

# TITLE NEWS

THE OFFICIAL PUBLICATION OF THE  
AMERICAN LAND TITLE ASSOCIATION ®

DO NOT REMOVE



January, 1966



## PRESIDENT'S MESSAGE

JANUARY, 1966

A Happy and Prosperous New Year to each of you is the sincere greeting from Vera Rose and me. We look forward to our ALTA activities in 1966—conferences at our Washington, D.C. headquarters—the mid-winter conference at Chandler, Arizona, March 21 to 24—the Management Seminar—the affiliated State Associations convention—the Title Insurance Regional Meetings—and finally, the 60th Annual ALTA Convention at Miami Beach October 16-20. We hope YOUR 1966 will: Be busy, but not rushed; Have much joy with little pain; See your plans fulfilled with few disappointments; Improve your health and well being; and Let you be with friends often.

ALTA Committees are communicating! Some have had meetings in person, some have had telephone conferences, and others an exchange of ideas by correspondence, but however it is being done, our members are shortening the long distances between us by some form of communication. All committee chairmen will be asked for a brief report at the mid-winter conference to bring us up to date.

In this issue of Title News traditionally appears the transcript of the last annual convention. Those of you who were with us in Chicago will enjoy scanning the write ups and recalling the things that impressed you most, but more important, those of our ALTA members not able to attend the 1965 convention should take time now to read thoroughly the convention resumé and profit from it as we did in hearing it in October. Jim Robinson has written a fine article on the role of the FHA in the new Department of Housing and Urban Development and it is also in this issue—be sure you take advantage of this opportunity to acquaint yourself with this new governmental department so closely related to our field.

Don't forget—if you haven't made your reservation for the mid-winter yet, it must be first come first reserved this year. We will be looking for you at Chandler in March.

Yours truly,

*Don B. Nichols*

Don B. Nichols

# TITLE NEWS

THE OFFICIAL PUBLICATION OF THE  
AMERICAN LAND TITLE ASSOCIATION

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*VOLUME XLV* ON THE COVER: Precedent was shattered when President  
*NUMBER 1* Johnson decided to leave vacant until Congress reconvenes, the  
newly created Cabinet post of Secretary of Housing and Urban  
Development. Who will be the 11th Cabinet member?

1966 More important, how will the transfer of FHA and other hous-  
ing agencies into H.U.D. affect the nation's titlemen?

A. M. Prothro, FHA's General Counsel, has some of the an-  
swers (see page 2). Mr. Prothro is featured on the cover of  
this issue of Title News as he provides information to ALTA  
Secretary, Carol Ann Herbert.

JAMES W. ROBINSON, *Editor*  
FRANK H. EBERSOLE, *Assistant Editor and  
Manager of Advertising*

# THE 11TH CHAIR



## The Role of FHA in the New Department of Housing and Urban Development

By JAMES W. ROBINSON

*Secretary and Director of Public Relations, American Land Title Association, Washington, D.C.*

Another chair has been placed at the conference table in the White House, where the Cabinet officers of the Government's major departments meet to advise and assist the President of the United States as he faces awesome responsibilities as Chief Executive of the richest, most powerful nation in the history of mankind. The chair is empty at this moment, waiting for the man (or woman) who will be appointed Secretary of the newly-

created Department of Housing and Urban Development.

On September 9, 1965, President Johnson signed into law the "Department of Housing and Urban Development Act" establishing the 11th Department of the Federal Government at the Cabinet level. The provisions of the Act became effective sixty days later.

The historic significance of this elevation of those Government agencies directly engaged in the housing

field is indicated by the fact that all but three of the existing Cabinet positions were created more than seventy-five years ago, several of them as far back as 1789. The Department of Health, Education and Welfare was established in 1953. The Departments of Labor and Commerce were given individual Cabinet status in 1913, although the combined post was created in 1903.

### A PERSONAL TRIUMPH

Enactment of Public Law 89-174, the Department of Housing and Urban Development Act, is a personal triumph for the President. It is clear he regarded passage of this legislation as a vital part of his "Great Society" program for, in his message to Congress urging favorable action, he said:

"We want to build not just housing units, but neighborhoods; not just to construct schools, but to educate children; not just to raise income, but to create beauty and end the poisoning of our environment. We must extend the range of choices available to all our people so that all, and not just the fortunate, can have access to decent homes and schools, to recreation and to culture. We must work to overcome the forces which divide our people and erode the vitality which comes from the partnership of those with diverse incomes and interests and backgrounds.

