.

The Chairman of the Abstracters also had to travel this year. Don Nichols attended six various meetings representing you and the American Land Title Association including the three very successful abstracters regional meetings held in early April.

George Garber, as Chairman of the Title Insurance Section, attended the three regional meetings of the Title Insurance Section. It was my privilege to attend 18 various meetings since our mid-winter conference, and Jim Robinson had assignments at 15 conferences and state meetings.

The wonderful work being rendered to this Association by elected and appointed officials can be readily observed. Numerous reports that cross my desk exhibits a comprehensive picture of the effort extended by members of our Executive Committee, by members of our Board, and certainly by members and chairmen of the various committees.

It cannot be repeated too often that the success and achievements of ALTA are directly attributable to the extra effort extended by these unpaid and often unrecognized members of our Association. The multiple activities and efforts put forth by them keep this Association operating effectively. It is a pleasure and an inspiration to work with such an able group of men and women.

THE TIME AHEAD

In the brief time remaining, it is important to look ahead for signs of what our future holds for us. There are some patterns already formed which lend an air of certainty to developments in the next ten years.

Yesterday you heard of the broad problems involved in the science of management. We know well the immediate future will compel us as individual officers of companies to manage more efficiently, more profitably and more effectively. We must know the techniques and innovations necessary to survive in this competitive business.

Some of you have already expressed that hope that some management program be made available, particularly to our medium sized and smaller firms, through the facility of the American Land Title Association. It certainly must have occurred to you, as it is occurring to me, that something of this nature will, in the future, emanate from ALTA headquarters.

Vitally related to the management problem, of course, is the imminent impact of the computer upon our industry.

From a recent series dealing with ECD running in **Fortune Magazine**, there are some sober thoughts projected which bear repeating:

> "Either tomorrow's top executives make the computer an indispensable part of their business or they become a **dispensable** part of business. The computers' conquest is coming in an unprecendented rush. The first large modern computer was completed just 20 years ago. Today, about 16.000 computers are installed, and U.S. business alone last year purchased more than 4,000 of them worth two billion dollars."

Another two billion dollars has been invested in what they call the soft wear.

"Many people have not yet grasped the full significance of the machine that has provided man with an ex-

tension of his brain, just as tools provided him with an extension of his arm."

As our own businesses continue to change and as the reflection of such change is generalized in the ALTA office, it is not unrealistic to think that some cooperative research effort might well be handled through the facilities of the ALTA. It may even be necessary.

You can foresee with me that if our organization is to maintain its vitality and its continued growth, we should ask ourselves not only where will our companies be just a decade from now, but where will the Association be, since it is supposed to bring together the concentrated voice and concentrated efforts of all title companies.

Let's explore another fact of our future. We know there is more business news made in Washington, D.C., every day than the rest of the country combined. We know that government is a part of our business in a variety of different ways. It is academic to discuss whether we wish government as a partner in our commercial enterprise. The partner of government is there giving advice, making suggestions, issuing a multiplicity of orders and frequently forcing its views. A frank moment of introspection must lead us to the conclusion that this partner will not just go away—certainly not in the foreseeable future. Facing the facts squarely must point out to us how our future as an Association will definitely include a more aggressive pattern with respect to our government activities.

Summing up then, there are three impacts on the future of ALTA and its members: management techniques, the computer and the government. It seems apparent our adjustments to these three realities will have a profound impact in the next decade on the industry and the Association office. Preparing for the necessary changes will command the accelerated thinking and efforts of our members to a degree exceeding the fine contributions which have brought the Association to its present position.

As your representative in Washington, it will be our obligation to ask ourselves whether our best efforts are being put forth to represent and serve what we believe to be the finest organization in these United States. The **sufficient** job will not be enough for the challenges of tomorrow. The successful job will be done by those who wish to do **more** than enough. This is true of your individual companies. It is true of your Association office.

COMING SOON!!

NEW WINDOW DISPLAYS

FOR

ABSTRACTERS

AND

TITLE INSURANCE COMPANIES

Report of Chairman, Public Relations Committee

CARROLL R. WEST, Vice-President, Title Insurance and Trust Company, Los Angeles, California

This report and recommendations of your Public Relations Committee is the result of meetings held during the Mid-Winter Conference at Las Vegas in March and the meeting of the Committee in Dallas on July 31, at which all members of the Committee were present. In the interim between meetings, there was much correspondence between members of the Committee. We appreciate the assistance of Jim Robinson throughout our deliberations. This report will necessarily be somewhat long and I shall read it in the interest of time.

While all of you are aware of the many problems faced by our industry, we would like to briefly review them. First, you are aware that the title industry has been the victim of bad publicity through articles on closing costs in Readers Digest, American Home, House and Home and other publications. You are aware of the attempts being made by the American Bar Association to encourage the formation of competing title insurance companies owned and operated by the organized Bar. You have discussed the fact that a special committee of the ABA, Lawyers Title Guaranty Fund, has held meetings and published a great deal of material in an attempt to encourage state and local bar associations to form such companies. I am sure that all of you know that bar title companies are now in operation in eight states and similar companies are being considered in two others.

All of us are concerned with the increase in the number of controlled business companies, many of which are writing title insurance on a casualty basis. For example, I have a report from one of our committee members that one of the nation's largest builders has his own title insurance company, writes on a casualty basis, and its underwriting fees, as reported to the state insurance commissioner, totaled $150,582.20 in 1963. There are many other examples which could be given.

Your committee believes that the basic problem of our industry is that it has no real public image. Generally speaking, the public accepts us blandly as a necessary evil. This is the root of the trouble we have with the press. Authors do not know what we are or what we do so anyone, anywhere, can attribute his closing cost headaches to the title industry and get away with it. Public ignorance through mis-information, or lack of information is actually damaging to our industry.

Controlled-business companies would not get off the ground if the public understood the conflict-of-interest involved. Distorted stories of the title industry's part in "high closing costs" can rapidly disappear if we use the tools that are available to us.

Yes, we have a story to tell. Our industry is made up of two segments —the search and the insurer. Within our industry, the search may be made by the independent abstracter or by the insurer through its own plant. In either case, the search process is independent of the insuring process except insofar as the underwriting is based on the search. In all cases, both segments, either singly or combined, are worth their while. We know it but the public does not.

With this background, your Committee recommended, and the Board of Governors approved, what we believe to be a well-rounded public relations program for our industry for the year 1965.

1. **Regional Public Relations Meetings:** During the past year, regional public relations meetings have been

held in Dallas and New York. The meetings have been well attended and we believe have resulted in increased public relations activities at the grass roots level. Regional public relations meetings will be continued in 1965 and the sum of $1,200 was budgeted for this activity.

2. **TV Distribution of ALTA Film:** In 1964, a total of $1,500 was budgeted for TV showings of our ALTA film "A Place Under the Sun." It was hoped that 100 showings might be accomplished during 1964. Thus far, there has been a total of 12 showings at a cost $180. Your Committee believes that the film does create an excellent image for our industry and we recommended the continuation of TV distribution in 1965 at an accelerated pace. $1,500 was budgeted for this activity.

3. **Window Display Posters:** Our ALTA Headquarters Office reports that there has been a limited but consistent demand for point of sale material, such as window display posters. Committee members report a great need for this type of material, particularly among the smaller companies. The Committee has reviewed a number of rough layout ideas for such posters and they will soon be in production. It will not be necessary to budget for this item because the program will be self-sustaining.

4. **Development of ALTA Public Relations Manual:** Our Committee is firmly convinced that a public relations manual is badly needed in our industry. Your Committee has asked the secretary to review the material now in his office on the subject of "grass roots public relations" with a view to consolidating that material into a public relations manual. All of us plan to assist in providing materials to the secretary and we hope that the compilation can be gotten underway before the end of the year. Our Committee agreed that if such a manual is developed, it should be made available to ALTA members at cost. Here again, no budget provisions are required.

5. **Publicity:** We do not want to belabor the bad publicity that our industry has received, but your Committee does believe that the unfair article in the **Reader's Digest** was a serious blow to the title insurance industry. We would predict that unless the ALTA takes positive steps, the situation is going to get worse rather than better. In fact, subsequent articles in other publications have shown this. Why? Because almost all editors read the **Reader's Digest.** It is very likely that stories using the same theme could continue to turn up, from time to time, in other magazines. For example, your chairman recently received a letter from a writer in California which stated, "Another gentleman and I have been selected to write a story on the title insurance industry for a national publication." Your chairman offered his services and those of our ALTA staff to provide factual information. At this writing, nothing has happened but, needless to say, we are apprehensive.

There in nothing sinister about this. No plot against the title industry. It is only that the title industry is a business that affects millions of people who buy homes, and title services cost these people money.

The **Reader's Digest** incident should be revealing of a disturbing climate of public opinion towards ALTA. The **Reader's Digest** is considered to be a reputable magazine. Generally, it is conservative rather than crusading. Murray T. Bloom is considered to be a reputable writer. The article is probably symptomatic of the way a good many people feel.

Your Committee believes that one article in rebuttal would serve little useful purpose. A single article, however well written, and in no matter what magazine it is placed, is not the answer. The facts about the title industry need to be placed in more magazines, in newspapers, in women's pages and elsewhere.

We are fortunate that we can obtain the services of a team of capable writers. Deane and David Heller is a respected by-line that has appeared in hundreds of magazines, nationally-syndicated news features and top newspapers. They are probably the best known husband and wife writing

team in America In addition to some two thousand by-lined articles which have appeared in such magazines as **Coronet, Redbook, The New York Times, King Features Syndicate** and many others, they are the authors of nine published books which have been published around the world in more than 50 languages. We have read a number of their books such as JOHN FOSTER DULLES, SOLDIER FOR PEACE: THE BERLIN CRISIS and THE COLD WAR. The latter is used as a text by the United States Chamber of Commerce in many of its public affairs schools. Incidentally, David Heller is an attorney as well as a well known author.

There are many techniques used by professional writers in placing of magazine articles. These people have the know-how because they have been successful and have worked well with many of the trade associations.

We can obtain the services of Deane and David Heller on a retainer basis of $200 per month. Your Committee unanimously recommended and the Board approved, that we budget $2,400 for the year 1965 for this activity. We should add that all articles and any and all procedures used by this writing team will be carefully reviewed by the Committee and our ALTA staff.

6. **Advertising:** Public Relations, with its strong right arm, advertising, is a management tool. Progressive corporations recognize this and recognize and regard an advertising and public relations budget as a normal cost of doing business in the same manner as they regard an accounting system, market research and other corporate activities. If this is true of an individual ALTA member company, it is equally true of the industry's national association. Some of you might question the percentage of the budget allocated for promotional activities. It is important to note that a trade association does not sustain the normal costs of doing business represented by raw materials, salaries, insurance reserves, etc. In fact, many national associations were founded and continue to exist primarily for promotional purposes and a substantial portion of the total budget is allocated for public relations and advertising. Trade associations in related professional lines of endeavor have successfully launched comprehensive plans of national advertising. For example, in 1961 the United States Savings and Loan League actually spent two million two hundred thousand dollars on a program of national advertising, an amount which exceeded its annual budget many times. An independent survey of a number of trade associations headquartered in Washington, D.C., indicated an average expenditure of approximately 25% of budget on direct public relations activities, including advertising.

One of the prestige and most widely read news media is the **Saturday Evening Post.** A number of trade associations have successfully used its advertising space to take the story of their particular industry to the public. For example, the drug manufacturing industry with its probes and investigations by the Kefauver Committee took its story to the public in this manner and we have a survey by the Gallup organization which shows the results accomplished through advertising in the **Saturday Evening Post.**

The commercial banks found their public image slipping and decided to do something about it. The Foundation for Commercial Banks ran a series of 14 ads in the **Saturday Evening Post** under its "select-a-market remnant" rates. Remnant purchases are made possible because the **Saturday Evening Post** sells regional advertising, even down to single state coverage. These sales create open space in other areas which the **Post** has been filling with public service ads. To recapture some income from this waste space, the **Post** sells "remnants" at a cost of approximately 50% of the regular rate.

Based on the Foundation for Commercial Banks ads, we would reach an average of 43% of the **Saturday Evening Post** circulation each month or slightly more than 33 million copies of the **Saturday Evening Post** in 12 months. Under current rates, each ad would cost $3,344.95 or a total of $40,139.40 for the 12 ads. A rough calculation shows that this would be about $1.40 per one thousand or, on

the basis of three readers per copy, about 47 cents per one thousand impacts.

If we should increase the percentage of the coverage of the Post circulation each month to 50%, the cost would be $3,832.50 per ad or a total of $45,990.00 for the 12 month period.

As you know, our advertising program during 1963 has been devoted to institutional advertising in **The Mortgage Banker, National Association of Home Builders Journal, Savings and Loan News, Burroughs Clearing House, American Builder, National Association of Real Estate Boards Quarterly, Right of Way Magazine,** and the **American Bar Journal.** The amount budgeted for this program in 1963 totaled $15,500.00. Your Committee has recommended that we discontinue **Burroughs Clearing House** and **The American Builder** and that we advertise only one full-page insertion in the remaining publications to be carried in the appropriate issue of each magazine so as to immediately proceed the annual conventions of the related trade and professional associations. It is estimated that the cost will be $3,500, or $12,000 less than that expended for institutional advertising in 1964.

Your Committee has further recommended that the ALTA run 12 one-half page ads in the **Saturday Evening Post,** on a "remnant" basis, at a space cost not to exceed $45,990.00, plus $5,000.00 for production costs. These recommendations were unanimously approved by the Board of Governors.

During the meeting of your Committee on July 31 in Dallas, it was moved, seconded, and unanimously approved that your chairman present to the Executive Committee and the Board of Governors the following specific budget recommendations for a public relations program for the calendar year 1965:

1. Regional Public Relations Meetings	$ 1,200.00
2. TV Distribution of ALTA Film	1,500.00
3. Employment of Professional writing team	2,400.00
4. Trade Journal Advertising	3,500.00
5. Consumer advertising in Saturday Evening Post	50,990.00
(Including $5,000 production costs)	
Total PR budget recommendation	$59,590.00

In addition to the above specific items, the Public Relations Committee recommended the continuation of the revolving account of $2,000, which shall be used for the production of various promotional devices to be sold to association members at cost. All of these recommendations were approved by the Board.

Report of Meeting of Affiliated State Title Associations

JOSEPH G. WAGNER, Lawyers Title Insurance Corporation, Denver, Colorado

One of the highlights of the convention for me is always attending a state title office as part of the convention. At this session, we bring up the new ideas of the grassroots of our Association.

And also at this session there are many of you who are attending your first convention, and for years you have been storing up a wealth of knowledge to pass on to the rest of us. We met Sunday afternoon in a three and one-half hour session. In this three and one-half hours, we were just beginning to start on a lot of subjects.

A lot of these subjects should drift down to you people who can give us advice for our state administration. We had representatives from 26 different state associations at our meeting Sunday with over 40 in attendance.

We started our meeting Sunday afternoon at one o'clock with a wel-

come to the city of Philadelphia by Larry Davis, President of the Pennsylvania Land Title Association.

President Silvers was introduced as were other distinguished guests present at our meeting. Some of the new ideas which came up at this meeting of the state officers of the Association have been quite interesting.

We also reviewed old ideas and old questions. We always have the old questions, but we have new ideas, and that is what makes this meeting interesting.

One of the new ideas that came up at this session Sunday afternoon came from the state of Illinois. The Illinois Land Title Association has been meeting on a subject which kind of reminds me of eight years ago when we first started talking about our group insurance plan.

The Illinois association through its President, Charles Roe, has been discussing a state-wide pension plan in the title industry. We heard from states who have such a plan with their agents.

We heard from underwriters who had discussed the plan, but this is a plan that gets down in, as I say, to the grassroots of our Association. And they are studying a pension plan for a state association.

Another problem that the state officers have is creating interest in regional meetings, in our state conventions and also drawing out ideas from our members.

What do our members want? What is the greatest single asset that they can gain by being members of the National Association? These things we are continually studying. I would say right now that perhaps the greatest thing that the state associations have contributed to its membership are the abstracters schools, the titles schools.

I'd like to get to this subject towards the end of my short talk here, so I will pass on to another subject, the regional meetings.

Some unusual ideas came out of how to get people to attend regional meetings, and a single fact that most everyone agreed upon was to introduce something controversial and you will have an attendance at your meetings.

How controversial these subjects should be was also discussed. Another idea of regional meetings and group meetings in areas throughout the state was the idea of holding a meeting starting at ten o'clock in the morning.

Rather than starting at noon or early in the morning, start at ten o'clock and go through to the afternoon period.

All state presidents have found that once the meetings get started you can hardly stop them.

There is a trend in our state associations to reduce the number of regions within a state. Some states have to be divided geographically for certain reasons.

We in Colorado have a problem in the winter time of getting back and forth from one side of the mountain range to the other, but throughout the United States, there is a trend to reduce the regions in size in order to have a larger attendance at more central locations.

Membership is always a problem at our state officers meetings, and it deserves a good, strong, lengthly discussion. We did this Sunday afternoon, and we have some pros and cons about a number of subjects.

In many states, they consider the attorney membership a valuable part of our association. They feel that the attorney, whether he be a full membership in the state association or affiliate member, can add a great deal to our state associations. This is quite prominent in states where the title business or the abstract business originates from the attorney's office to the title company or to the abstract company.

These states are quite firm in their belief of the attorney membership. Also, those states who are now working on legislative matters also see the advantage of the attorney memberships.