"The problems of the city are problems of housing and education. They involve increasing employment and ending poverty. They call for beauty and nature, recreation, and an end to racial discrimination. They are, in large measure, the problems of American society itself. They call for a generosity of vision,

a breadth of approach, a magnitude of effort which we have not yet brought to bear on the American city."

Similar legislation was introduced during President Kennedy's administration but was defeated, principally because of strong opposition from among real estate-oriented groups, such as the Mortgage Bankers Association of America and the National Association of Real Estate Boards, whose leaders feared, not only the further expansion of the Federal Government into traditional "private enterprise" areas, but also the emasculation of the Federal Housing Administration. Testimony on the new law at Congressional Hearings emphasized the concern of realtors, lenders, and homebuilders that the FHA would disappear into a welter of alphabet soup under the new Department. The Sparkman Amendment to the Cabinet Bill, supported vigorously by these groups, preserved the identity of the Federal Housing Administration.

### PRECEDENT IS SHATTERED

A novel situation has resulted from President Johnson's decision to refrain from making an immediate appointment of the Cabinet member who will be the Secretary of the Department of Housing and Urban Development, HUD, as it is already called—or to even designate a temporary head of the Department, as permitted by the Act.

What is the status of the officials of FHA and other "transferred" agencies in the absence of a Secretary of the new Department?

What effect will the creation of the new Department have on the Nation's titlemen?



General Counsel, A. M. Prothro (center) discusses the new department of Housing and Urban Development with (left) Associate General Counsel John Kopecky and ALTA's Executive Vice President, William J. McAuliffe, Jr.

What will happen to other Government agencies, merged into HUD under the new law?

Will the expanded program be a financial burden to the U.S. taxpayers?

Who will be appointed Secretary of the Department of Housing and Urban Development?

What will the Federal Government do under the new law that it wasn't already empowered to do under existing legislation, particularly the Housing Act of 1965?

To learn the answers to these and other questions, we interviewed officials of the Federal Housing Administration, the largest of the agencies whose functions are being transferred to HUD.

The day-to-day operation of the FHA probably will not change materially under the new Department of Housing and Urban Affairs; it appears that the changes will be no greater than those that have taken place in the past when a new head of the agency has taken office and

initiated new concepts of operational procedure.

Increased efficiency and the development of new programs and techniques are, in the opinion of FHA officials, the principal reasons for the creation of the new Department. Actually, HUD is the culmination of streamlining recommendations made years ago by the Hoover Commission. Following the Hoover Report, five agencies, directly involved in providing housing and community assistance (Federal Housing Administration, Federal National Mortgage Association, Public Housing Administration, Urban Renewal Administration, and Community Facilities Administration), were loosely welded together under the cloak of the Housing and Home Finance Agency. Each, however, acted autonomously in many respects, and although there has recently been an effective synchronization of effort among the different agencies, there have been examples in the past of conflict and disunity, with the

various agencies going in different directions although attempting to achieve the same results. Under the new law the FHA, the PHA, FNMA, URA, and the CFA will be administered by Assistant Secretaries and an Under Secretary of HUD, but the Act clearly specifies that one of the Assistant Secretaries shall be the FHA Commissioner who "shall administer, under the supervision and direction of the Secretary, departmental programs relating to the private mortgage market."

### CITIES NEED HELP

Under the provisions of the Housing Act of 1965, the principal expansion of activities under HUD will be in the areas of mass transportation and city planning.

State legislatures have historically been influenced by rural concepts. Large metropolitan areas confronting major problems of transportation, education, and slum clearance have often been unsuccessful in securing the cooperation of those who control the state legislatures. With increasing frequency, the elected officials of America's cities have looked to the Federal Government for assistance in meeting these grave problems. The creation of the new Cabinet post will establish a central authority; a place for the city officials to meet with Federal officers at the highest level of Government.