Now, we get into new legislation. We have the report of some of the legislative matters around our country on the state level which could conceivably some day be quite important to those of us interested on a national basis.

Florida is now preparing for the fall

session. Recently, in the state of Colorado, the title industry, cooperating with the Colorado Savings and Loan League, the mortgage bankers and the commercial banks, joined together in a legislative matter and employed one of the legal sons to represent a new mechanic lien, a revised mechanic lien bill for the state of Colorado.

This was again defeated as it has been defeated ever since the year 1947. However, it shows that there is a way of working problems out by co-operating and co-ordinating legislative matters through affiliated or associate industries; those who are interested in the same problem as we are.

Now, I said earlier in my little talk that one of the greatest services of a state association in recent years has been the title schools.

We discussed mostly the financial situations of these schools and found that most of them are self-supporting although the state association would be more than happy to contribute or finance additional schools.

Two of our states have come up on another new idea. They are thinking of advancing this school at the universities to the level of management. There are two of our states which are now meeting with university officials to bring a course for management, whether it be connected with the state title association conventions or whether it should be a separate school on its own.

In this management course would be taught such items as we heard here yesterday afternoon, such matters as public relations, human relations, personnel and tax problems.

One of the things discussed was quite amazing. We spend thousands of dollars a year in our industry to keep up our title plants. This is the product that we sell, but how many of you have actually had a look at your own bookkeeping system?

Many of those haven't been revised since the 1920's. So this is what was discussed along with our abstracters schools.

Our attendance at the schools is becoming quite prominent. It has become quite an event to look forward to. Many managers in these states where we have abstract schools have chosen their personnel that they send to these schools in the early spring.

Our school is in August, for example, so in my little office I look in the spring for personnel which I have not had the opportunity to give my time to, to get them to that school so that they can have the opportunity to learn the extras.

We had a wonderful survey conducted by Herb Becker of Texas Land Title Association. In late August, Herb had sent a lengthy questionnaire to every one of the secretaries of our state title associations.

In this report, Herb was checking, for all of our benefits, certain statistical information as to the items which we have just now discussed and many items which will appear in Herb's report.

And I do believe that his report will be published and distributed to all of you. But in behalf of the other state officers, I do wish to take this opportunity this morning to thank Herb Becker for a job well done, a job which is tremendously valuable to all of us.

We did discuss in the state association meeting the advertising program. If there is ever a need for public image of the state associations, it is now. We heard Carroll West's report this morning which was quite interesting to me because it showed that the National Association felt these problems even probably to a greater extent than we at the state level.

In surveying the state officers Sunday afternoon, we found some interesting facts. We found that there are states who have produced and are showing their own state films.

Many states have speakers bureaus. These speeches are written and they are cleared through Jim Robinson, and they are being presented to the civic organizations for people at the state level.

We have display boards. We have literature published which is trying to create a better public image of the state association.

Another very popular stunt being carried on by the state associations is the coffee bars. They attend these conventions, and the morning coffee break,

is sponsored by the state title association. All title companies and all abstract companies are given credit for this portion of the convention held at the state convention. Now, as I say, in three and a half hours we covered a good many more subjects than I could bring to you this morning.

I would say that the state officers meeting is a very stimulating part of our convention. The meetings are quite interesting. I would like to say once again, it is that part of our association where the deep grassroots ideas are brought to the surface to be presented to you members of the general session for your consideration and for your information.

So once again, I want to thank everybody who attended that session Sunday afternoon to make our program a success.

Report of Chairman, Committee On Membership and Organization

**JACK RATTIKIN, JR., Vice-President,
Rattikin Title Company, Fort Worth, Texas**

The work of my committee has been a very interesting one, and I have enjoyed doing it very, very much. This is the first time I have been chairman of a committee, and it has been invigorating and enjoyable.

And I want to thank Clem for that opportunity. However, the work that we had was greatly diminished by the work of the rest of the members of the committee, and I'd like to name them, Louis C. McKee, Marvin A. Brooker, Jr., O. B. Taylor, Jr., Trammel McIntyre, Louis G. Dutel, Jr., and Frank H. Benecke. I want to thank them for helping me. They sent me a number of letters and helped me a lot in their particular areas.

When Clem first sent me the appointment for this membership committee, he sent me a slogan. He thought it might make me work a little bit more. It was, "We want more in '64."

Knowing that he liked things like that, we wrote him back a letter and said, "Will go for 64 in '64."

Now, it didn't really rhyme, but it was just something that might fire him up thinking we might get that many. As I understand it, he says there were 43 new applications. Over the year, we had some 65 new members.

Last year your chairman reported that his committee solicited on the grounds of new state associations rather than individual memberships. They had covered the ground thoroughly and tried to get new states that were not affiliated with our organization at that time. He said that he thought that this was perhaps a futile effort because all of them that were going to come in probably have come in due to the fact that some places like Mississippi, don't have an association.

It is more on an individual basis. And several other states are the same way. So they don't get in many new memberships.

They suggested this year that we concentrate on individuals, and that is just what we did. We were determined to reach these people on an individual basis.

We initially set out to attend each and every state convention as well as writing personal letters.

This was quite a task, and as many of you know, there wasn't anybody from our committee at every state convention.

However, Jim Robinson was representing us at each meeting and trying to secure memberships. He did a real good job of it.

We were going to discuss our pro-

cedure at the Las Vegas meeting. We had set up a committee meeting and were going to report to the Board. We had one problem. The chairman wasn't there, so consequently we didn't have a meeting. We set about to write letters and take a canvass of who was not a member of this Association. How do we find out? We wrote some 33 letters: that is to each affiliated organization. We wrote and asked them to please take a canvass of their particular state organizations and find out who was not a member of their associations.

Everybody was very nice. They wrote back very quickly and gave us a list of who was and who was not a member of the American Land Title Association.

We found that, much to my surprise, 16 states that returned answers —required membership in the American Land Title Association, or, even though they didn't require it, had 100 per cent as members.

That is something to be very proud of. This has cut our work substantially in half. We got some 10 other returns. Those are the states where we solicited new members.

We found, out of those 10 states, some 695 nonmembers. Out of this 695, 425 were individual attorneys in the state of New York.

Now, these individual attorneys, I believe, are members of the New York State Association, and we were going to approach them all. But this was a little bit too great a task this particular year, so we did not contact the 425 individual attorneys. I strongly suggest that this be done next year because an individual contact to them would bring in the membership.

That left 271, to whom we wrote personal letters. We found that approximately 10 per cent of them were already members of the Association, leaving some 250 people that were available for ALTA membership.

Out of that, we got 65 approved, and I do have several more on my desk to submit as soon as I get back.

We have had a great number of inquiries. Most of them told us, they appreciated the personal contact. We sent them infomation as well as application forms in each letter and they asked some questions I had to find answers for before I could respond.

I even got several long distance calls asking about membership. We are expecting a few more to come in.

Out of this group there were a great number of them that had been in business 20 and 25 years and had never become members in the Association but are now members.

There were also a number of them that were brand new individual companies that wanted to affiliate with us. I wonder if any of the new members this year are in the audience.

Well, we did get most of these memberships toward the end of the year, and a lot of them at that time didn't have plans to attend and some of them, in their letters, did say that they were sorry they couldn't but would try to make future conventions. So I hope they do.

I want to thank you for giving all of us the opportunity to work for this great Association. I found it thrilling, and I hope that I can work in the future on other committees.

I will leave the new chairman, or the next president, with a new slogan for next year. It should go something like "Let's do our best and get the rest."

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Report of the Chairman, Judiciary Committee

RICHARD H. GODFREY, President,
American-First Title & Trust Company, Oklahoma City, Oklahoma

The response of State Chairmen of the Judiciary Committee this past year has been gratifying. Reports were received from thirty-three states. Twenty-two states submitted digests of from one to sixty cases which dealt with some phase of title law or contained a discussion relating to title problems. Not all the cases submitted to me are included in this report, rather, we have tried to include cases of more significant or unusual content. Eight cases reported herein cover some phase of mechanics' or materialmen's liens, four cases deal with title insurance problems, and two cases involve eminent domain. All the balance are of a miscellaneous nature.

Thus, no real pattern has developed that would cause us to emphasize any portion of real property jurisprudence. There seems to be no unusual change or emphasis on any branch of the law. The report this year could be summarized as a refinement of existing law.

Our State Chairmen, to whom I extend my thanks, have reported as follows:

ALASKA

A bill relating to the establishment of Boroughs throughout the State of Alaska was passed, and was effective July 1, 1964. The establishment of these Boroughs will entail a broader tax base in Alaska.

A bill giving control of premiums charged by Title Insurance Companies in Alaska to the State Legislature was defeated. The control of premiums remains with the State Insurance Commissioner.

ARIZONA

Tucson Title Insurance Company v. D'ASCOLI, 383 P2d 119

Escrow instructions provided that plaintiffs' funds were to be disbursed when defendant's escrow agent acquired for plaintiffs a note, mortgage, policy of title insurance and fire insurance policy. The instructions further provided that if plaintiffs' funds were not used within 15 days of the date of the instructions, the defendant was to hold the funds for plaintiffs' further instructions. It was held that an escrow agent is a trustee, bound to strictly comply with the terms of the escrow agreement and that an unauthorized disbursement of plaintiffs' funds before the note, mortgage and policies were acquired by defendant and after the 15-day period had elapsed constituted a breach of fiduciary duty for which defendant was liable in damages.

Merrifield v. Merrifield, 388 P2d 153

The plaintiff in this forcible detainer action sought to prove his right to possession through a quit claim deed from the defendant, whereas the defendant contended that the quit claim deed had been executed under duress. It was held that the plaintiff was entitled to possession since the court may not, in a forcible detainer action, inquire into the merits of the quit claim deed. The court relied on A.R.S. 12-1177 which specifically provides that the "merits of title" shall not be inquired into in an action of forcible detainer.

ARKANSAS

Commercial Standard Insurance Company v. Moore, 376 S.W. 2d. 675

The title insurance company's agent had the authority to delete from a title policy certain words which excepted mechanics and materialmen's liens, even after such liens had been filed. The question involved in this case dealt primarily with the facts of whether or not the agent had authority to change the language of the policy so as to be binding upon his principal, the title insurance company. The company claimed in its defense to the

action by the insured to recover the amount of liens he had been required to pay, that the policy, as issued, did not contain lien protection and that the agent did not have authority to change the policy, as was done. This was not sufficient under the facts.

CALIFORNIA

Coast Bank v. W. J. Minderhout, 392 P.2d 265

Plaintiff bank made several loans to the Enrights, who executed a promissory note for the indebtedness, and by separate agreement, agreed that they would not transfer or encumber until all indebtedness was paid; that in the event of default, plaintiff bank could declare all indebtedness due forthwith. The agreement was recorded. While part of the indebtedness was unpaid, the Enrights conveyed the property to the defendants without plaintiff bank's knowledge or consent. Plaintiff bank elected to accelerate the due date but was unable to collect the unpaid balance and brought this action to foreclose the equitable mortgage on the property conveyed to the defendants.

The appelate court held that the plaintiff bank did obtain a security interest in the real property, and could enforce the security interest against subsequent purchaser, who acquired the property with notice of the agreement not to sell or encumber the property.

FLORIDA

Connecticut Mutual Life Insurance Company, a Corporation, Appellant, v. Alice B. Fisher, Etc., Appellees. District Court of Appeal of Florida, Third District, January term, 1964, No. 63-563.

A usury suit brought by a borrower against a lender. The note provided for payment of interest at 5½% prior to maturity or default, but 10% on past due principal and interest. The trial court held the note usurious based upon plaintiff's compu ation showing rates collected ranged from 10.10% to 18.22%.

The appellate court held that the inclusion of the provision for payment of interest at 10% after maturity did not infect the transaction with usury. That the provision for payment of interest on matured unpaid installments of interest did not amount to compound interest, quoting a prior case, "the debtor can avoid such interes. on interest by paying the interest when due." That "usury is largely a matter of intent and is not fully determined by the fact of whether the lender actually gets more than the law permits * * *". That some overpayment of interest did appear but that it was "due to inadvertence rather than corrupt intent."

GEORGIA

Burton v. Hicks, 220 Ga. 29, 136 S.E. 2d 759.

Where a will directed that property be held in trust by Executor for twenty-five years and then divided to three named persons, it was held that the rule against perpetuities was violated. The effect of the violation was not to produce an executed trust, under which the beneficiaries would be entitled to immediate possession, but to render the trust void and cause property to descend as an intestacy.

Delta Air Lines v. Coleman, 219 Ga. 12, 131 S.E. 2d 768.

Where an Air Line leased land from the City of Atlanta for thirty years, its leasehold estate was subject to taxation as private property, even though the land itself was exempt from taxation.

Minor v. Georgia Kraft Company, 219 Ga. 434, 134 S.E. 2d 19.

A daughter who claimed land under a deed from her father reciting a consideration of love and affection was denied priority over an earlier deed of bargain and sale based upon a valuable consideration, even though such earlier deed was not recorded until after the deed of gift.

INDIANA (Citing a Kentucky case)

Bedinger v. Graybill's Executor & Trustee, 302 S W. 2d 594.

A testamentary trust provided that on death of testatrix's son, the trust estate should be paid over and distributed to the heirs at law of the son according to the laws of descent and distribution in force in Kentucky at the time of his death. Kentucky laws

provide that an adult may be adopted and the adopted child is regarded as an "heir" or "heir at law" and may inherit or receive property through, as well as from, the adopter. The son had no children but adopted his wife as provided by statute. The court held the adoption valid, that the wife was the son's heir and was entitled to the trust estate upon the son's death.

KENTUCKY

Wormall v. Macy, 349 S.W. 2d 199.

An action for injunction was brought to enjoin defendant from erecting a four unit apartment house on a lot which was subject to a restrictive covenant that allowed the lot to be used for residential purposes and only one residence upon each lot. Defendant contended that the apartment house was actually one building under one roof, which was to be used only for residence purposes, and therefore did not violate the restrictive covenant. The defendant continued construction during litigation and was successful in getting a favorable decree in the lower court. Upon appeal, the Court of Appeals reversed the lower court. In the meantime, the defendant had completed his building and a second appeal resulted, in which the court wrote a decision which necessarily required the removal of the structure.

Commonwealth of Kentucky v. The Monroe Company, 378 S.W. 2d 809.

A Delaware corporation, not qualified to do business in Kentucky, acquired property from a domestic corporation. Both the grantor and grantee corporations later dissolved. The State of Kentucky claimed title by forfeiture claiming that since the grantee had not qualified, that it's failure to do so voided its title, and left title in the grantor corporation, and that grantor's subsequent dissolution caused it to be non-existent. The Trial Court dismissed the complaint and the Court of Appeals affirmed, stating that failure of a foreign corporation to meet the requirements of the Commonwealth of Kentucky did not subject that corporation's property to forfeiture or escheat. The extent of the punishment that could be imposed upon the foreign corporation was the imposition of fines for its failure to qualify to do business.

MASSACHUSETTS

Butler v. Haley Greystone Corporation, 1964 Advance Sheets 791, 798 and 799.

The Court followed two previous cases relating to matters not mentioned in the certificate of title to registered land, but known to the holder. In this case, the Court said: "If at the time Haley purchased Sandy Beach Reservation it knew of easements exclusive or otherwise previously granted by deed, these easements will be enforceable to the extent of Haley's knowledge even if not appearing on the decree of registration or the certificate of title."

The W. M. Gallicksen Manufacturing Co. v. McNeil, 1964 Advance Sheets 901, 904 and 907.

The Massachusetts Supreme Judicial Court held that the addition of a clause at the end of a description in a deed reading: "Being all of the real estate belonging to the said Robert Bishop in said Town of Wellesley" did not transfer land in addition to lots already described by area and plan reference.

MICHIGAN

The twelve-month redemption period on mortgages was reduced to six months by a law passed by the Michigan Legislature. The new law contains two exemptions, first, single family properties of more than three acres; and second, homes on which the borrower has reduced the original mortgage by one-third. The exemptions apply primarily to farmers, and home owners with substantial equities.

MINNESOTA

Hendrickson v. State, 127 N.W. 2d. 165.

A property owner suffered compensable damages by being denied access to a main thoroughfare except at interchanges located 100 feet north and 800 feet south of the property, even though the property had unlimited access to a service road over which the main thoroughfare could be reached by a circuitous route.

Estate of Ole Anderson, Deceased, 126 N.W. 2d 250.

A provision in a will, "that the 80 acres with the buildings shall not be sold, mortgaged or in any manner encumbered for 25 years from the date of my death" did not violate the rule against suspension of the power of alienation (Minn. St. 500.13) which rule applies only to future estates, and in this case, the right of possession of the devisee was immediate upon testators' death. The Court further held that the common law rule against restraints on alienation was applicable in this case and voided the restrictions and conditions contained in the devise, giving the devisee a fee simple estate, absolutely, free from the restrictions.

McClelland v. Hamernick, 118 N.W. 2d 791.

Question involved the validity of lien waivers, signed by sub-contractors, and relied upon by the owner who paid the contractor. The contractor had paid the sub-contractor by post dated checks, which were not honored upon presentation. The Supreme Court held that the lien waivers were based upon a consideration, i.e., the reliance placed thereon by the owner, and that if those furnishing the material and labor were willing to execute the lien waivers, relying upon the contractors promise to pay them, they should not be heard to complain after the owner has altered his position in reliance upon such waivers. Any other rule would render lien waivers valueless.

MISSOURI

Sipes v. Kansas City Title Insurance Company, 372 S.W. 2d 478 (Mo., 1964).

A Title Insurance Company issued its mortgage policy (evidently an ALTA form) insuring the mortgagee under a second mortgage against loss which the mortgagee might sustain by reason of any defect in the execution of said mortgage. The policy was expressly made subject to a recorded first mortgage. Thereafter, default was made under the first mortgage, which was foreclosed, and title coming through the foreclosure was conveyed to an innocent purchaser. The holder of the second mortgage then sued the title company alleging that the second mortgage was a forgery.

The Supreme Court of Missouri held that the appellant's loss did not come from any **defect in the execution of the second deed of trust** covered by the policy but by reason of the foreclosure of the first deed of trust which was excepted from coverage under the policy. The trustee's sale under the first deed of trust operated as a complete foreclosure and cut off the second deed of trust completely. It was immaterial that the second deed of trust was executed by the owner or not. Since the second mortgagee did not sustain a loss which fell within the terms of the policy sued on, the judgment of the trial court was affirmed.

(The following case arising in New York was included in the Missouri report.)

Empire Development Company v. Title Guarantee & Trust Company, 225 N.Y. 53, 121 N.E. 468.

Ruling was that mere knowledge of a defect by an insuring owner would not constitute a defense to an action on a title insurance policy. A purchaser of property had actual knowledge of certain recorded mortgages or deeds of trust which were omitted from the policy. The policy contained a provision that ". . . any suppression of or failure to disclose any material fact shall void this policy." The court found that it was the obligation of the title company to search the record, and stand behind its insurance policy issued based upon its own search. The court also found that there was no duty on the part of the insured to advise the title company of defects in the title known to him.

"COMMENT: The policy before the Court in this case did **not** have the clause which now excludes defects and encumbrances 'created, suffered, assumed or agreed to by the insured'. The policy in this case was ultimately reformed by the court and judgment granted to the defendant."

NEBRASKA

Smith v. Berberich, 168 Neb. 142, 95 N.W. 2d 325.

The court held that the grantee

under an ordinary quit claim deed is not entitled to invoke the protection of the Marketable Title Act.

Nebraska has a new Condominium Law, effective as of October 19, 1963, which has not previously been reported.

NEVADA

Pioneer Title Insurance Company v. INA Corporation, 391 P. 2d, 28 (April, 1964).

In a suit by the beneficiary in a title policy against the title insurance company, the reduction of purchase price method should be used in a measure of damages if there is no suggestion of fraud, coercion or collusion. In this case there was a failure of title to a 320 acre tract out of some 5,000 total acres covered by the policy.

OKLAHOMA

Hughey v. Cadenhead, 389 P. 2d 973 (December, 1963).

Held that where construction of a building project began prior to the recording of a mortgage, that all mechanic and materialmen's liens would attach from the date construction began, not from the date the work was done or the material furnished by each lien claimant. In this case, the "construction" was the setting of corner stakes, setting "batter boards" and digging of the trenches for footings. This was a three-house project, and the Court held that it was but a single lien, and that the liens would attach to the third site, even though the evidence showed that work was performed on only two sites. The Court followed the rule announced in Industrial Title Company v. Home Federal Savings & Loan Association of Tulsa, Oklahoma, 331 P. 2d. 818, where the erection of a building is one continuous project, all liens for labor performed on, and material furnished for such building have their priority dating from the commencement of the building, and are co-equal and superior to an encumbrance placed thereon subsequent to its commencement during the course of construction, and prior to the expiration of the lien filing period after its completion.

Tulsa Ready-Mix Concrete Co. v. Carter Lumber Co. 381 P. 2d. 849 (May, 1963).

The Supreme Court held that construction mortgages (recorded before construction began) under which mortgagee was obligated to make disbursements as work progressed, but was entitled to pay claims not paid by mortgagor, was prior to mechanics liens where amount had been paid mortgagors at due time without knowledge of lien claims. (See 80 A.L.R. 2d. 179 for cases treating the issue under consideration.)

PENNSYLVANIA

On August 6, 1963, the revised Federal Tax Lien Registration Act became effective in Pennsylvania. This Act requires that Federal tax liens against realty or fixtures be filed in the office where a mortgage would be filed and that liens against personality be filed in the same manner as they would be filed under the Uniform Commercial Code. In Pennsylvania, mortgages are filed in the office of the Recorder of Deeds, and liens against personality are filed in a special docket in the office of the Prothonotary, with the personalty specified.

The Federal Government has stated that it will not comply with the new act because it places an unreasonable burden upon the tax collecting procedures of the United States Government, and that it will file federal liens only in the office of the Clerk of the District Court in the district in which the real estate is located.

The position of the Federal Government has placed a great burden upon the title companies in counties other than those where district courts are located and requires them to have a search made in the district court to ascertain whether or not any federal liens have been filed affecting the premises.

There has as yet been no litigation questioning the propriety of the Government's position in this matter, and it is doubtful if any will arise, since most people concede that the Legislature has been unreasonable. One solution suggested is that the Act be amended to restore a single registration system comparable to the former

system, so that the Federal government will again file liens in the county where real estate is located.

UTAH

Parris v. Richard, 336 P. 2d 122; 8 Utah 2d 419.

The defendant erected a tennis court surrounded by a woven wire fence. The covenant involved forbade the erection of any structure on the lot other than a one, two, or three car garage and one single-family dwelling. Held, that in construction of uncertain or ambiguous restrictions, the Court would resolve all doubt in favor of free, unrestricted use of the property and will have recourse to every aid, rule or cannon of construction to ascertain the intent of the parties.

Schick v. Perry, 364 P. 2d. 116; 12 Utah 2d. 173.

Involved restrictions and protective covenants applying to a residential subdivision, which called for the creation of a committee of lot owners to pass upon projected new construction, and where the committee was to cease after a certain date with a single representative thereafter appointed by a majority of lot owners to carry on the committee's work. The Court held that failure to appoint such a representative did not destroy the effect of the entire scheme or covenants. The determination of the trial Court that a three-horse stable and packroom did not violate the covenants was reversed by the Supreme Court.

Utah Savings & Loan Association v. Mecham, 366 P. 2d. 598; 12 Utah 2d. 355.

Involved consolidated actions to foreclose real estate mortgages where mechanic's liens were asserted. Held, that where labor is performed or material furnished upon several buildings owned by the same person, the claimant may include, in one claim, all amounts due, and, claim will not be defective if amounts due on each separate building are not designated. Also, that lien filed against more than one piece of property belonging to the same owner without designating amount due on each building may be enforced against the owner, but, the claim is subordinate to other lien claimants of the same class if such other claims are against only one building, or if against more than one, the amount claimed to be due on each building has been designated. Also, that mortgages securing loans to finance construction of homes have priority for monies actually advanced or committed under mortgages over liens for materials furnished subsequent to the recording of the mortgages. In order to estop a mortgagee from showing priority over mechanics' liens in such a situation, a lien claimant must show that it properly relied on some concealment, misrepresentation, act or declaration by mortgagee that he was induced to act differently than he would otherwise have acted.

United States v. Vermont, 317 Fed. 2d. 446.

Affirmed by United States Supreme Court June 1, 1964. Held, that an earlier filed Vermont withholding tax lien arising under the Vermont Statute modeled after Sections 6321 and 6322 of the 1954 Internal Revenue Code was held to be sufficiently choate to obtain priority over a later Federal lien arising under these sections of the code.

The action was for the foreclosure of a Federal tax lien in the District Court for the District of Vermont (206 Fed. Supp. 951). The Court rendered judgment upholding the priority of a lien of the State of Vermont for State withholding taxes over the subsequent lien of the United States for taxes under the Federal Unemployment Tax Act. The United States appealed. The Circuit Court of Appeals again held that the Vermont tax was prior in lien, being based on an assessment definite in amount, with precisely the same attribu es under the Federal Unemployment Tax Act. The Federal priority-in-insolvency statute was here not applicable. The Court held that if the Federal lien was sufficiently choate, a general state tax lien under an almost identically worded state statute must also be choate enough to prime a later and equally general Federal tax lien. Certiorari was granted by the U.S. Supreme Court on December 9, 1963. The judgment of the Court

of Appeals was affirmed by a unanimous decision of the Supreme Court on June 1, 1964. The claim of the United States that different standards of choateness applied to Federal and State liens, even where they are based on statutes idential in every material respect, was rejected. Basing its decision on United States against New Britain, 347 U.S. 84, the Court held that the antecedent state lien arising under a statute modeled after Sections 6321 and 6322 of the Internal Revenue Code (26 U.S.C. Sections 6321, 6322) is sufficiently choate to obtain priority over the later Federal lien arising under those provisions.

VIRGINIA

Building Association v. Mackall, 305 Va. 73. (March, 1964).

By deed dated February, 1957, Adkins conveyed certain valuable property to Thompson, in trust, to secure named creditors. The land was subject to prior encumbrances, one of which was about to be foreclosed in 1958. To permit a refinancing, it was agreed that the liens of the 1957 deed would be released and the land conveyed to Waple, who would effect a new mortgage, pay off prior encumbrances and reconvey to Thompson, in trust to secure the named creditors. This was done, and prior liens were paid, but Waple reconveyed the property to a defunct corporation previously controlled by Adkins. For this reason, one of the creditors refused to sign the release, which none the less, was recorded. Thereafter, Home Building Association loaned $50,000 secured by Deed of Trust on the land. Held, that since the Association had actual and constructive notice that the release had not been fully executed it could not claim that it was induced to make the loan by the purported release, and could not claim that its lien had priority by reason of the doctrine of equitable estoppel.

Northern Virginia Savings & Loan Association v. J. B. Kendall Company, Et Al., 205 Va. 136.

A savings and loan association was held not to be prior to certain lien holders who had perfected their liens within the statutory period, even though these lienors had taken title to the property in trust for the benefit of themselves and other creditors. The Court held that the terms of the trust agreement did not constitute a subordination of their liens to the prior advances made by the association.

WASHINGTON

The Credit Bureau Corporation v. Beckstead, 63 Wash. Dec. (2d) 182, 385 P. 2d. 864.

A title report prepared by a title insurance company set out delinquent real property taxes, assessments and seven (7) judgments, but failed to show two (2) mortgages that were prior to the last six (6) judgments. The transaction was closed and partial satisfaction of the judgments entered. Upon discovery of the mistake the title company purchased the first of the two omitted mortgages, and offered to pay to the second mortgage holder the amount it could have realized from foreclosure of its second mortgage, recognizing the prior mortgage, assessments and taxes. The second mortgagee refused such offer, and foreclosed its second mortgage. The title company obtained an order in the suit in which the first and prior judgment was entered, vacating the partial satisfaction because it was "filed and entered by reason of a mistake of fact." The second mortgagee appealed.

Held, that the equities in the case require that the judgment be affirmed and that the second mortgagee was not injured by reinstatement of the judgment, which left it in the same position as it was before the mistake was made, except that its position was benefited by the payment of the taxes and assessments. The Court further held that this was a proper case for the equitable rules of subrogation.

Martin v. Port of Seattle, 64 Wash. Dec. 2d. 324, 391 P. 2d. 540.

The owners of property in an area of approximately one-half square mile at the end of a runway on an airport owned by a municipal corporation brought an inverse condemnation action to recover the value of their property allegedly appropriated in fact by the noise and vibration of jet aircraft in taking off and landing. The ques-

tion on appeal was whether the owners had stated a claim for relief. The Supreme Court of Washington found they had, stating that

(1) The privilege to use navigable air space, placed by Congress in the public domain, does not mean freedom from liability for damage or demonstratable pecuniary loss to property owners below.

(2) No direct physical invasion of the airspace over the land is necessary to maintain an action for "taking or damaging" property under the State Constitution.

(3) The measure of recovery is injury to market value, and the Courts need not distinguish between a "substantial" interference or injury and an "incidental" damaging to determine if there be recovery. Recovery for loss of market value is available to both small and large claims.

WEST VIRGINIA

The 1963-64 Legislature adopted the Uniform Commercial Code, and enacted a law which provided that if delay rentals payable according to the terms of an oil and gas lease, or the terms of any other agreement between lessor and lessee, are not paid within 60 days from the demand for payment of such delay rental, the lease is null and void.

Frye, Et Al v. Norton
(Citation not available).

Held, that any person interested in a will admitted to probate, who at the time of the probate proceeding resided out of the state, or was proceeded against by publication may, unless he actually appeared as a party or was personally summoned, file an action attacking the validity of the will within two (2) years after entry of the order of probate.

WISCONSIN

Fullerton Lumber Company v. Korth, 23 Wis. 2d. 253.

Held that no lien can be asserted against the landlord's interest where the tenant entered into the contract with the lumber company. In order for the lien to attach to the landlord's interest, there must be an express contract with the landlord.

In the Eastate of Fischer,
22 Wis. 2d, 637.

A deceased husband had title in his individual name to non-homestead real estate and then sold the same on land contract using a standard printed form in which both he and his wife were named as parties of the first part (vendors). The contract provided that payments were payable to the parties of the first part, but there was a complete absence of evidence of any preexisting agreement between the husband and wife to share in the payments to be made. There was, however, affirmative evidence negating such agreement—the land contract was not held in joint tenancy and was properly inventoried as an asset of the deceased husband's estate.

The Court held that a vendor's interest in a land contract is personalty and not real estate under the doctrine of equitable conversion, and the vendor holds the bare legal title merely as security for payment of the unpaid purchase price.

WYOMING

Stolldorf vs. Stolldorf,
384 P. 2nd 969.

The fact that widow was a non-resident of Wyoming would not prevent her from enforcing homestead rights in Wyoming realty which husband had conveyed before his death to third person without widow's consent. The value of the homestead right was determined to be $4,000.00, but the deed was held valid as to the balance of the property.

Theoming v. District Court,
379 P. 2nd 543.

Held, that when there had been no hearing or finding regarding incompetency by lunacy commission or jury, the district court was without jurisdiction to appoint daughter as guardian of her father, an alleged incompetent, and that the judgment doing so was void.

In 1963, the Wyoming Legislature repealed the sections of the Statutes that were interpreted so strictly by the Court in the **Thoeming** case, but failed to establish a new procedure to be followed. As a result, all guardian's deeds are suspect.

Report of the Secretary and Director of Public Relations

JAMES W. ROBINSON, Washington, D.C.

Mr. President; honored guests; my friend, companion and immediate superior, Joe Smith, whose iron fist is always encased in an extremely pliable velvet glove; and all you wonderful titlemen and women from everywhere in the nation, I salute you and I congratulate you on a fine convention.

I bring you a grass roots report, based upon meetings held in various cities with leaders of your profession who generously gave their time and talents to provide information to the ALTA staff. We are confident this information will enable us to serve you better. From this exchange of ideas among veteran titlemen, who have confronted and solved many of the problems which plague your profession, I pass along to you a few observations and a few suggestions.

First, it appears that new problems have arisen in maintaining cordial relations with county recorders, county clerks and other local public officials. These new problems result in part, from technological changes in methods of keeping records. Titlemen have discovered that public officials, who were quite agreeable to the use of files, record books and recorded documents, are more hesitant to part with possession of magnetic tapes, produced on an electronic data processing device that cost a quarter million dollars or more.

In some areas, new public buildings are being constructed by private concerns, with rental arrangements for public offices. The traditional relationship with regard to office space of the titlemen with public officials is being altered.

In a few metropolitan areas, Central Service Departments have assumed authority over recording and storage of public records affecting land titles, bringing about a further change in the relationship of titlemen with public officials.

How are these problems being solved? Well, it is basic to the title industry to have access to the public records — but only because it is in the **public interest** for titlemen to have such access. Public officials are not notably sympathetic, nor can they be expected to be, with the wishes of businessmen, but they **are** responsive to public opinion. With this as a guide, successful titlemen have worked closely with public officials, cooperating in every way possible in the synchronization of new county systems with their own. The most helpful bit of advice I can give is to be constantly alert to opportunities to take part, **at the planning stage,** in any new development which a public office undertakes; and to always emphasize, "Public Interest" when seeking the cooperation of public officials.

Another matter of importance to the Nation's title profession is the need to keep current with proposed and newly enacted legislation. Too often, legislation harmful to the industry is on the verge of passage before we are aware of its implications. To be perfectly blunt, although a superb job is being done by a few companies and a few state associations, as an industry, we are politically naive. My advice here is primarily for the officers of affiliated state associations: Select the most qualified members to serve on your legislative committee; appoint as chairman of that committee a man with vision, persistence and persuasive ability — don't bow to political expediency in making this appointment; provide your legislative committee with adequate funds to do the job and respond 100% when you are asked to pitch in and help.

The changing nature of the homebuilder's operation has created still another problem for titlemen. In a keenly competitive business, where the margin of profit and loss might be measured in terms of a saving of $20.00 on each home constructed, homebuild-

ers have become notoriously price-conscious. Generally speaking they are not as fully aware of the nature and value of the services performed by titlemen as are lenders, lawyers and realtors. They need the help and guidance of ALTA members. In this situation, a little knowledge is a dangerous thing. If there is one bit of wisdom I would pass along to you with regard to soliciting title business from homebuilders, it is this: Don't send a boy to do a man's job. Be very certain that the man you select to represent your company knows at least as much about the homebuilder's business as he knows himself. Cultivate the homebuilder on a long-range basis, planning today for projects he will undertake two, five or even ten years from now. Study the man, his firm and his operation carefully and assist him in every ethical way possible.