President Johnson has indicated his intention to defer the appointment of the new Cabinet member until after the Senate reconvenes. In the meantime, FHA officials have been concerned about keeping ALTA members informed and assuring them of the validity of titles

to real estate conveyed by the FHA Commissioner during the period between the effective date of the Act and the appointment of the Secretary. In anticipation of President Johnson's naming a head of the Department of Housing and Urban Development on or before November 9, Commissioner Brownstein issued instructions on the proper method of conveyancing, to be effective upon appointment of the Secretary. When President Johnson did not name an individual to fill the new Cabinet post, the Commissioner immediately rescinded his previous instructions and notified all approved mortgagees as follows:

*"Until further notice, all conveyances and assignments in exchange for insurance benefits shall continue to name 'the Federal Housing Commissioner, his successors and assigns' as grantee or assignee. 'I have today revoked the new Section 200.4 of the FHA Regulations. Until further notice, all business will continue to be transacted in the name of the Federal Housing Commissioner and the Federal Housing Administration.'"*

### A DILEMMA

The Department of Housing and Urban Development Act provides that the functions, powers, and duties of the FHA are transferred to and vested in the Secretary of HUD; that the Secretary shall prescribe the duties and powers of the new Federal Housing Commissioner; and that the previous position of FHA Commissioner shall "lapse," thus creating a question regarding the legal sufficiency of deeds and other documents relating to titles to real property.

Into this dilemma stepped the Attorney General of the United States with an opinion holding that the term, "lapse," as used in section

9(c) of the Act, should be construed in the light of the other provisions in the Act which preserve the continuity of existing laws and orders; that the "lapse" does not become effective until the implementing of the Act by the new Secretary; and that, therefore, the FHA Commissioner (and the officers of other agencies) retained the power to continue to function as before.

Doubts still lingered in the minds of some lenders and others concerned with the effectiveness of documents pledging the full faith and credit of the United States, executed by officers who occupy positions which, prior to the date the Act came into force, carried the authority to execute corresponding documents. Then, on November 23, at the request of President Johnson, the U. S. Attorney General submitted a detailed study of the situation, concluding that "the documents referred to by the Administrator, when duly executed on or after November 9, 1965, in accordance with pre-existing authorizations and delegations, are as effective as those executed before that date."

Some thought was given to the possibility of curative legislation or confirming documents to be executed by the Secretary after his appointment. However, upon issuance of the opinions of the Attorney General, FHA officials decided that the opinions provide adequate assurance of the validity of instruments signed by Government officers. The FHA has indicated that the title evidencing profession has been most cooperative in this regard.

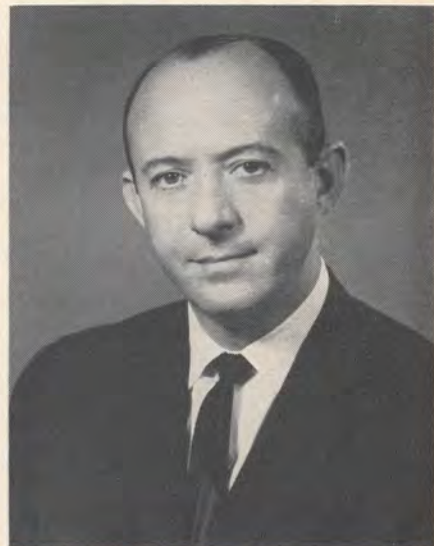
So—it appears that, while there

will be an expansion of activities in the areas of mass transportation and city planning, the FHA will, except for newly-acquired authority to insure financing of vacant land for future development, continue to function in substantially the same manner as in the past, pursuing its activities within the framework of the National Housing Act as most-recently amended in 1965.

But the character of a Government agency, like that of a corporation or a trade association, is the reflection of the talent, personality, and integrity of the individuals who occupy key positions in that agency.

Philip N. Brownstein (see April 1961 issue of Title News) is the dedicated, serious, intensely loyal Commissioner of the FHA.

The very heart of the Agency—at least in its relationship with members of the American Land Title Association—is the office of its General Counsel, A. M. Prothro,



FHA Commissioner Philip N. Brownstein administers a vast network of insuring offices, valuation stations, and service offices.



"Dolph," to his friends, and that includes his associates, his neighbors, his employees and, above all, the Nation's titlemen.

The Commissioner and the General Counsel complement each other; Brownstein the grave, meticulous administrator; Prothro the easy-going, sincere and friendly craftsman with the wide contagious grin. One could be easily misled by the modest, homespun quality of the man until the discussion turns to law or the FHA. Then Prothro's stature as an attorney and as a Government official becomes crystal clear. His speech quickens, his eyes sparkle, and he is transfigured into an evangelist—the man whose goal in life from the time he was a little boy was to be a fine lawyer.

We were impressed, too, by Prothro's scholastic record; an A.B. from Baylor University at the tender age of 19, at which time he joined the staff of the Federal Housing Administration, completing his legal education at George Washington Evening Law School, receiving his law degree in 1937. Having been with FHA since its inception, he is generally regarded as the Nation's outstanding authority on FHA law.

Outside the office Prothro's activities are about what one might expect from this kindly, warm, very human public servant. Since 1948 he has taught classes in Real Estate Law at American University. Since the law is his first love, he achieves great personal satisfaction from his teaching experience. "Dolph" is a serious student of politics and a keen observer of the political scene. He is proud of his recent promotion to Colonel in the U. S. Army Reserve, an avocation to which he devotes one night each week and a



A. M. Prothro

great many hours of study.

Active in church affairs (Presbyterian), "Dolph" served for two years as President of the church's Board of Trustees in McLean, Virginia, where he has his home.

Vacations? Prothro rarely takes one. He regards his two weeks of military duty each year as an adequate respite. When he isn't working, teaching school, studying, attending Army Reserve meetings, working with Boy Scouts, or helping his church construct a new building, he concentrates his attention on his principal hobby, gardening. About 10 years ago he planted 600 pencil-size Blue Spruce trees as a border around his home. Today the trees, 6 to 9 feet tall, are a village attraction. Sharing this forest-surrounded home with "Dolph" are his wife, two daughters, and a son. The General Counsel puts in a long day at the office, making it a practice to arrive in time to clear his desk of pending mail before the regular work hours begin, as he is con-

stantly in demand during the day.

Prothro's alter-ego is John Ko-pecky, Associate FHA General Counsel and lifelong friend. At the Commissioner's insistence, the two men are never away from the office at the same time.

### THE FUNCTION OF FHA

We talked to Prothro and Ko-pecky for a long time, and about many things. They are proud of the part the Federal Housing Administration has played in the gigantic task of building a better America. They asked us to make several things clear to our readers. First, an understanding of the role of FHA in assisting the country's citizens toward home ownership.

"Please tell your readers," Prothro said, "that the FHA does not make loans. It insures mortgage loans made by banks, building and loan associations, mortgage companies and other lending institutions approved by FHA, and this insurance makes it possible for home buyers to finance homes on more liberal terms than would otherwise be available. Many home-owning families would be living in inadequate rental accommodations today except for the FHA mortgage insurance program.

"The home purchaser can apply for an FHA-insured mortgage loan to any approved lending institution. The lender will supply the necessary forms, help complete them, and then, if willing to make the loan, will submit the application to the FHA insuring office.

"When the application reaches the FHA office, the staff there will start to process it. FHA processing involves a thorough analysis of the entire transaction—the purchaser's

qualifications as a mortgagor—the property's estimated value and conformance to FHA minimum property standards for location, design, and construction—the suitability of the mortgage terms for the buyer and for FHA.

"After the lending institution notifies the purchaser that FHA has approved the application, it will arrange for the closing of the loan. At closing FHA will endorse the mortgage for insurance. Closing costs consist of such items as the lender's service charge, the cost of title search and insurance, and charges for preparing, recording, and notarizing deed and mortgage.

"The chief requirements for the buyer as a borrower are that he has a good credit record, the cash required for downpayment and closing costs, and a steady income which will enable him to make the monthly mortgage payments without difficulty.

"FHA has no arbitrary rules with respect to age or income. It does consider these factors, but only in relation to the buyer's ability to repay the loan over the period of his mortgage. Each application received by FHA is considered individually on its own merits. There are guide lines, but they are not rigid."

### \$100 BILLION OF INSURANCE

The General Counsel and his associate also asked us to emphasize the self-supporting nature of FHA's operation.

"The first house in the United States built with FHA-insured financing," Prothro said, "was the home of Mr. and Mrs. Warren H. Newkirk in Pompton Plains, New Jersey. The commitment to insure



The first house in the United States built with FHA-insured financing.

the mortgage was issued by the FHA office in Newark on December 21, 1934. During the more than 30 years which followed, the Federal Housing Administration has insured the mortgages on more than one million housing units, underwriting loans exceeding 100 billion dollars, and the entire operation of the FHA has cost the American taxpayers not one penny! Incidentally, repayment of the Newkirk loan was completed in 1948.

"Tell your readers," Kopecky added, "that the FHA helps buyers, lenders, and homebuilders in a variety of other ways; by careful inspections; by the establishment and enforcement of building standards; by market research and community planning. A well-staffed market analysis department provides a service to all professional groups interested in real estate, again at no cost to the taxpayers."