A word is appropriate here about two other professional groups — the lenders and the realtors. Rightly or wrongly, the major promotional effort of most ALTA members has historically been toward these groups. We have joined their official organizations; supported their programs; sponsored their cocktail parties and underwritten a substantial percentage of the advertising pages of their magazines. In general, our efforts have been fruitful and we have many reasons to be grateful to the nation's lenders and realtors. But we are fooling only ourselves if we think that every savings and loan official; every real estate broker and every mortgage banker is a good salesman for the abstracting firm and the title insurance company. Too often the title company has been a "whipping boy" when a broker or a lender was careless or negligent and the delay was laid at the door of the titleman. I submit that the time has come for education, rather than subservience to cement relations with these important groups. I don't believe we have firmly convinced the broker and the lender that ours is a vital service, provided at a reasonable cost. No wonder he thinks our profits are excessive when we compete with each other for the chance to bow to his wishes.

One customer group deserves special mention — the legal profession. The practice of law is an honored and honorable profession. No thinking person would deliberately impair the image of the country's lawyers upon whom the very foundation of our individual rights as citizens depends. Unfortunately, two areas of conflict do exist between the organized bar and the title industry. The first involves the alleged unauthorized practice of law on the part of some members of the American Land Title Association. On this point there is no national policy among ALTA members and in my opinion there will be none in the foreseeable future. Local practices and court decisions vary to a remarkable degree in different areas. What is perfectly legal in Colorado is a violation of the law in Arizona.

A title insuror in Pennsylvania may legally fill in the blank spaces in a deed, if that document conveys a title which is the subject of a title insurance policy, but in neighboring New Jersey the courts have held that such an act constitutes the unauthorized practice of law. Since the courts are jealous of their prerogative of determining just which acts do constitute the unauthorized practice of law, and since the statutes of most states are silent on this point, it is difficult indeed to know in advance if a violation has been committed. ALTA members will, I know, work unremittingly toward the easing and eventual elimination of this conflict within the framework of local tradition and practice.

But another, more serious, area of conflict exists with the organized bar — the formation of title insuring entities owned and operated by state and local bar associations. On this point there should be no lack of unity among ALTA members.

We should oppose it! We should declare that a purely commercial enterprise like the operation of a title insurance underwriting business is not a proper function of a state, local or national bar association. We should go on record as recognizing the conflict of interest that exists when a lawyer advises his client to purchase title in-

surance from a guaranty fund in which that lawyer has a financial stake. As an industry we have been accused, condemned, belittled and vilified. It disturbs me that we haven't even said "Ouch." In Florida lawyers are aggressively advertising and soliciting title insurance business in their own state, and are seeking to expand the title guaranty fund concept throughout the country. Two weeks ago I was invited to serve as Judge of a national advertising contest, sponsored by the National Association of Real Estate Boards. All of the Florida entries had scratch pads, furnished by the Lawyers' Title Guaranty Fund reading, "The Florida Lawyers' Organization for Guaranteeing Titles to Real Estate." A special committee of the American Bar Association is actively engaged in encouraging the formation of Bar Title Guaranty Companies in every state in the union.

I strongly recommend that the officers of this association formulate a statement of national policy opposing bar title guaranty funds, or any other title insurance agency owned and operated by the organized bar.

In discussions the staff has had with leading titlemen, it has become apparent that one of the most persistent and most perplexing problems is the failure of our own employees to develop a public relations attitude. A recent statistical survey indicates that ALTA members employ some 42,000 persons. Here is a ready-made sales force — a vast army of goodwill ambassadors for the title profession, but I would venture to say that if I walked into any one of your offices; selected an employee at random, and asked a simple question, such as "It it true that closing costs are excessive?" or "Why do you bandits charge so much for insurance; you take no risks and never suffer any losses?" or even "What is the difference between an abstract and a title insurance policy?" I would get the most confused, variety of impotent answers.

Now we all know that most members have done an excellent job of technical training, and a few companies have been outstanding in instilling a public relations attitude of mind among their entire staffs, but I suggest that there is a definite need for continuing public relations education among all title employees, perhaps ultimately on a national basis. In the meantime, I recommend that each of you review your public relations approach toward your employees. Appoint one member of your staff who will be responsible for this activity. Treat his program as a matter of top management concern. Make your public relations training of employees a continuing thing and it will pay dividends for you and for the industry.

And now, the most important subject of all, because it has overtones affecting every one of the other problems we have been discussing. That subject is, the public image of the title evidencing profession, the American Land Title Association and its members.

When my application for the position of your Director of Public Relations was accepted by Ernie Loebbecke, who was then National President, I naturally contacted some of my friends in the public relations business. They said to me, "Jim, you don't have to worry about the image of the title industry — it doesn't have one!" That wasn't exactly true, but it is true that overcoming the lack of information and misinformation about the nature and value of services performed by ALTA members has been and continues to be our most challenging task.

If it is true — and I insist it is — that ours is a basic industry, vital to the national economy, and that we help mankind fulfill a fundamental human desire, the secure ownership of real property; and if it is also true — and I know it is — that the purchaser of real estate; the man who pays our bill, is almost totally ignorant of what he is paying for, then the conclusion is inescapable that our investment as an industry in projecting a favorable public image has been woefully inadequate.

We have seen the attitude of the public change from total ignorance, to placid acceptance; then to resignation and finally to resentment and antagon-

ism; ALL BECAUSE HE HASN'T BEEN INFORMED! You are all familiar with the unfortunate article appearing in the December, 1963 issue of Reader's Digest. Well, that article wasn't a cause. It was a symptom—a symptom of 100 years neglect and indifference on the part of the nation's titlemen. Nor was it an isolated case. In the August 24 issue of the Hutchinson, Kansas, News we read this profound observation:

> The typical transfer of a piece of real estate, even if it is of only trivial value, involves a noticeable amount of time and expense. Time and expense that in a better organized world wouldn't be necessary.
>
> To a layman it would be practical to allow a year of grace during which rival claimants could make themselves known. Then the register of deeds could declare the owner of each piece of real property as then shown on his books to be the owner beyond any legal dispute.
>
> A simple form could be issued to attest the fact of ownership. Subsequent transfers could be arranged in a jiffy by having the buyer and seller, or their agents or heirs, appear before the registrar who would tear up the old certificate and issue a new one.
>
> Then all existing abstracts could be tossed into a gigantic heap and ignited. It would be quite a bonfire.

In the August issue of House and Home there appears this disturbing bit of news:

> The grab-bag of charges lumped under the "closing cost" tag has become one of housing's stickiest problems.
>
> Now the President's Consumer Advisory Council has recommended that his special assistant for consumer affairs, Mrs. Esther Peterson, ask all federal housing agencies to see what they can do to solve the problem — under present laws or by suggesting new legislation.
>
> . . . more and more buyers are complaining more and more loudly.
>
> The Consumers Council is especially interested in cases where there is some feeling of collusion. He names no names, but hints at fixed legal and title fees and search costs.

Here is an even worse blast at the title industry. In the current issue of New Homes Guide, just off the press there appears the article, "A Close Look at Closing Costs." Listen to what the author has to say about your profession!

> In the last few years the high expense of closing costs has been questioned more and more. Home buyers have squawked and lo and behold, there has been a softening in closing cost bills in some areas of the country.
>
> Not all people feel it is necessary to get title insurance. If a property is legally in order, that's enough evidence for them. They figure that if legal snags later develop over ownership of the property, they will haul the seller into court to make him straighten out matters.
>
> Closing costs have skyrocketed in recent years because of the postwar housing shortage. The mortgage lenders and the title insurance people were in the driver's seat, selling a scarce commodity. Every home buyer was another sucker to be clipped.

All of this adds up to a picture that is not pretty. I say to you, the title industry is under attack — and it's time we did something about it.

This brief report doesn't presume to be a complete outline of all the matters discussed at the regional meetings in Chicago, in Dallas and in New York; nor is it a blueprint for solving all the problems which confront the industry. These meetings will continue

and we of the ALTA staff will increase our effectiveness in serving you as we arm ourselves with the knowledge you can give us. I do hope some of the things I have discussed will be helpful to you in your work.

How to Have a Heart Attack

RICHARD C. BATES, M.D., F.A.C.P., Lansing, Michigan

Well, I suppose I'd better begin by warning you that the opinions to be expressed do not necessarily represent official attitude of any of those organizations of which I might be a member, including the American Heart Association.

In fact, as far as I can determine, they don't represent official attitudes of any of the organizations I am trying to get into, including Bobby Baker enterprises.

But you can relax because this isn't going to be the usual medical talk. You know the kind I mean, the long dry tirade filled with facts and figures designed to scare you into giving up the few pleasures you can still enjoy in life in exchange for a few extra years at the end of your life when you are too old to enjoy anything.

As a matter of fact, the medical profession itself is becoming increasingly concerned about the effect of all these medical talks and television shows on your peace of mind.

Here's what a doctor had to say about this at a medical convention recently. He said, "We are paying a special price for fear instilled into the minds of millions under the guise of medical education. Fear itself has become a disease. Many patients avoid doctors' offices for months and months because they are afraid that we will substantiate their fears of a disease they probably never will have."

In 10 years if we were to believe all the distorted statistics spoon-fed to us through all media of communications, one out of five us would be dying of cancer while one out of twenty of us would be in a mental institution.

We probably would be visited from time to time in the hospital or asylum by one of our children, the victim of cerebral palsy or polio, while our second child would be home ill with rheumatic fever, and then the third child would be forced to go to a psychiatrist all by himself.

And mind you, this could happen only if we were lucky enough to have escaped the ever-compounding effects of heart disease, tuberculosis, arthritis and smoking cigarettes and if we hadn't been previously killed in Fourth of July accidents.

This doctor went on to say, "This sounds facetious, but it isn't. We have all seen the patient who awakens, looks at the eyes for conjunctivitis, looks at the color of his tongue, feels the breast for lumps, rubs his teeth to see if there is blood and then reads the obituary column."

If his name isn't in it, he says, "Another day, I'm alive."

I don't have to tell you that the usual medical speaker always starts off with some grim statistic that brings his topic right down to your individual level.

For example, if we were going to be talking about cancer this afternoon, traditionally I'd start right off and announce one person in eight in this room is going to die of cancer—which is true.

And on our topic this afternoon I could be far more alarming and announce that half the people in this room are going to die of heart disease —which is also true. But then the speakers never go on and point out the rest of you are going to die of something else.

So that as a matter of fact, if you escape dying of a heart attack, you enormously increase your chances of dying of cancer. And if you are so unfortunate as to escape both heart attack and cancer, you run great risk of dying of the most lingering malady of all, the one that takes 90 years to kill, natural causes.

Furthermore, everybody agrees that a heart attack is the best way to die. If you doubt that statement, recall

how many times you have heard a conversation that goes something like this. Two people meet on the street, and one fellow says to the other, "Say, did you hear about poor old Bill?"

The other fellow says, "Yes, poor devil dropped dead of a heart attack last night."

And you can just wait, and you won't have to wait very long. One or the other or both of them in unison will say, "Still, if I have to die, that is the way I want to go (snapping fingers) like that."

They never say "when I die." They always say "if I have to die."

Of course, the thing about a heart attack that makes it so attractive is its speed. For all we know, dying may be the most wonderful, blissful, ecstatic moment in all existence. It doesn't matter, Americans are always in a hurry.

They want to get it over with and get on to something else.

And of course, I don't mean to leave the impression with you that a heart attack is the only way to die suddenly. Naturally, you can commit suicide, but it takes courage; habitually pass on curves and hills, which will ruin a few fine automobiles sooner or later; go riding with President Johnson at the wheel; have a couple of dates with another man's wife; get a deep tan and drive through Mississippi.

You know, all things considered, I am sure you will agree that the best way to die suddenly is to have a nice, clean, unexpected heart attack, and this is the age of the positive approach, the era of do it yourself.

So I am going to tell you this afternoon what to do to manufacture your own little heart attack right in your own basement workshop. And before I tell you what you have to do, we will digress a little so that I can discuss what we currently know about this disease.

We will have to admit first off and all of the answers are not in yet. One of the handicaps is that surprisingly, while this is now the leading cause of death in these United States, heart attacks as such were unknown to the medical profession before 1912.

The first report came from a doctor in Chicago only 42 years ago. Oh, we think people were having coronaries long before 1912. As a matter of fact, Egyptian mummies have been resurrected and dissected. After 5,000 years in the sarcophagus their coronaries are found to be in a remarkable state of hardness.

Hippocrates, the great Greek physician who lived three centuries before Christ left us an excellent description of patients who came to him complaining of severe pains in the chest. And the old boy noted in his memoirs it was a pretty good idea to get cash before they left the office.

In the Elizabethan times, the Shakespearean poems and prose are full of references to broken hearts and fluttering hearts, and we feel sure some of these phrases must have arisen from instances of aging lovers who were pursuing their amours too vigorously and dropped dead as a result.

What is a heart attack? Well, the heart, as you probably know, is a large muscular organ that pumps gallons and gallons, tankcars full of blood every few days.

Naturally, we don't possess tankcars full of blood. We each have about five quarts, and our hearts circulate these same five quarts of blood around and around over and over and over.

That is how you get tired blood.

In order to perform this tremendous amount of work, the heart itself needs the constant supply of blood to bring it oxygen and glucose for nourishment, and this blood comes to it through tiny pipes or arteries that encircle the top of it something like a crown.

The latin word for crown is corona, and so we speak of these encircling arteries on the heart as coronary arteries.

Almost from the time we are born, these pipes begin to fill in with deposits of a fatty sludge known as cholesterol. Almost from the time we are born, new arteries begin to open up in our hearts to provide new channels for the flow of blood as these old pipes fill in so that in a sense, we are in a race from birth to death between those things that stimulate the opening up of new arteries in our hearts and those

things that promote the filling in of old arteries.

By now, it's probable that one man in ten in this room has plugged one or more of his coronary branches, but generally, when that happens no disease results because adequate detours for the flow of blood are already present.

If they are not there, the first symptom is generally pain, and this pain, comes when the heart is working the hardest, with exercise, with excitement, after a heavy meal.

As soon as rest is provided, it goes away generally in five to fifteen minutes. But a little later, as the artery fills in some more, the pain isn't so clearly related to exercise. It may even come during sleep at night, and then finally, because the blood can no longer squeeze through, it clots at this point completely walling off the opening.

The medical term for a clot is a thrombus, and so we speak of this final blood as a coronary thrombosis.

Coronary thrombosis, coronary occlusion, heart attack, they all mean the same thing. Naturally, of course, the medical profession no longer uses any of these terms for fear our patients would know what we are talking about.

We call this whole business myocardial infarction.

Well, how are you going to know if you are getting into this trouble? The chances are you will know. First off, it's not that little pain that you have been noticing over here on the left side while I have been talking.

The pain of this disorder generally isn't over the heart but over the upper center chest, and it hurts. It hurts as bad as a broken leg. One of my patients told me it felt as though somebody had parked a truck on his chest and gone in for a cup of coffee.

Of course, you will understand we have a handicap here. As yet, we have no reliable description of the symptoms experienced by those whose heart attacks are immediately fatal.

Well, how is it that half of us are going to go in this pleasant fashion while the other half will have to find some less satisfactory means?

We think now that no one thing is responsible, but that it takes, to coin a phrase, a combination of medically proven ingredients.

So far some seven or eight factors have been identified, some of major importance, some of minor, each influencing your chances of having a heart attack.

First off, it's not strictly a process of aging as was previously believed, because the peak age for having a coronary is reached by males at 45, by women at 55.

After these ages, your chances of dying of this disease begin to decrease. This is largely because after these ages your chances of dying of other diseases begin to increase.

Heredity is very important, but looking around the room, I can say that it's way too late for most of you to do much about it.

But at least we can say that the more of your ancestors who have toppled over unexpectedly, the better your chances are of going in precisely the same fashion.

And then there is the matter of sex, because men have six times as many heart attacks as women. This statistic and this disease alone are the foundation for the life insurance industry.

There being such a surprising difference between the sexes, six men to one woman, there was demanded a rational scientific explanation, and it wasn't difficult to find.

It was shown that there is something in the hormones that make women women that slows down the rate at which they deposit cholesterol in the walls of their arteries, and immediately thereafter it was demonstrated that we could give these female hormones or estrogens to men and slow down the rate at which their arteries hardened.

For a while, this gave promise for control of artery disease, but then abruptly and quite unexpectedly we ran out of men willing to take the hormones.

I have to be a little bit vague at this point. You see, there is something in the female hormone, that when you give them to a man, changes his, well, the plain truth of the matter is that most men are so stubborn that they

would rather drop dead of a heart attack—than to wear a brassiere.

Of course, as we look back over this whole series of scientific papers, we shouldn't have been as astonished at that turn of events as we were.

Surely this is not the first occasion when medical scientists have been guilty of making mountains out of mole hills.

It's good if you live in the city. City people have more heart attacks than country folk, and this is probably related to the matter of exercise.

As you know, we have made a 180-degree turn on this business of exercise. We used to teach that exercise caused heart attacks. Now we believe that exercise is the factor that stimulates the growth of new blood vessels into the heart so that it prevents heart attacks.

A heart is a muscle, and like any other muscle, the more it is used the better blood supply it develops for itself.