A little known fact about the FHA is that, unlike the Veterans Administration and many other Government agencies, all of the General Counsel's staff—50 lawyers—are based in the Washington office. True, 12 of the Department's attorneys spend most of their time away from the Nation's Capital, but these 12 are employed solely in closing

loans on multi-family dwellings. All legal questions arising in the 75 insuring offices, 20 service offices, and 50 valuation stations throughout the United States are referred to A. M. Prothro's department.

It will soon be moving day for the FHA. At the present time various branches of the Federal Housing Administration are located in nine different buildings in Washington, D. C. Ground has been broken for the construction of a new building which will provide space for the Department of Housing and Urban Development, together with all of the agencies merged into HUD. The FHA, comprising about three-fifths of the new Department, will occupy more than half the space in the building.

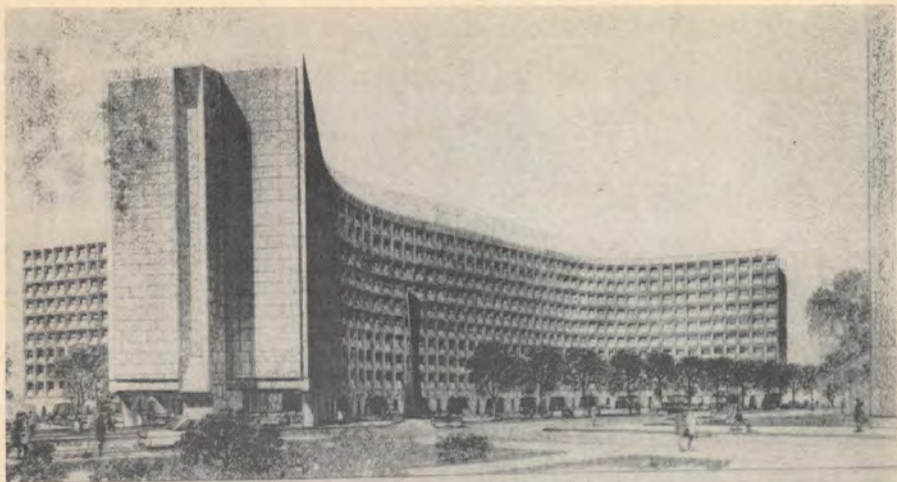
We asked Mr. Prothro the \$64 question, "Who will be appointed Secretary of the Department of Housing and Urban Development?"

"Take your pick," said Prothro. "We have been deluged with rumors for so long that practically every prominent person in the country has been mentioned. Frankly, I don't have any idea."

We secretly suspected that the General Counsel *did* have a pretty good idea of who would be nominated, but he wasn't telling us.

It was a fine interview, and we





TOP PHOTO: Artist's conception of the new building being erected to accommodate all government agencies merged into H. U. D.

BELOW: Excavation work has already begun at the southwest Washington construction site.

left the FHA office with the feeling that the Department of General Counsel is in good hands. "Dolph" Prothro had a farewell request:

"Please tell your members," he said, "that I treasure the friendships I have developed over the

years with the splendid men and women in the title business. Assure them of my determination that these friendships shall continue unchanged under the new Department of Housing and Urban Development."

# Proceedings of the 59th Annual Convention AMERICAN LAND TITLE ASSOCIATION

OCTOBER 3-6, 1965

SHERATON-CHICAGO HOTEL

CHICAGO, ILLINOIS

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# GENERAL SESSIONS

## INVOCATION

By CHARLES H. BUCK

*Chairman of Board, The Title Guarantee Company, Baltimore, Maryland*

Let Us Pray:

Bless and Guide us, Our Father, especially our Officers and Committees, so that with Thy Grace we shall serve well in the performance of the duties which each has assumed. Direct us, O Lord, in all our doings with Thy most

gracious favor, and further us with Thy continual help, that in all our works begun, continued, and ended in Thee, we may glorify Thy Holy Name and finally by Thy mercy obtain everlasting life. AMEN.

## WELCOME TO CHICAGO

By THOMAS COULTER

*Executive Vice President, Chicago Association of Commerce and Industry  
Chicago, Illinois*

Thank you, President Knapp and welcome, ladies and gentlemen, to this wonderful day in our city.

Many exciting things have been happening here during the past ten years and since the time most of you were here last. In fact, it is almost impossible to describe them and so, this morning, I would like to take the opportunity to show you some pictures of what is happening in our town, with the thought that maybe you will find a few moments during your stay to have the opportunity to go and see some of these places first hand. Therefore, if we can dim the lights, I will now take you on a quick tour and show you what has been happening here during the last ten years.

(Slide): Do you know what city this is? Actually, it doesn't really exist—not in this form. Ten years ago, when you last met in Chicago, it did not exist at all.

(Slide): This is the new Chicago, made up of the buildings that have risen in the downtown area in the last decade.

(Slide): It all started with the Prudential Building back in 1954. Since then, more than fifty major building projects rose in the loop and surrounding area. Such newcomers as Marina City, the United of America Building, the Equitable Life Assurance Building, the Federal Center, and the city's hand-

some new Civic Center are a few of the many recent additions. Shortly, already architecturally rich Chicago will be further enhanced by the addition of new sixty-story First National Bank Building and the one-hundred-story John Hancock Center.

(Slide): However, the new Chicago is people too. People with ideas, drive and determination. They are people who roll up their sleeves and work together to build a better city. The "I Will" spirit of Chicagoans is the force behind the new Chicago.

(Slide): Chicago is a young city, with young ideas. From its birth date of March 4, 1837, when it was incorporated as a town of four thousand residents, Chicago grew fast. It became one of the world's greatest metropolitan centers in less than a lifetime.

(Slide): The city is less than 130 years old. By comparison, Los Angeles is nearly 200 and New York 350.

Metropolitan Chicago today consists of eight counties in northeastern Illinois and northern Indiana. There are more than seven million persons living here. In 1837 Chicago had one factory, a few frontier stores and a trading post. Now it's the nation's leading manufacturing and distributing center.

It is this new Chicago which we very much hope you will see while attending this convention in our city and here this morning I want briefly just to sug-

gest some of the places you might like to visit and a few things you might wish to know about the city in which you are meeting.

From its very beginning, Chicago's destiny as one of the world's great cities has been linked with transportation.

(Slide): In the 1830's, a single stage-coach line traveled the trails leading eastward. In the 1850's came the railroads that were to transform Chicago into the nation's key rail head and crossroads of the continent.

(Slide): More recently, Chicago became the world's greatest inland seaport. It is the vital connecting link between the ocean-going shipping of the St. Lawrence Seaway and the Mississippi waterways barge system.

(Slide): We hope you will walk out on Navy Pier, just a few blocks from this hotel, and see some of the ships from countries all over the world which are unloading and loading cargo at this colorful dock area located right in the heart of the city.

(Slide): Many of you arrived at O'Hare Airport. It is the world's largest and busiest. Chicago is served by twenty-eight commercial airlines, including sixteen which provide international services to every continent.

(Slide): However, come back downtown with me, where your wives will want to stroll and, we hope, do some shopping on State Street. And, while the ladies are spending your money on State Street, it might help your peace of mind a little to reflect about Chicago's LaSalle Street, where people save and bank their money.

(Slide): The six largest banks in the Chicago central business district have combined deposits of nine billion dollars. This total exceeds the combined capital of all the banks in each of forty-one states.

(Slide): The city is the headquarters of the nation's seven Federal Reserve District Banks, as well as hundreds of investment bankers and brokers.

Happily for Chicago, it is not only the American Land Title Association that comes to us for its convention. Yours is one of some 1200 conventions that annually bring about 1,350,000 persons to the city.

(Slide): Chicago's sparkling new, forty-million-dollar McCormick Place Exhibition Hall is recognized as the

world's finest showcase and convention site.

(Slide): Among other outstanding meeting facilities is Chicago's air-conditioned International Amphitheatre, scene of the International Livestock Exhibition, historic political conventions and other world famous events. Chicago's reputation as the nation's convention capitol is further enhanced by the unrivaled fame of its hotels, motels, restaurants and recreational facilities.

The attractions Chicago offers its visitors, and which we hope all of you will see in the next few days, are renowned throughout the world.

(Slide): There's the Museum of Science and Industry which annually welcomes three million visitors.

(Slide): There are sports of all sorts—hockey, football, baseball, golf, race tracks, parks, and plenty of other things to see and do in exciting Chicago, like (slide) visiting the Art Institute.

Chicago has had many firsts in its history. To name a few, Chicago produced the first Pullman car, the first steel-framed skyscraper, the first stainless steel building, the first insurance rating tables, the first grain reaper, the first controlled nuclear chain reaction and the first reactor for providing commercial electrical power from atomic energy.