This change in medical thinking began with a study done over in Great Britain. Over there, as you know, they have two-tiered busses, and this requires them to have two men on the bus, one who sits and drives all day while the other man is much more active on his feet to the upper deck and down punching tickets as a conductor all day.

A very observant physician for the British bus company noticed that the bus drivers were having twice as many heart attacks as the active bus conductors.

This was checked with mailmen. Mailmen who are on their feet all day delivering mail from house to house almost never have heart attacks until they retire, while mailmen who sit in the station sorting mail have a rather high rate of it.

Well, then what about all the reports in the newspapers about people dying during strenuous exercise?

One of the things that happens every year here in Philadelphia is that in November or December we have a wet, heavy snow, and some enterprising reporter on the Philadelphia newspapers, for want of anything better to do, checks with the city hospitals and reports that in Philadelphia that morning five men dropped dead shoveling snow.

The next day it's bright and sunny and the snow is all cleared away. He doesn't call the hospital. If he did, he would discover that in Philadelphia that day eleven men dropped dead not shoveling snow.

Studies show that your chances of having a heart attack are just as good when you are home in bed asleep at night as when you are out mowing your lawn.

Just as many heart attacks begin at 1:00 a.m. as at 1:00 p.m. or any hour through the 24. Just as many heart attacks occur on Saturday as on Sunday, or on any day during the work week.

After all, if it takes 45 years to bring on this disease, what you are doing the last 15 minutes is really of very little importance. The important thing is to be as sedentary as possible throughout those 45 years so that you don't encourage a better blood supply for your heart.

Of the factors that you can control, the most important is probably that of diet. This is rather complicated, still a little controversial.

I will try and hit a few of the high spots for you. This cholesterol that we find in the coronary arteries occurs in much of our food. As you know, we can take samples of blood from an individual and analyze them for the amount of cholesterol dissolved there, and we get reports that vary a great deal from one person to another, but also from the people in one country to those in another.

Americans have more fat and cholesterol in their diet than any people in the world. Americans have more cholesterol in their blood than any people in the world, and Americans have more heart attacks than any people in the world.

By now, these relationships have been studied in many of the known populations groups, and some interesting things have come to light.

One of the studies that was done was carried on a little fellow running around South Africa without any clothes on known as the Bantu.

Bantus are just the opposite of people in the United States. They lead a perfectly miserable existence. It is a red letter day in Bantu land when somebody catches a lizard and they all have a mouthful of meat on the table.

Mostly Bantus live on roots and berries and air. Sure enough, Bantus have about the lowest blood cholesterol yet found, but then there was some trouble with the Swedes, because over in Sweden they stand next to us in the amount of fat in their diet and Swedes stand next to us in the amount of cholesterol in their blood, but they have only half as many heart attacks as we do.

Nowadays we explain this away by pointing out that Swedes have far fewer automobiles, power lawn mowers, golf carts, self-winding wrist watches.

They get more exercise and modify their high fat diet in that fashion, but at least it did show that you couldn't always look at the diet and directly predict the incidence of heart attacks in a population.

So somebody raised a further question about those Bantus and asked, "Even with their low blood cholesterol, can't some of the Bantus still go ahead and have heart attacks?"

Well, there was nothing for it, but the team had to go back down to Bantu land and carry out further research, which they did. And the report, no, Bantus never have heart attacks.

But the reason is they all die of malnutrition in their thirties.

Well, so it has gone until by now most authorities in the field agree to some overall statements. The amount of cholesterol in a population's blood is directly proportionate to the consummation of certain fats by that population.

People with a high heart attack record are almost always found to have a high blood cholesterol. People with low blood cholesterol are rather free of this disorder, but some people with high blood cholesterols, like the Swedes, escape coronary disease because of the influence of other things.

And then there was trouble with the Eskimos because Eskimos, as you know, live on practically nothing but fats for long periods of time and yet Eskimos' blood cholesterol runs a little below the international average.

This and some other work led to the discovery that there is a difference in the ability of fats to raise the blood cholesterol. Eskimos' fats come from animals that swim in the seas, and these fats are invariably liquid at room temperature.

Chemically, they are unsaturated for hydrogen. Such liquid or unsaturated fats not only do not raise the blood cholesterol, but some of them, the most unsaturated or poly-unsaturated fats actually lower it.

In our diet, such fats are represented by Wesson oil, which is cottonseed oil, Mazola, which is cornoil, safflower oil and soy oil and various fish oils.

The fats that raise the blood cholesterol are solid or semisolid at room temperatures. Chemically they are saturated for hydrogen. And in our diet, such fats are represented by mutton, tallow, pork lard, beef suet, the more expensive spread, and you will recognize that these are all fats of animal origin, but also by vegetable fats that have been artificially solidified by hydrogenation such as the less expensive spread and the various hydrogenated shortenings.

So the thing to do is to get as many of these solid saturated fats into your diet as possible in order to boost your blood cholesterol as high as it will go, and this is rather pleasant work.

One of the good things you can do is to get in the habit of drinking 15 or 20 cups of coffee well laced with cream a day.

You'd be surprised how much butter fat you can pick up in this fashion, and then drink a lot of whole milk because there are two pats of butter dissolved in every glass of whole milk.

So if you can feed that ulcer with two quarts of milk a day, there will be 16 pats of butter fat for your diet right there. And eat a lot of ice cream.

When we were youngsters we had ice cream about twice a year when somebody would get the old freezer out and crank it up, but nowadays, you can have ice cream two or three times a day.

In fact, in general we might say that with the exceptions of skim milk and cottage cheese, what is good for the dairy business is good for my business.

And eat a lot of thick juicy steaks and prime ribs of beef well marbled with fat. And don't trim the fat off around the edge. You paid for it, eat it.

Then too, this kind of a diet will make you fat, and that is a useful thing. Thin people have just as many heart attacks as fat people, but the fat people are far more inclined to have the (snapping fingers) fatal variety.

How do you know if you are fat? Well, of course, you are not fat. All of your friends are fat. All of your friends think you could stand to take off a few pounds here and there, but you know very well it's just that you have a big frame.

There are a few good ways to tell. The first thing to do is pitch out the standard Metropolitan Insurance Company height and weight tables. They are far too easy to manipulate.

Some day when there is no one around at home to catch you at it and laugh at you, get hold of a tape measure and slip it around your waist. Take off your girdle first, no fair letting your breath out and sucking in your waist. Just put it around your middle as you ordinarily stand.

For a man, the normal waist line measurement is 32 inches. For a woman, 26 inches. For every inch your waist measures more than 32 or 26, you are five pounds overweight.

I will pause a little bit there. Anybody need pencil and paper?

You see the beauty of this method is you don't have any frame around your middle. Now, if you want to check that, recall what you weighed when you were married.

It's a very peculiar thing, but most people weighed what they should on their wedding day and practically everyone remembers what he weighed when he was married.

Well, if you stop to think about it, you are no taller now than you were then. You certainly haven't put on any muscle. You may have learned a thing or two, but this does not increase the weight of the frame, so if you weigh more now than you did on your wedding day, it's fat.

It's very good if you are wealthy, and I am sure you have all received a number of tips at this meeting on how to acquire that.

Rich people have far more heart attacks than poor people presumably because they can afford to hire more of their physical labor done for them, and they can afford more of those thick juicy steaks.

The one statistic that stands up in every study yet done around the world is the higher the standard of living, the greater incidence of coronary artery disease.

And it's very good if you have diabetes, gall bladder trouble or high blood pressure, but I don't know enough to tell you today how to go about getting them if you don't have them already.

One of the good positive things you can do is to smoke cigarettes. Pipes and cigars have no effect, but two-pack-a-day cigarette smokers have over twice as many heart attacks as nonsmokers.

This is a rather recent discovery. No one is yet certain why it should be true. Nobody is willing to say there is anything in cigarette smoke that makes cholesterol dig out for the nearest coronary artery.

One of our handicaps is that we don't know enough about the other habits of living of the sort of person who smokes two packs of cigarettes a day. One thing I know, a man who puts 40 cigarettes a day in and out of his mouth doesn't earn his living with his hands.

And from that introduction, you knew we'd get around to discussing alcohol sooner or later. But here we have a surprise, because try as we may, we are unable to show that alcoholics have any more or any fewer heart attacks than teetotallers. Alcohol neither prevents nor promotes coronary artery disease. All it does is cause cirrhosis of the liver. And of course, you are all waiting to hear about stress.

People say, "Don't get on so many committees. Don't be the president of

so many things. Don't take work home evenings and weekends. Don't get excited. Don't get nervous, you will have a heart attack." Here too we draw a blank because, as yet, we have discovered no way to measure nervous tension and express it in units. If we go out and interview a series of American men, we get pretty much the same story. Practically every last man in this country is secretly convinced that he works harder, under more tension than anybody else he ever heard.

And another handicap in this regard is that much of the experimental work with cholesterol has been done with chickens. About the only laboratory animal with the ability to deposit cholesterol in the walls of the arteries as does man is an old fat hen. But it's very difficult to keep old fat hens nervous for any period of time.

So far, the only reliable way that has been found to accomplish this is to change and put a different rooster with the flock each day. And it may surprise you to hear that the old fat hens that have been kept under this exquisite form of nervous tension had less hardening of their arteries.

But it only serves to fortify our growing feeling that the stress and strain bit in relationship to heart attacks has been greatly overplayed; that if hard work has anything to do with bringing on a heart attack, it's possibly because hard workers are inclined to make more money and to delegate more of their yard work to others, live on a richer diet and get their coronaries in that secondary fashion. Still, it's a notion that's been around for a long time and one that we are having trouble getting rid of. And we have an explanation for that trouble too.

Here's what a doctor in Great Britain had to say about this as only a doctor in Great Britain would say it. He said, "The ready acceptance of the stress and strain concept in relation to heart attack is easily understandable because it nourishes the ego of the believer, and it places coronary heart disease in the position of being an unjust reward for virtue. How much nicer it is when stricken with a coronary occlusion to be told it is all due to hard work, laudable ambition and selfless devotion to duty, than to be told it is due to physical indolence and gluttony. Another notion that has been around for a long time is that the very real and tremendous increase we have all noted in this disease in the last two generations, what Doctor Paul White calls the greatest epidemic in medical history, is somehow related to what we glibly speak of as the increased pace and tensions of modern times.

Actually, in these days of the 40-hour week, twice-a-day coffee break, cradle-to-the-grave security, it's doubtful if mankind ever had such a soft relaxed existence in the history of the world. Recall if you will that our ancestors in this country had to take their rifles with them when they went to the barn to be sure they'd get back to the house with their scalps on. That's tension!

Well, in summary, pick your ancestors, be a man, live in a city in the United States, make a lot of money sitting behind a desk, eat a lot of meat and dairy products, be fat, smoke cigarettes, and never exercise. This is probably the nicest advice you ever got from a physician. Most of you won't have to make any changes, just keep on doing what you have been doing.

Unfortunately, it may not work, at least the first time. It's regrettable, but four out of five people botch the job on their first attempt and survive to return to their former occupation. But if it doesn't work that first time, keep on trying. The statistics improve a great deal with second and third heart attacks, and almost no one pulls through a fourth one.

And above all, after that first heart attack, don't follow your doctor's orders. He is just trying to keep you alive as long as possible to make more money out of you so he can afford more steak.

Report of Chairman, Constitution and By Laws Committee

LORIN B. WEDDELL, Executive Vice-President, Land Title Guarantee and Trust Co., Cleveland, Ohio

As chairman of your Committee on Constitution and By-laws, I present for your final approval several amendments to your constitution.

After approval of the Executive Committee at the Board of Governors, all of the changes were first presented at the last annual meeting of the Association in San Francisco.

In accordance with Article XI, Section 1 of the present constitution, copies of the proposed changes were available at that last meeting and were distributed, and subsequently the changes were published in Title News.

Here is the substance of the changes:

Number one, the requirements of active membership in the Association are more clearly defined in this new change.

Number two, a new section is added providing for the time, place and meeting of holding these Board of Governors meetings.

Number three, new paragraphs are added creating a new liaison committee and making that committee and the Standard Forms Committee standing committees of the Association.

Additional paragraphs defined the duties and the makeup of the committee, and this, in effect, is the substance of all the constitutional changes proposed. Mr. President, I move the final adoption of the following amendments to the constitution of our Association as previously submitted at the last annual meeting in San Francisco:

ARTICLE III Section 1

SECOND PARAGRAPH. "Active members shall be limited to [those] **sole proprietorships, partnerships or corporations while** directly **and primarily** engaged in **the business of** land title evidencing, who or which shall have subscribed to the principles of the code of ethics of this Association or as the same may be amended or interpreted from time to time as herein provided, agreed to be governed by its Constitution and By-Laws and, if a title insurer, not engaged in any class of insurance other than title insurance, and whose applications for membership shall have been approved by the Board of Governors. **All applicants for active membership shall have had a continuous experience in the business of title evidencing for at least five years immediately prior to the date of application; provided, however, that such requirement may be waived by the Board of Governors if the applicant, or the principals thereof, are deemed by said Board to have acquired otherwise the equivalent of such continuous business experience."**

ARTICLE III Section 2

ADD AT END OF PARAGRAPH. **"A member of such Affiliated state title association without full voting rights therein may not, unless otherwise eligible, be elected to active membership in this Association.**

ARTICLE IV Add new section to be designated Section 5.

"Section 5. MEETINGS OF THE BOARD OF GOVERNORS. Regular meetings of the Board of Governors shall be held during each annual convention and each mid-winter conference of the Association at such time, or times,

and at such place, or places, as shall be designated by the President. Special meetings of the Board of Governors may be called by the President, by a majority vote of the Executive Committee, or by not less than five governors, on not less than ten days written notice in which the time and place of the meeting and its purpose or purposes shall be set forth."

ARTICLE VII Section 4

FIRST PARAGRAPH. "OTHER COMMITTEES: The President within thirty days after election, shall fill expired terms and vacancies, if any, in the **Liaison Committee**, [and] the Grievance Committee **and the Standard Title Insurance Forms Committee** and shall appoint all members of the Planning, Judiciary, [Co-operation,] Membership and Organization, Legislative, Public Relations, Constitution and By-Laws Committees and such other Committees as may have been authorized by the Board of Governors or by the members at any convention, each to consist of a chairman and such number of members as he shall deem advisable, unless otherwise provided."

NEW SECOND PARAGRAPH. **"The Liaison Committee shall be composed of the Immediate Past President, the Vice President, the Chairman of the Abstracters Section, the Chairman of the Title Insurance Section, the Chairman of the Standard Title Insurance Forms Committee, and four appointed members. The four appointed members shall be selected on a basis that will at all times afford the Committee board geographical representation. The Vice President shall be Chairman of the Committee."**

NEW FOURTH PARAGRAPH. (Between Grievance Committee and Legislative Committee) **"The Standard Title Insurance Forms Committee shall be composed of a Chairman and eleven other members. No two members shall be accredited from the same state, territory or district. No appointment shall be made that will afford any corporate member, or affiliated group of corporate members, directly or through its, or their, agents, concurrent representation by more than two of its officers or employees. The members shall be divided into three classes of equal number, initially to serve one, two or three years, each succeeding class to serve for three years. The Chairman shall appoint a subcommittee on uniform language for Schedules A and B and other blank spaces in the standard title insurance forms, to be composed of not less than six committee members, one of whom shall be designated Sub-Committee Chairman. With prior approval of the Board of Governors, the Chairman may appoint other sub-committees to carry out the objectives of the Committee as in Section 17 provided, each to consist of a Chairman and such number of other committee members as he shall determine."**

ARTICLE VIII Section 10

"THE **LIAISON** COMMITTEE [ON CO-OPERATION], **or a subcommittee thereof named by the Chairman,** shall work and co-operate with other national professional or trade associations and **with federal government departments and agencies,** or with committees or authorized representatives [thereof] **of such associations, departments or agencies,** [or of similar bodies,] to promote sound legislation **and regulations,** [and] to prevent unsound legislation **or regulations, or to accomplish other desirable lawful objectives** [to the end that security of land title and facility of their transfer may be attained in the highest possible degree.] **Such co-operative effort shall be undertaken only upon specific authorization by a majority of the whole number of the Board of Governors or of the Executive Com-**

mittee and any undertaking or agreement on behalf of this Association, that shall evolve out of such co-operative effort, shall be subject to ratification by a comparable majority of said Board of Governors or said Executive Committee."

ARTICLE VII Section 17

"THE STANDARD TITLE INSURANCE FORMS COMMITTEE shall (1) review from time to time the standard title insurance forms approved at annual conventions or mid-winter conferences and recommend for use by Association members, (2) recommend for such use new standard forms or revisions of existing standard forms in a continuing effort to keep title insurance coverage responsive to the justifiable needs of insureds, and the title insurance industry and consistent with requirements of supervisory authorities and (3) confer with counsel or other representatives of insureds who utilize the services of member companies of this Association throughout broad geographical areas and with supervisory authorities of member insurers for the purpose of implementing the foregoing objectives. The sub-committee named in the fourth paragraph of Section 4 of Article VII shall study common or frequently recurring circumstances or conditions affecting insurance of titles to interests in real property and develop uniform language recommended for use in Schedules A and B or other blank spaces of the standard title insurance forms. Recommendations of any sub-committee shall be subject to approval by a majority of the whole number of the Committee. The Committee shall report at each annual convention and mid-winter conference of the Association to the Title Insurance Section or to the membership, or to both Section and Association membership, as the occasion shall require, and all reports and recommendations of the Committee shall require action by majority vote at the convention or conference at which they shall be submitted in order to qualify as standard forms or procedures. All reports of the Committee shall be advisory in nature and no member shall be required to follow their recommendations nor to use recommended standard forms nor to follow recommended procedures. Neither the Committee nor any sub-committee shall render formal written opinions to members of the Association, to policy-holders, or prospective purchasers of title insurance." Section 17 shall be renumbered Section 18. Section 18 shall be renumbered Section 19.

The above motion was seconded and unanimously approved.

Highlights of New Cumulative Supplement of Public Regulation Of Title Insurance Companies And Abstracters

WILLIAM H. PAINTER, Professor of Law, Villanova University School of Law, Villanova, Pa.

It is of course a great privilege to be asked to speak with you briefly concerning the work I have been doing on recent changes in state and federal laws regulating title insurance companies and abstracters. As a re-

sult of my efforts over the summer, a 1964 Cumulative Supplement to our book on title insurance companies is now available from the offices of Joe Smith in Washington. I hope that it proves useful to you.

I have been asked to give you a few "highlights" of the recent legislation. Here I fear I run the risk of boring you with trivia, since, with the possible exception of the recent legislation in Pennsylvania, with which I am sure you are all by now familiar, I regret to say that for the most part what has taken place in the two year period 1962-1964 has been trivia.

There has been some activity in the area of subjecting out-of-state insurers to process or other liability for their acts within a state. For example, you will recall that in the 1962 Supplement to our book we discussed the so-called Unauthorized Insurers False Advertising Act, which was intended to plug the gap created under the McCarran-Ferguson Act by the **Travellers Health Assn'.** case. The False Advertising Act has been adopted by four new states: Indiana, Kansas, Maryland and Utah. Two states, Maryland and Utah, have enacted versions of an older statute, the Unauthorized Insurers Process Act, and Alabama has adopted a third, the Uniform Unauthorized Insurers Act. You will find all of these statutes discussed in the book and the 1964 Cumulative Supplement.

In the important area of placing limitations on the maximum single risk which may be incurred by insurers, there has been little activity outside of Pennsylvania. Here, we have a rather complex provision, essentially limiting us to an amount equal to assets, less an amount equal to minimum capital ($250,000), unearned premium reserve and title plant.

Deposit requirements have been increased in three states, Arkansas, Utah, and Virginia, decreased in Florida. Maryland, a state which formerly had no deposit requirement, now requires one. In two states, North Carolina and Utah, the minimum capital requirement has been increased. Surplus requirements have been increased in Florida, North Carolina and Wisconsin. Ohio, which formerly had no surplus requirement, now has one. Minnesota, which required no unearned premium reserve, and Utah, which required a so-called "surplus fund", have both adopted full-fledged unearned premium reserve requirements. One state, Maryland, has increased the amount which has to be added to the reserve from eight to ten per cent of the total amount of risk premiums written annually. Taxes have been increased in Arkansas and reduced in Indiana. One important change in Pennsylvania has been to eliminate the rather confusing provision relating to the amount which an insurer could invest in a title plant and substitute a more sensible one to the effect that any amount can be invested provided that the insurer retains at least $250,000 (which also happens to be the amount of the minimum capital requirement) invested in various securities or investments other than title plant or real estate. In addition, Pennsylvania now has a rather comprehensive set of provisions dealing with mergers and consolidations of title insurers, as well as acquisitions other than by merger or consolidation, such as stock purchase agreements and exchange offers. Finally, one state, Tennessee, has adopted a rate-filing requirement, curiously enough by Departmental Regulation rather than by statute. I might add that this very same regulation prohibits the so-called "unauthorized practice of law." I have always wondered what that term means, being interested in tax law and noting how our profession has been taken over in some areas by the accountants. Perhaps the "unauthorized practice of law" is doing something which a lawyer would like to do, which means that you can go ahead and do something, like preparing tax returns, which a lawyer might find tedious and distasteful. In any case, Tennessee permits a title attorney who is an employee of a title insurer to prepare legal documents such as contracts, deeds and mortgages directly related to the risk assumed by the insurer, but prohibits the latter from sharing in any way in the title attorney's fee.

You will recall that, in our original

examination of the insurance laws of the several states, we found that many states had adopted what might be called a "Chinese Box" or law-within-a-law system whereby title insurers might be subject to laws of increasing generality. Thus, in addition to laws specifically directed towards title insurers, they might be subject to laws governing insurance companies and, indeed, corporations generally to the extent that the latter are not "inconsistent" with the laws specifically applying to title insurers. This sounds workable but in practice you have no doubt encountered situations where it is difficult to determine whether a given provision in the general insurance laws is inconsistent with one in the title insurance laws. When we adopted the new code here in Pennsylvania we attempted to take care of this problem by listing the provisions of other laws which apply to title insurers. We did not, however, completely resolve the uncertainty because we still provided that even the laws we listed would not apply if they were "inconsistent." New York has taken much the same approach with the adoption of its new Business Corporation Law, specifying which sections of the latter are inapplicable to insurance companies. Although this does not cure the difficulty completely, it cuts down somewhat on the area of uncertainty.

To the best of my knowledge this covers the major developments which have taken place over the past two years. In preparing the supplement we ran into some difficulty in procuring current copies of the statutes. Colorado, for example, is still preparing its 1963 Revised Statutes and these were unobtainable at the date we went to press. The Colorado Commissioner, however, informed me by letter that there had been no changes in the law affecting title insurers and we had to rely on that. Similarly, the updating of the Maine and Mississippi statutes has been rather inadequate, but here again we had informal assurance that nothing of significance had taken place. I might add that other jurisdictions have been remarkably conscientious in bringing their statutory material up to date. For example, I see that there is now a 1964 Cumulative Pocket Supplement to the Navajo Tribal Code, which you will recall we did not attempt to cover in the title book. It is, of course, true that Title 2, Section 764(c) mentions a tribal Title Examiner whose duties include the searching, duplication and reproduction of title records. On the other hand, in order to keep the basic work within reasonable limits we had to omit a discussion of this Navajo matter in view of the relatively little business which I gather is being done in insuring titles to Indian lands.

When we come to look at pending legislation, I fear that some of you may be more familiar than I with what is going on in your particular home state. From corresponding with the various state commissioners (who by the way have been most cooperative) I have found that at least three states, Florida, Hawaii and Ohio, anticipate some changes or new codification in their respective 1965 legislative sessions. I have heard that something of the sort is going on in the Virgin Islands and, in addition, there is talk of proposing some amendments to the new code here in Pennsylvania.

In conclusion, permit me to entertain you with something with which you or your children may become increasingly familiar over the winter months on television. I refer of course to the so-called "horror show." In the field of title insurance, we are no different from other industries. One important source of our insomnia, our particular horror show, is the growing spectre of regulation by the federal government. As you will recall, there was some discussion of this problem in our book, where we indicated that the McCarran Act provides some measure of insulation for us to the extent that we may be regulated under state law. There is a new and very recent development in the field of federal securities regulation which is quite analogous and which I would like to discuss briefly before I close.

Most of you have heard of the Securities Exchange Act of 1934, some times confused with the Securities Act of 1933. Whereas the latter regulates

the public sale of securities, the 1934 Act regulates a number of rather diverse activities, such as annual reporting, proxy solicitation and so-called "insider trading." In fact, it is in these very areas that some new amendments to the act, signed by President Johnson on August 20th, make some rather dramatic changes. For the first time the federal regulatory powers have been extended to apply directly to trading over-the-counter. Since most insurance stocks are traded this way, we have, up until now, been free of this type of regulation. The new amendments extend the annual reporting, proxy solicitation and "insider trading" rules of the 1934 act to stocks of issuers having over $1,000,000 in assets and a class of equity security held of record by 750 or more persons. In about two years this coverage will be broadened to include issuers having assets of over $1,000,000 and 500 or more equity security holders in a class. If you fall within these categories, then your company will have to file reports and proxy solicitation materials with the SEC and you will be subject to the "short-swing" recovery provisions of Section 16 of the 1934 Act. The latter permit recovery by the company from directors, officers and owners of more than ten per cent of a class of equity security of profit realized by them in purchases and sales of securities within a six month period.

Now, having presented you with the bad news, or the "horror" side of the picture, permit me to cheer you up a bit. As of now, the amendment to the 1934 Act does not apply to insurance companies **if** certain requirements are met. Thus, with regard to reporting, if the insurer is required to file annual reports with its state insurance commissioner and if such reports conform with the NAIC requirements, then it need not file with the SEC. The question of whether its reports do in fact conform with the NAIC requirements is left with the state insurance commissioner.

As far as proxy solicitation is concerned, here again, if solicitation by the insurer conforms to state regulation which in turn conforms to that prescribed by the NAIC, then there is no filing requirement under Federal law.

Finally, insurers are exempt from "insider trading" liability until July 1, 1966, at which time they would be covered (provided of course the above requirements as to assets and number of stockholders is met) unless they are subject to regulation under the laws of their respective states that is similar to that under Section 16 of the 1934 Act.

All of this sounds a little like a false alarm since, although it appears at first that insurance company stocks are covered by the new legislation, we find that, under certain conditions which are quite likely to exist, they are not, and so we need not worry about it for the present. On the other hand it may be a reminder that "Big Brother is Watching You" and there may come a day when a colder wind may blow from Washington.

I hope that I have not made myself unpopular with you here today by raising this point about federal regulation. At least one thing is certain. The problem will not go away if we merely ignore it and often it is helpful to talk about these problems and think about them so that we may handle them more intelligently when they arise. Thus we have seen that the insurance industry was able to make a convincing case for the efficacy of local regulatory systems in order to avoid regulation on the federal level of proxy solicitation, filing of annual reports and "insider trading". Conceivably analogous problems may arise in other areas where the industry will be called upon to justify the extent of local regulation. Regulation as such is not an evil. As in many things the problem is rather what **kind** of regulation and I submit that this is a question upon which intelligent men should be prepared to think. Hence I must confess a certain measure of impatience with those who consider this a topic to be avoided as too "controversial" for open discussion. After all, the Kinsey Report came out several years ago and if that can be discussed openly I do not understand why federal regulation may not.

It certainly has been a great pleasure to meet with you this afternoon, to discuss recent changes in the state and federal laws. If you are interested in following this up by all means get in touch with Joe Smith and he will be glad to send you a copy of the supplement.

Progress Report, Alta Group Life Insurance Trust

MORTON McDONALD, Chairman of the Board, The Abstract Company, Deland, Florida

This is the sixth annual report to the American Land Title Association by the Trustees of the ALTA Group Insurance Trust. I want to make this report a bit different from the past years for we have some things to report that we haven't had previously. We are proud of this report and feel that we are making excellent progress in his endeavor.

As of August 1, 1964, we had 190 member units participating with an even 1,000 lives insured. This is very good, but we think many more should be covered. We feel many more will be covered as we can get the story of this program to the grass roots.

During the past six years, we have paid in claims a total of $262,250.00. We have paid in dividends $24,401.75. This does not include the 15% dividend declared at our Annual Meeting in August which will be paid out shortly.

During the time we have paid the claims and dividends, we have been able to set aside a very favorable reserve. We started with nothing in the bank and no one insured. At the end of our sixth fiscal year we had $29,969.24 in assets. As you realize, we must have a small operating capital for promotion, collections and the regular routine of operating this Trust. Let me say again that your Trustees serve without pay. Our expenses are paid to the Annual Meeting and we can charge any of our office expenses in connection with the Trust. However, I am sure the other two members are like I am and do not keep a record of all the stationery and postage we use. Neither are we paid for our time. I should say we are not paid in material things. We are paid by having the satisfaction that we are assisting in providing a useful service to our fellow members. A service that would not be available to many of you if we or someone else did not take the time and make the effort.

In addition to close to $30,000.00 that we have in our operating account, we started a special reserve fund last year. This fund is reserved to take care of extra claims at any time we might be called on. It is set up as a Claim Stabilization Reserve. We now have $29,560.00 in this fund. We draw 4% interest on this fund. We want to build this special fund to an amount that would be adequate to care for any unforeseen or unusual claims at anytime.

At our Annual Meeting last year, we discussed the possibilities of getting the story of this fringe benefit over to the many members who should have it and who are not eligible except through this plan. We decided that one of the Trustees would attend the meetings and address the members of State associations whenever we were invited. This was announced at the State Association Officers' meeting at our convention in San Francisco. I have addressed five State Associations during the past year. I am scheduled to address another next month. It is hoped that a number of the State Officers will allow us to appear on your next annual program. This is without cost to the State Association.

We have been well pleased with the results from these meetings. We have reached many more members than we could at our National Meetings. We have also mailed out additional information concerning the program this year. Our promotion efforts have been paying dividends, as we have added

about $10,000.00 to our annual premiums this year.

This program does not cost the American Land Title Association anything in anyway. The American Land Title Association advanced $4,000.00 to help get this program under way in the beginning. This was repaid at the end of the first year. We requested Mr. Smith to keep an account of time of employees in his office spent on this project. At our annual meeting, we requested a bill for this time and for any expenses in connection with space in the "Title News." We were presented with a bill for $500.00 and this amount has been paid to the American Land Title Association. Though there are other items in the budget of the American Land Title Association that probably do not interest every member of the Association at all times, we do not want you to feel that this extra benefit is costing the Association one penny.

It has been necessary to make a change in the personnel of our Trustees. Mr. Frank Kroemer was transferred to another city and requested that he be relieved of his duties due to the change in his business. We regretfully requested the Board of Governors to accept his resignation. We are happy to announce that Mr. Richard E. Fox of Chicago Title Insurance Company has been elected to the Board of Trustees.

We are studying ways to improve this service at all times. Additions to the benefits, reduction in the costs and all such important matters are being constantly studied. We cannot give you any concrete plans for changes at present, but you can be assured that we are doing the best possible for the insured.

Now for those who might not know of this plan, if there be such here, may I take just a moment or two more to explain briefly this plan. This is group life insurance. The death benefits range from $1,000 to $20,000. It is patterned to give you and your employees the most life insurance protection for the least possible cost when it is needed the most. The cost is 99 cents per thousand per month, not with a guaranteed dividend, but on which we declared a 15% dividend this year and on which we have averaged 10% since it was begun. It was not started to get you to change from a group life insurance plan you might already have, but to aid those who had no plan, many of whom could not get such because of the small office force. This plan is available for any member of the American Land Title Association who has at least two people employed for at least thirty hours per week. That is the owner, manager or proprietor and one other employee. The insurance is written by John Hancock Mutual Life Insurance Company.

If you have not availed yourself of this splendid fringe benefit won't you do so now. It is a way that you can protect your family and the families of your employees at a very low cost. It is a way that you can assist in a very substantial way if one of your employees passed away. For further information, please contact our National Office o·· one of the Trustees.

Report of the Chairman, Resolutions Committee

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

It is my privilege to present to you for consideration the following resolutions:

WHEREAS, the Pennsylvania Land Title Association, as host of this convention, has provided the delegation attendance with a memorable and entertaining convention, and,

WHEREAS, the convention chairman, Mr. Andrew A. Sheard, and the members of his committee have worked so diligently to make our visit to the "City of Brotherly Love" one we shall always remember;

THEREFORE, be it resolved that the grateful thanks and appreciation of officers, delegates, and all members be extended to the men and women of these committees for their generous hospitality and efforts which contributed materially to the success of this entire program.

WHEREAS, the 58th Annual Convention has benefited by the excellent contributions of our guest speakers, all of whom have brought a significant message to the members in attendance at this convention and whose presentations have been inspirational, educational, scholarly and beneficial;

THEREFORE, be it resolved that members of this Association express deep appreciation for the appearance on the program to:

The Honorable Edward G. Bauer, Jr., City Solicitor;

Louis O. Kelso, Kelso, Cotton & Ernst;

Dean John E. Howe, School of Law, Washburn University of Topeka, Kansas;

The Honorable Adrian Bonnelly, President Judge, County Court of Philadelphia, Pennsylvania;

Carey Winston, President, Mortgage Bankers Association of America;

A. M. Prothro, General Counsel, Federal Housing Administration;

Sanford A. Witkowski, Assistant General Counsel, Federal Housing Administration;

Victor J. Town, Manager-Personnel, Southwestern District, Ernst & Ernst;

Richard C. Bates, M.D.;

William H. Painter, Professor of Law, Villanova University.

WHEREAS, the elected officers, members of the Board of Governors and the Chairmen of the Sections have given so generously of their time, energy and talents to the direction of the affairs of the Association during the past year;

THEREFORE, be it resolved that on behalf of all members there be extended grateful thanks to our National President, Mr. Clem H. Silvers; Vice-President, Joseph S. Knapp, Jr.; Treasurer, Laurence J. Ptak; Chairman of the Finance Committee, John D. Binkley; Chairman of the Abstracters Section, Don B. Nichols; Chairman of the Title Insurance Section, George B. Garber and to all who have contributed to the achievements of the Association during the past year.

WHEREAS, this Association has enjoyed for many years the friendship and participation in our activities of the representatives of the life insurance industry;

THEREFORE, be it resolved that the delegates again express their thanks and appreciation to representatives of life insurance companies for their continued interest and helpful contributions to our mutual problems.