(Slide): Chicago's educational institutions have been also growing rapidly. The University of Illinois' new Chicago branch brings beauty and culture to the Chicago scene. Northwestern University is expanding into Lake Michigan on man-made land. The University of Chicago is exploring new fields in education and architecture, as are the Illinois Institute of Technology, DePaul University and Loyola University, to name a few.

Yes, we believe Chicago is attractive in many ways and we trust that its attractions will be very apparent to you.

On behalf of the Chicago Association of Commerce and Industry, I welcome you to Chicago—the Chicago rich in history and traditions of mid-America—and the new Chicago in which your very important, and I know very successful, convention now begins.

Thank you very much, ladies and gentlemen.



# RESPONSE TO ADDRESS OF WELCOME

By DON B. NICHOLS

*Vice President, American Land Title Association*

Thank you, Mr. Thomas Coulter, for extending the official welcome of the City of Chicago to our ALTA 59th annual convention.

I thought it would be of interest to the City Officials of Chicago, as well as to our members here assembled, to at this time, give you, on behalf of the City of Chicago, a copy of the original land patent from the United States of America for the ground upon which the Chicago City Hall is located. My Chicago Title and Trust Company friends advised me that the City Hall is located on the West Half of Block 39 in the Original Town of Chicago, which Block was laid out on a part of the SE  $\frac{1}{4}$  of Section 9 Township 39 North, Range 14 East of the 3rd Principal Meridian and, from the United States Department of the Interior, Washington, D. C., I found that no such patent was available as Section 9 had been granted by the United States to the State of Illinois for the purpose of aiding the said State in opening a canal to unite the waters of the Illinois River with those of Lake Michigan. I then contacted the Illinois Auditor of Public Accounts, Michael J. Howeltt, in Springfield and asked for a copy of the patent from the State of Illinois for this real estate. Apparently this request really upset the State Auditor's Office, as a representative of that office immediately called on me at Hillsboro to ask whether I had a claim I was attempting to perfect on that real estate—they could find no record of a patent having been issued by the State! I probably passed up the best opportunity I shall ever have to become wealthy, but I assured the Auditor's representative I had no such intent but was trying to get a suitable document to present at this meeting. With this brief background, Mr. Coulter, I now present to you, as the official representative of the City of Chicago, a copy of the land grant, by the United States of America, approved May 21, 1830 by

President Andrew Jackson, to the State of Illinois, for all of Section 9 which includes not only the city hall site but all of the area between Chicago Avenue on the North and Madison Street on the South, and between State Street on the East and Halstead Street on the West. The grant says:

Whereas by an Act of Congress approved on the Second day of March One thousand eight hundred and twenty seven entitled "An Act to grant a quantity of land to the State of Illinois for the purpose of aiding in opening a Canal to connect the waters of the Illinois River with those of Lake Michigan" it is provided that there should be "granted to the State of Illinois for the purpose of aiding the said State in opening a Canal to unite the waters of the Illinois River with those of Lake Michigan a quantity of land equal to one half of five Sections in width on each side of said Canal, and reserving each alternate Section to the United State to be selected by the Commissioner of the Land Office under the direction of the President of the United States, from one end of the said Canal to the other, and the said land shall be subject to the disposal of the Legislature of the said State, for the purpose aforesaid and no other." Be it known that the following described tracts or Sections of land North of the Base Line and East of the Third Principal Meridian Line are hereby designated as being a portion of those tracts intended to be granted by the United States unto the State of Illinois by the said Act of Congress, upon the conditions and for the purpose therein mentioned and no other.

Viz: Section Nine Township 39 Range 14.

Approved May 21st, 1830  
Andrew Jackson

Presented to the City of Chicago by the American Land Title Association at its 59th Annual Convention, October 4, 1965.

# REPORT OF THE NATIONAL PRESIDENT

By JOSEPH S. KNAPP, JR.

*President, The Title Guarantee Company, Baltimore, Maryland*

Last October, when I received the great honor of election to the presidency of this important organization, I accepted the office with humility and appreciation, and with a sincere desire and determination to fulfill its responsibilities to the best of my ability.

I thank you again for the great honor given me last year and trust that I have competently fulfilled the duties of this office.

It has been a challenging and unique experience, with some problems neither anticipated nor suspected.