WHEREAS, the American Land Title Association has again completed a successful year of operations in its Washington Office;

THEREFORE, be it resolved that this convention express its appreciation to our Executive Vice-President, Joseph H. Smith, to our Secretary and Director of Public Relations, James W. Robinson and to our new assistant, Frank Ebersole, and all the staff at National Headquarters for their contributions to the success of this Association and, in particular, this convention.

Mr. President, I recommend the adoption of these resolutions.

It was moved and seconded that each and every one of the resolutions be adopted by acclamation. Carried unanimously.

CONSTITUTION and BY-LAWS

AMERICAN LAND TITLE ASSOCIATION

As amended at a general session of the 1964 Annual Convention, held in Philadelphia, Pennsylvania, September 20-23.

ARTICLE I NAME

The name of this Association shall be "American Land Title Association." Its principal place of business shall be as designated from time to time by the Board of Governors.

ARTICLE II OBJECTS AND PURPOSES

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

ARTICLE III MEMBERSHIP

Sec. 1. CLASSES OF MEMBERS: There shall be three classes of members designated as active members, associate members and honorary members.

Active members shall be limited to sole proprietorships, partnerships or corporations while directly and primarily engaged in the business of land title evidencing, who or which shall have subscribed to the principles of the code of ethics of this Association or as the same may be amended or interpreted from time to time as herein provided, agreed to be governed by its Constitution and By-Laws and, if a title insurer, not engaged in any class of insurance other than title insurance, and whose applications for membership shall have been approved by the Board of Governors. All applicants for active membership shall have had a continuous experience in the business of title evidencing prior to the date of application; provided, however, that such requirement may be waived by the Board of Governors if the applicant, or the principals thereof, are deemed by said Board to have acquired otherwise the equivalent of such continuous business experience.

Associate members shall be limited to those not qualified for active membership, but of a class or classes as shall have been designated from time to time by the Board of Governors and whose applications shall have been approved by the Board of Governors.

Honorary members shall be those individuals so designated by the Board of Governors for the performance of distinguished and meritorious service to this Association or to the science of land title evidencing.

Sec. 2. AFFILIATED ASSOCIATIONS: With the approval of the Board of Governors any state or territorial association of abstracters or of title insurers, or of both abstracters and title insurers **but not more than one such association representing either such group in any state or territory** may affiliate with this Association. Its application for affiliation shall be accompanied by a certified

copy of its constitution or articles of association or incorporation and of its by-laws, together with applications of those of its members in good standing who or which have applied for membership in this Association and a certification of their eligibility for membership therein. Any affiliated association may, at its option, undertake to collect and remit membership dues in this Association of those of its members who are or become members of this Association, and may also, at its option, require as a condition for membership therein or in this Association that a prospective member having his or its principal place of business in the state or territory represented by such association be or become a member of both associations, but such requirement shall not affect membership in this Association of any existing member or of any prospective member who, by reason of multiple state or territorial operation, may be eligible to apply for membership in this Association from another state or territory. A member of such affiliated state title association without full voting rights therein may not, unless otherwise eligible, be elected to active membership in this Association.

Sec. 3. QUALIFICATIONS FOR AND ELECTION TO MEMBERSHIP: Election to membership of any class in this Association shall require the affirmative vote of a majority of the whole Board of Governors. Applications for active membership, in addition to the requirements of Section 1 of this Article and of Section 2 thereof, if applicable, shall contain evidence satisfactory to the Board of Governors of applicant's reputation for integrity, reliability and responsibility in all business and professional relationships and that applicant owns, or leases, and occupies a bona fide office for the production of title evidence, staffed with applicant's own employees and located in one of the states or territories of the United States or in the District of Columbia.

Sec. 4. GRANDFATHER CLAUSE: Each member in good standing on the effective date of the adoption of Sections 1, 2, and 3 of this Article, against whom or which no grievance is then pending, shall be deemed as of said date to have met the qualifications for membership set forth in this Article.

Sec. 5. REPRESENTATION AND VOTING AT MEETINGS OF MEMBERS: Only active members shall vote. Each active member in attendance at any meeting or polled on any proposition shall have one vote. Vote of any firm, partnership or corporate member may be cast by any member of such firm or partnership or officer of such corporation. No vote may be cast by proxy at any meeting of members.

Associate members, honorary members and delegates of affiliated associations may attend any meeting of this Association or of its Sections, may participate in the deliberations and discussions but shall not have a vote.

Sec. 6. RESIGNATION OF MEMBERS: A member not in default in payment of dues, and against whom or which no grievance is pending, may file his resignation in writing with the Association and it shall become effective, as of the date of filing, when accepted by the Board of Governors.

Resignation from membership in an affiliated association shall be tantamount to resignation from this Association by any member whose election to membership shall have required concurrent membership in such affiliated association and the effective date thereof, when accepted by the Board of Governors, shall be the date of receipt of notice of such resignation from said affiliated association.

The Board of Governors may in its discretion, by the affirmative vote of a majority of the whole board, reinstate any member who has resigned if his written application for reinstatement is filed within one year after the effective date of resignation and the requirements of Section 3 of this Article, if applicable, are fulfilled.

Sec. 7. CENSURE, SUSPENSION AND EXPULSION OF MEMBERS: Any member may be censured, suspended or expelled for misconduct in his relations with the general public,

the Association, or a member thereof, in the manner herein provided.

Sec. 8. DIVESTMENT OF PROPERTY INTEREST: No member shall have or acquire any right, title or interest, either legal or equitable, in or to the property of the Association. In the event of dissolution, any assets of the Association remaining after payment of its obligations shall be distributed to one or more regularly organized charitable, educational, scientific or philanthropic organization to be selected by the Board of Governors.

ARTICLE IV MEETINGS

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

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

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

Sec. 4. MEETINGS WITH AFFILIATED ASSOCIATIONS: The officers of this Association shall meet jointly with officers or delegates of affiliated associations in attendance at an annual convention at a time designated in the convention program.

Sec. 5. MEETINGS OF THE BOARD OF GOVERNORS: Regular meetings of the Board of Governors shall be held during each annual convention and each mid-winter conference of the Association at such time, or times, and at such place, or places, as shall be designated by the President. Special meetings of the Board of Governors may be called by the President, by a majority vote of the Executive Committee, or by not less than five governors, on not less than ten days written notice in which the time and place of the meeting and its purpose or purposes shall be set forth.

ARTICLE V DUES

Sec. 1. RESPONSIBILITY FOR PAYMENT: Each active and each associate member shall pay dues in accordance with a schedule to be fixed by the Board of Governors at each annual convention for the year next ensuing, payable on or before the last day of the third month of such ensuing year. Honorary members shall pay no dues.

Sec. 2. DEFAULT IN PAYMENT OF DUES: Any member in default in the payment of dues, for a period of three months after the same shall have become payable, shall be notified in writing that unless said dues are paid within one month thereafter, such default will be reported to the Board of Governors. Upon such report being made to the Board of Governors, it may, without further notice, strike the name of such member from the roll for nonpayment of dues, and the membership and all rights in respect thereto of such member shall thereupon cease; provide, however, that the Board of Governors in its discretion, by the affirmative vote of a majority of the whole board, may, subject to the requirements of Sec. 3 of Article III, if applicable, reinstate such member upon payment of all unpaid items.

Any member whose election to membership shall have required concurrent membership in an affiliated association, shall automatically cease to be a member of this Association upon filing with this Association of a notice signed by the Secretary of such affiliated association that said member has been dropped from its membership for nonpayment of dues following due notice of delinquency in said payment; provided, however, that the Board of Governors in its discretion, by the affirmative vote of a

majority of the whole board, may reinstate such member upon recertification of eligibility by such affiliated association.

ARTICLE VI SECTIONS

Sec. 1. SECTIONS AND MEMBERSHIP THEREOF: The following Sections of this Association are hereby established:

(a) Title Insurance Section, which shall include all active members who or which shall be a title insurer or who or which shall be a bona fide agent of a title insurer, and

(b) Abstracters Section, which shall include all active members who or which shall provide an abstracting service to the public, whether or not an agent of a title insurer.

Sec. 2. SECTION POWERS AND VOTING: Each Section may adopt such by-laws and conduct such activities as shall not be inconsistent or in conflict with the constitution and by-laws of this Association. Voting on Section matters shall be limited to members of the Section.

Sec. 3. SECTION ADMINISTRATION: Administration of the affairs of each Section shall be vested in an Executive Committee composed of the Chairman, Vice Chairman and Secretary of that Section and four other members, each of whom shall be an active member or a partner of a firm or officer of a corporation which is an active member; each shall be elected at the annual convention to a term of one year commencing with the adjournment of the convention during which he or she is elected and continuing until his or her successor has been elected and has assumed office.

Sec. 4. NOMINATION AND ELECTION OF SECTION EXECUTIVE COMMITTEE: Each Section shall have a Nominating Committee at each annual convention composed of the three most recent Past Presidents of the Association representative of that Section who shall be active in the business of title evidencing and in attendance at such annual convention. The most recent Past President of the three shall be Chairman. In the event fewer than three such Past Presidents shall be in attendance at any annual convention, the Section Chairman shall fill such vacancy or vacancies by appointment or appointments, of his selection, from the Section membership. Each such Committee shall nominate seven section members to serve as the Section Executive Committee and shall designate from among the seven, a Chairman, a Vice Chairman and a Secretary to serve also as Section officers. The report of each Nominating Committee shall be posted in a conspicuous place by 6:00 o'clock p.m. of the day next preceding the first day of the Section meeting. Each Section Chairman shall call for a report of the Section Nominating Committee as one of the first orders of business on the first day of the Section meeting, following which he shall invite any other nominations. If there be any such nominations, only those which shall have been seconded, before the call for the next order of business, by not less than four active Section members, each having his or its principal office in a different state, territory or district, shall be eligible candidates. Election shall be held as the last order of business prior to adjournment of the last scheduled session of the Section meeting as set forth in the annual convention program.

ARTICLE VII ELECTION OR APPOINTMENT OF OFFICERS, BOARD OF GOVERNORS AND COMMITTEES

Sec. 1. OFFICERS: The officers of this Association shall consist of a President, a Vice President, a Treasurer and a Chairman of the Finance Committee, each of whom shall be an active member or a partner of a firm or officer of a corporation which is an active member, each shall be elected at the annual convention to a term of one year commencing with the adjournment of the convention during which he or she is elected and continuing until his or her successor has been elected and has assumed office, and an Executive Vice President, a Secretary and such other officers as the Board of Governors shall deem necessary, each of whom shall

be appointed annually by the Board of Governors, which shall also prescribe their duties and fix their compensation and their terms of employment.

Sec. 2. BOARD OF GOVERNORS: The Board of Governors shall consist of nine ex officio members comprising the four elected officers named in Sec. 1, the Chairman of the Council of Past Presidents, the Chairman of the Planning Committee, the Immediate Past President and the Chairman of each of the two Sections and fifteen other members, five of whom shall be elected at each annual convention for a term of three years. An elected member of the Board of Governors, who shall have served a full term, shall not be eligible for reelection or appointment to the Board of Governors until the annual convention next following that at which such elected term shall have expired. An ex officio member of the Board of Governors shall not be eligible for election to a three-year term until the annual convention next following that at which such ex officio term shall have expired.

Sec. 3. EXECUTIVE COMMITTEE: The Executive Committee of the Board of Governors shall be composed of the President, Vice President, Treasurer, Chairman of the Finance Committee and the Chairman of each Section. The President shall be the Chairman.

Sec. 4. OTHER COMMITTEES: The President within thirty days after election, shall fill expired terms and vacancies, if any, in the Liaison Committee, the Grievance Committee and the Standard Title Insurance Forms Committee and shall appoint all members of the Planning, Judiciary, Membership and Organization, Legislative, Public Relations, Constitution and By-Laws Committees and such other Committees as may have been authorized by the Board of Governors or by the members at any convention, each to consist of a chairman and such number of members as he shall deem advisable, unless otherwise provided.

The Liaison Committee shall be composed of the Immediate Past President, the Vice President, the Chairman of the Abstracters Section, the Chairman of the Title Insurance Section, the Chairman of the Standard Title Insurance Forms Committee, and four appointed members. The four appointed members shall be selected on a basis that will at all times afford the Committee broad geographical representation. The Vice President shall be Chairman of the Committee.

The Grievance Committee shall be composed of a Chairman who shall serve for one year and six other members divided into three classes of equal number, initially to serve one, two and three years, each succeeding class to serve for three years. No two members of the Grievance Committee shall be accredited from the same state, territory or district and each Section of the Association shall be represented on the Committee.

The Standard Title Insurance Forms Committee shall be composed of a Chairman and eleven other members. No two members shall be accredited from the same state, territory or district. No appointment shall be made that will afford any corporate member, or affiliated group of corporate members, directly or through its, or their, agents, concurrent representation by more than two of its officers or employees. The members shall be divided into three classes of equal number, initially to serve one, two or three years, each succeeding class to serve for three years. The Chairman shall appoint a subcommittee on uniform language for Schedules A and B and other blank spaces in the standard title insurance forms, to be composed of not less than six committee members, one of whom shall be designated Sub-Committee Chairman. With prior approval of the Board of Governors, the Chairman may appoint other subcommittees to carry out the objectives of the Committee as in Article VIII, Section 17 provided, each to consist of a Chairman and such number of other committee members as he shall determine.

The Legislative Committee shall be composed of a Chairman and one member from each state or territory

of the United States and the District of Columbia.

The Chairman and members of each of the Committees referred to in this Section whose terms expire shall continue in office until their respective successors are appointed.

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

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

Sec. 7. NOMINATING COMMITTEE: The Nominating Committee at each annual convention shall be composed of the most recent Past Presidents of the Association, not more, however, than seven in number, in attendance at such convention and still active in the business of title evidencing. The most recent Past President shall be the Chairman.

ARTICLE VIII DUTIES OF OFFICERS AND COMMITTEES

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

Sec. 2. THE VICE PRESIDENT shall perform the duties of the President in case of his absence or inability to act.

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

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

Sec. 5. THE BOARD OF GOVERNORS shall have the care of the welfare of this Association and shall have authority to perform all acts or duties necessary for its benefit. It shall transact such business as shall arise between annual conventions and midwinter conferences and perform such other duties as shall be directed at any annual convention or mid-winter conference. If shall have power to fill vacancies in the office of President, Vice President, Treasurer, and Chairman of the Finance Committee, or among its own members, such appointees to hold office until the end of the next annual convention and thereafter until their successors have been elected or appointed and have assumed office. No member of the Board shall be represented by proxy at any of its meetings. A majority of the Board shall constitute a quorum.

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

Sec. 7. THE COUNCIL OF PAST PRESIDENTS when requested shall, and on its own motion may advise with and give counsel to the Board or any officer or committee on any

measure deemed to advance the good of the Association, and shall report through its chairman at all meetings of the Board.

Sec. 8. THE FINANCE COMMITTEE shall have general supervision of the finances of this Association. It shall present to the Board of Governors and to each annual convention a budget of estimated income and proposed expenditures for the next succeeding calendar year.

Sec. 9. THE JUDICIARY COMMITTEE shall investigate and report at each annual convention important decisions rendered in Federal and State Courts relating to the duties, liabilities and responsibilities of the abstracters and insurers of title to real property or liens and obligations thereon and other decisions relative to land titles.

Sec. 10. THE LIAISON COMMITTEE, or a subcommittee thereof named by the Chairman, shall work and co-operate with other national professional or trade associations and with federal government departments and agencies, or with committees or authorized representatives of such associations, departments or agencies, to promote sound legislation and regulations, to prevent unsound legislation or regulations or to accomplish other desirable lawful objectives. Such co-operative effort shall be undertaken only upon specific authorization by a majority of the whole number of the Board of Governors or of the Executive Committee and any undertaking or agreement on behalf of this Association, that shall evolve out of such co-operative effort, shall be subject to ratification by a comparable majority of said Board of Governors or said Executive Committee.

Sec. 11. THE COMMITTEE ON MEMBERSHIP AND ORGANIZATION shall endeavor to obtain applications for membership in or affiliation with this Association and shall encourage the organization of state or territorial title associations and assist therewith when requested.

Sec. 12. THE LEGISLATIVE COMMITTEE, subject to the approval of the Board of Governors, shall have power to act with regard to legislation affecting or relating to the interests of members and the title business generally. The Committee shall report its activities at each annual convention.

Sec. 13. THE PUBLIC RELATIONS COMMITTEE shall consider and recommend to the Association ways and means of effectively advertising and publicizing the title business, and securing a more wide-spread understanding and knowledge of the functions and purposes of title insurance and abstract companies.

Sec. 14. THE CONSTITUTION AND BY-LAWS COMMITTEE shall report to the Board of Governors and to the members at each annual convention and mid-winter conference. It shall consider all proposals to amend, and may on its own motion propose amendments to, the Constitution and By-Laws and the Code of Ethics of this Association and shall, subject to the approval of the Board of Governors, specify for distribution among the members those practices which shall thereafter be deemed in violation of the principles of said Code of Ethics.

Each such specified practice shall set forth the date from and after which it shall be deemed to become a violation of the Code of Ethics of the Association, which said date shall be not earlier than the thirtieth day next following mailing of the notice thereof to the membership and, upon request in writing addressed to the principal office of the Association by not less than three active members, such effective date shall be suspended pending vote thereon by the membership. Such suspension shall remain in effect until a majority of the active members in attendance at a general session of the next ensuing annual convention, or a majority of the active members who shall have voted in a referendum poll of the members, shall have voted to declare such specified practice to be in violation of the Code of Ethics of the Association. Notice of intention to submit any such specified practice to a vote of the membership at an annual convention shall be sent to each mem-

ber not less than thirty days in advance of the date of the general session of that convention on which such vote shall be scheduled to be taken, which said notice shall also identify the date of said general session. Referendum poll of the members on any such specified practice shall allow not less than thirty days from the date of mailing of ballots to the members to the date fixed for closing the poll and tabulation of votes. Choice of the manner of submission for vote by the members, whether at a general session of an annual convention or by referendum poll of the members, shall be determined by majority vote of all of the members of the Executive Committee.

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

Sec. 16. THE GRIEVANCE COMMITTEE shall have power to consider and investigate complaints involving alleged misconduct by a member in his relations with the general public, the Association or a member thereof, including without limitation alleged member violations of the principles of the Code of Ethics. The Committee may itself initiate any investigation as aforesaid and, on majority vote of its members, may become the complaining party to a grievance, or may undertake any such investigation upon complaint laid before it by a member, by either Section, or by any aggrieved party. The Committee shall proceed in the manner provided by Article IX.

Sec. 17. THE STANDARD TITLE INSURANCE FORMS COMMITTEE shall (1) review from time to time the standard title insurance forms approved at annual conventions or mid-winter conferences and recommend for use by Association members, (2) recommend for such use new standard forms or revisions of existing standard forms in a continuing effort to keep title insurance coverage responsive to the justifiable needs of insureds, and the title insurance industry and consistent with requirements of supervisory authorities and (3) confer with counsel or other representatives of insureds who utilize the services of member companies of this Association throughout broad geographical areas and with supervisory authorities of member insurers for the purpose of implementing the foregoing objectives. The sub-committee named in the fourth paragraph of Section 4 of Article VII, shall study common or frequently recurring circumstances or conditions affecting insurance of titles to interests in real property and develop uniform language recommended for use in Schedules A and B or other blank spaces of the standard title insurance forms. Recommendations of any sub-committee shall be subject to approval by a majority of the whole number of the Committee. The Committee shall report at each annual convention and mid-winter conference of the Association to the Title Insurance Section or to the membership, or to both Section and Association membership, as the occasion shall require, and all reports and recommendations of the Committee shall require action by majority vote at the convention or conference at which they shall be submitted in order to qualify as standard forms or procedures. All reports of the Committee shall be advisory in nature and no member shall be required to follow their recommendations nor to use recommended standard forms nor to follow recommended procedures. Neither the Committee nor any sub-committee shall render formal written opinions to members of the Association, to policy holders, or prospective purchasers of title insurance.

Sec. 18. THE NOMINATING COMMITTEE shall select candidates at each annual convention for the offices of President, Vice President, Treasurer, Chairman of the Finance Committee, and members of the Board of Governors to fill expiring terms or vacancies. The report of this Nominating Committee shall be posted in a conspicuous place at the convention

meeting place by 6:00 o'clock p.m. on the second day of the convention. Other nominations may be made for any of said offices, provided the names of such nominees are posted in such conspicuous place at the convention meeting place by 9:00 o'clock a.m. on the third day of the convention over the signatures of seven voting members in good standing, no two of whom shall be accredited from the same state, territory or district. The report of the Nominating Committee shall be made on the floor of the convention and such additional nominations, if any, shall be announced on the morning of the third day of the convention at a general session. The election of officers and governors shall be held not earlier than the last order of business prior to adjournment on the third day of the convention.

Sec. 19. The above named officers, committees and Board shall perform such other duties as may be requested or directed by the active members at any annual convention.

ARTICLE IX PROCEDURE RESPECTING GRIEVANCES, COMPLAINTS AND INVESTIGATIONS

Sec. 1. Complaints against a member of the Association alleging misconduct in his relations with the general public, the Association, or a member thereof, shall be in writing, signed by the complaining party and shall state plainly the matter complained of. Any such complaint shall be filed at the principal office of the Association and shall be referred to the Grievance Committee. The complained-of-member shall be furnished a copy of the complaint and shall be permitted thirty days to answer the same in writing. Such member shall co-operate with the Grievance Committee and, on request, shall disclose pertinent facts and records, not privileged, germane to the investigation.

Sec. 2. At a time and place designated by the Grievance Committee, said Committee shall hold a hearing on the complaint, at which hearing the complainant and the complained-of-member may appear personally and by counsel; provided, however, that if after preliminary investigation the Committee shall deem the complaint groundless, it may dismiss the complaint.

Sec. 3. The Grievance Committee shall have discretion at any time to refer a complaint to an affiliated association in which the complained-of-member holds membership, for investigation and report by that organization or concurrent action by the Grievance Committee of this Association and a similar committee of the affiliated association; provided, however, that any such reference to an affiliated association may be withdrawn if its investigation and report is not completed within three months.

Sec. 4. The Grievance Committee's findings and recommendations after investigation and hearing of any complaint shall be reduced to writing and submitted promptly to the Board of Governors. A copy thereof shall be given to the complained-of-member. Upon the written request of the complained-of-member, the Board of Governors shall, before making a final decision, give him an opportunity to appear in person and by counsel and to be heard in support of his defense.

Sec. 5. The Board of Governors shall review the Grievance Committee's findings and recommendations and may find the complained-of-member to be guilty or not guilty of the charges against him, and, if found guilty, may adjudge that he be censured, or suspended, or expelled from the Association; but no censure, suspension or expulsion shall be adjudged except by a vote of two-thirds of the whole Board of Governors. Such decision of the Board of Governors shall be reduced to writing and a copy thereof furnished to the complainant and the complained-of-member.

Sec. 6. Any decision of the Board of Governors suspending or expelling a member shall be final and shall become effective according to its terms unless, within thirty days thereafter, the member shall file in the principal office of the Association a written appeal to the membership of the Association, in which event the decision

of the Board of Governors shall be held in abeyance pending determination of the appeal at the next mid-winter conference or annual convention, whichever first occurs. Upon any such appeal the decision of the Board of Governors shall be affirmed or reversed by a majority vote of the active members present and voting at the meeting.

Sec. 7. All communications, notices or pleadings by or from any party to a grievance proceeding shall be sent by certified or registered mail addressed to the Association at its principal place of business. All notices or communications by or from the Association to any party to such proceeding shall be sent by certified or registered mail addressed to the principal office of said party as last entered upon the records of the Association.

ARTICLE X INCORPORATION

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

ARTICLE XI AMENDMENT OR REVISION

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

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

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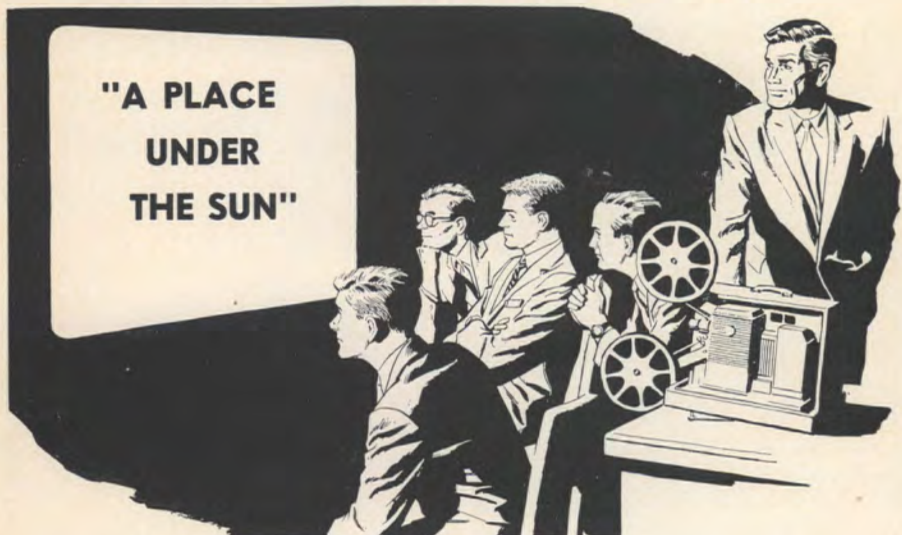
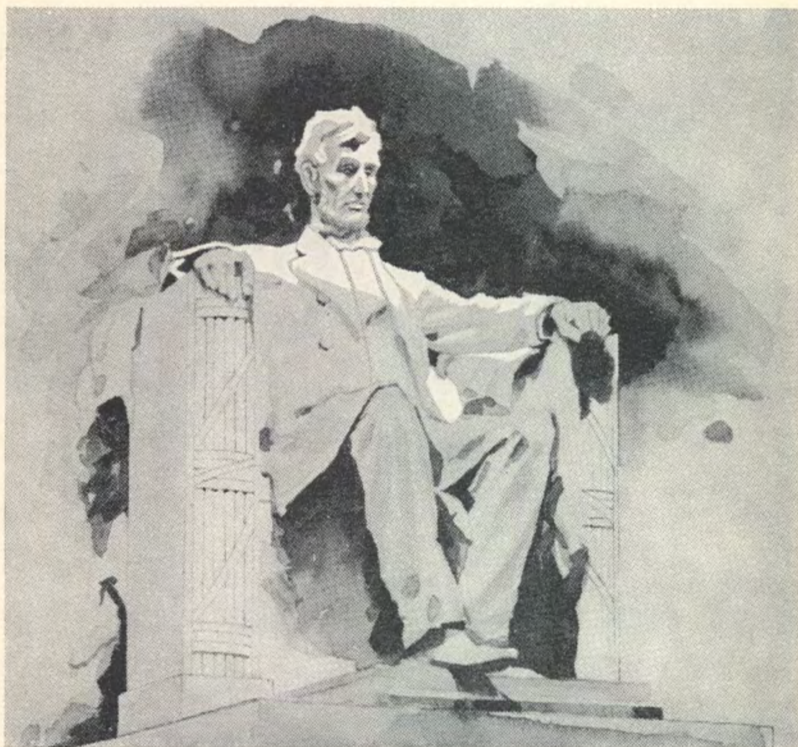


IN THE NATION'S CAPITAL



1965 Mid-Winter Conference
March 3-4-5

AMERICAN LAND TITLE ASSOCIATION
STATLER HOTEL, WASHINGTON, D.C.

IN THE ASSOCIATION SPOTLIGHT

Abstracters School at CU

Things were pretty "cool" out in Colorado this summer. "Cool", certainly in the Abstracters' School when classes were held August 13-15 at the University of Colorado in Boulder. A report could have been made right after the school closed and all the complimentary remarks included at that time, but it seemed best to wait and see how good the school really was. Fifteen of the 49 students were to take the Colorado State Abstracters' examination the last day of the school. How these 15 abstracters would do in the exaxm would be a better test of what they had learned, and a better reporter on the success of the 3rd such Annual Abstracters' School.

Results are more than gratifying—all 15 students passed the state exam! This is good news to the members of the Land Title Association of Colorado who have sponsored the schools, and to the 29 first year students who will have the exam to take sometime in the future. It proves that by pooling the talent of the association and the university, very worthwhile courses can be set up and conducted to bring desirable results. The 20 second year students and their employers profited by the program in this year's school and the previous schools because ¾ of this group took and passed the state exam.

The Bureau of Continuation Education, a division of CU's Extension, recapped the comments of the 49 enrollees who felt this way about the courses: 14 said Good; 1 Very Good; 29 said Excellent; 1 Gung Ho student said Very Excellent. For substantially 1½ days of work sessions, the school made a hit and the ratings given it by the students prove it.

Creators of this year's school are three L.T.A.C. members who made up the committee: Leonard Bartels, Chairman; Lue Catlin; James Laffoon. The instructors were: James M. George, L.L.B., Title Examiner-Title Guaranty Co., Denver; Robert T. Haines, J.D., Vice President—Kansas City Title Insurance Co., Denver; Irma Sparks, L.L.B., Legal Examiner—Title Guaranty Co., Denver; Maurice A. Unger, Associate Professor of Real Estate—University of Colorado; Gerald F. Groswald, L.L.B., Assistant Manager—Title Guaranty Co., Littleton, Colo. Luncheon speakers were: Mr. Haines and Harry Cole of L.T.A.C.'s Speakers Bureau. L.T.A.C. President, Joseph G. Wagner welcomed the students in the opening session.

Changes at Commonwealth

John B. Waltz, President of Commonwealth Land Title Insurance Company, Philadelphia, Penn., has announced the promotion of Marvin New to Assistant Title Officer and Chief Closing Officer at the Main Office 1510 Walnut Street and management promotional changes among branch offices.

Philadelphia County

Donald Chittick promoted to Title Officer and Manager of the Olney Office, 425 West Tabor Road.

Joseph A. Claphem, promoted to Title Officer and Manager of the Northeast Office, 7265 Revere Street.

Joseph Vento promoted to Title

Officer and Manager of the South Philadelphia Office, 1732 South Broad Street.

William G. Young promoted to Title Officer and Manager of the West Philadelphia Office, 5228 Chestnut St.

Delaware County

William J. Fluharty promoted to Title Officer and Manager of the Chester Office, 407 Market Street.

Curtis H. Galloway promoted to Title Officer and Manager of the Upper Darby Office, 22 Garrett Road.

George J. Schofield promoted to Title Officer and Manager of the Drexel Hill Office, 4219 Ferne Blvd.

Chester County

George Houghton promoted to Title Officer and Manager of the West Chester Office, 7 South High Street.

Montgomery County

Morton D. Bohn, Jr., promoted to Title Officer and Manager of the Ardmore Office, 50 Rittenhouse Place.

John J. Gray promoted to Title Officer and Manager of the Lansdale Office, 521 West Main Street.

William C. King promoted to Asst. Vice President and Title Officer of the Jenkintown Office, 726 Old York Road.

Horace Zehner promoted to Title Officer and Manager of the Ambler Office, 12 East Butler Avenue.

Lancaster County

Miss Barbara A. Monyer promoted to Title Officer and Manager of the Lancaster Office, 121-A East King Street.

Fred Buck Named Director

Frederick R. Buck was elected to the Executive Committee of the Title Guarantee Company, Baltimore, Maryland, by the Board of Directors at its quarterly meeting.

Mr. Buck is Executive Vice-President and a Director of the Company.

The vacancy on the Executive Committee was caused by the recent death of Clarence E. Elderkin, Chairman of the Board of Consolidated Engineering Company, a former member of the Executive Committee and a Director of the Title Guarantee Company.

3 Promoted

John E. Holgate, Lloyd L. Richardson, and William H. Paynter have joined Union Title Company as business representatives, Executive Vice President David Morgan has announced.

J. Holgate

Assigned to the marketing division, the three men are located at Union Title's home office at 222 N. Central Ave., Phoenix, Arizona.

A native of Phoenix, Holgate is well known for his activities in the Junior Chamber of Commerce. He served as State President of the Arizona Jaycees in 1959 and was Vice President of the United States Junior Chamber of Commerce in 1960-61. He was formerly associated with Arizona Public Service Co. as a sales representative and was Vice President of Thermal-Built Corp. He resides at 900 E. Broadmor, Tempe.

L. Richardson

A graduate of Tulsa University, Richardson served as flight manager of the Meredith Publishing Co. and Northern Natural Gas Co. and was a pilot with Braniff Airlines for eight years. Before moving to Phoenix, he was associated with National Car Rental. He resides at 6616 E. Palo Verde Dr., Scottsdale.

W. Paynter

Meeting Timetable

MARCH 3-4-5, 1965
Mid-Winter Conference
American Land Title Association
Statler-Hilton Hotel
Washington, D.C.

APRIL 29-30, MAY 1, 1965
Arkansas Land Title Association
Albert Pick Hotel
Little Rock, Arkansas

MAY 2-3-4, 1965
Iowa Land Title Association
The New Inn, Okoboji, Iowa

MAY 5-6-7-8, 1965
California Land Title Association
Fairmont Hotel
San Francisco, California

MAY 13-14-15, 1965
Texas Land Title Association
Rodeway Inn
El Paso, Texas

MAY 20-21-22, 1965
Washington Land Title Association
Harrison Hot Spring
British Columbia, Canada

JUNE 9-10-11-12, 1965
Oregon Land Title Association
Gearhart Hotel

JUNE 10-11-12, 1965
Land Title Association of Colorado
Broadmoor Hotel
Colorado Springs, Colorado

FUTURE ALTA CONVENTIONS

1965 — Chicago
1966 — Miami Beach
1967 — Denver
1968 — Portland, Oregon

JUNE 11-13, 1965
Wyoming and Montana Land Title Associations'
Jackson Lake Lodge, Wyoming

JUNE 16-17-18, 1965
Illinois Land Title Association
Drake Hotel
Chicago, Illinois

SEPTEMBER 27-28-29-30, 1965
Annual Convention
Mortgage Bankers Association of America
Conrad Hilton Hotel
Chicago, Illinois

SEPTEMBER 10-11, 1965
Kansas Title Association
Baker Hotel, Hutchinson, Kansas

OCTOBER 3-4-5-6, 1965
Annual Convention
American Land Title Association
Sheraton-Chicago
Chicago, Illinois

OCTOBER 28-29-30, 1965
Wisconsin Title Association

NOVEMBER 7-8-9, 1965
Indiana Land Title Association
Claypool Hotel
Indianapolis, Indiana

FUTURE MID-WINTER CONFERENCES

1965 — Washington, D.C.
1966 — Chandler, Arizona
1967 — Washington, D.C.

AMERICAN LAND
TITLE ASSOCIATION
SINCE 1907