While each recent year has passed more quickly for me than the prior year, this one has been so full of unusual activity that it, consequently, has passed even more rapidly.

I am sure I will continue to enjoy it, even more, in retrospect, as the succeeding years pass.

It is not original for me to say that the success of this organization primarily depends on the work of its committees. This has been said by many of my predecessors. However, it is none the less true, and my sincere thanks to all of the members of each committee for the acceptance and performance of their respective responsibilities.

I thank the Board of Governors, the members of the Executive Committee, officers and national staff for their cooperation and help, and particularly the officers and members of the Executive Committee, who traveled at great inconvenience to many meetings in different localities for conferences.

The Executive Committee had a most unusual year of activity and I appreciate their cheerful willingness to accept the many interruptions to their schedules and plans, on comparatively short notice, in order to attend the special meetings.

It was impossible for me to accept all the invitations which I received to attend regional meetings and state conventions.

I accepted one invitation, which, with great regret, I was unable to fulfill because of the necessity of attending a special Executive Committee

meeting of the Association, so I reaffirm my apologies and regrets to that state organization.

I attended nine state conventions and they were in states located throughout the country and covered every regional and sectional locality. In addition to the state conventions, I attended one regional meeting and the Public Affairs Conference, sponsored by the United States Chamber of Commerce, in Washington, D. C.

Elsa attended with me all but two of the title meetings, and we were most hospitably and graciously received by all of the officers and members at every meeting.

Many of the people who attend state conventions have never attended a national convention. This emphasizes the importance of holding national conventions, both mid-winter and annual, in as many variable localities as possible. Maybe we should reconsider our present policy of holding the mid-winter meeting in Washington in alternate years, and determine whether to hold them more frequently in areas which are too small to accommodate a national meeting, but can accommodate a mid-winter meeting. The attendance at the Washington mid-winter meeting this year was especially good, although I have heard some say that the novelty of visiting Washington has worn off. Personally, I like it because of its closeness to home.

My visits to the state conventions suggest to me that the national association should constantly, in every way available, try to impress on the individual members of state associations, and on the officers of these associations, that each individual member, as well as the officers, can benefit by attending national meetings and, particularly annual meetings. These meetings afford the opportunity to go to school for a few days, present the opportunity to meet the leaders in our industry, and open the door to future individual communications for the exchange of information and possible answers to problems.

Members have realized and said, "At such gatherings men can learn

more in a day than in a year of patient work over the great problems affecting our calling"—and—"Where they could gain information on troublesome subjects that have been solved by other members."

In my travels this year, I met many people at state conventions whom I did not previously know, who can lend a real contribution to the national association and benefit themselves if they will become interested and participate in national meetings and national activities. Time on the program does not afford me the opportunity to discuss the many advantages and benefits which members derive from attending national meetings. For years, I have had the opportunity to know many of the legal and business representatives of our national customers, some of whom have business in practically every community of this country and many of whom attend our national conventions. I suggest that these meetings furnish an opportunity to meet and know them. All of us know the advantage to both our customers and ourselves in correspondence or telephone conversations about business transactions when we know each other, particularly if a problem is involved which needs understanding. Those who frequently attend the conventions know this is true.

A committee of the Abstracters Section worked long and diligently on a Model Abstracters' License and Plant Code, which could be used as a guide and help for an appropriate law in local areas. Such a Code was approved by the Abstracters Section and by the members at the General Sessions of ALTA at the mid-winter meeting held in Washington, last March.

Numerous state-sponsored and abstract schools were held during the past year and the details of these activities will be reported by the chairman of this committee in the abstracters section, and, I hope, at the general sessions.

The Title Insurance Directory probably is the most important publication produced by our association, both for the use of our members and our customers. Much progress has been made in recent years for its prompt publication and distribution after the first of the year. To facilitate and accelerate its early publication and distribution, sections 14, 15, 16 and 17 of the Directory Listing Rules were amended at the last convention and are applicable to the 1966 directory. The Chairman of the Directory Rules

Committee will detail these changes in his report later in the session, although notices of the changes have been previously published and circulated.

The resignation of Joseph H. Smith, Executive Vice-president of the Association, was reported to the members last March at the mid-winter meeting in Washington.

The Board of Governors, at its meeting there, authorized and empowered the Executive Committee to consider the entire operation of the staff at national headquarters and to interview and employ such person or persons in whatever capacities and with whatever titles and salaries which would, in the opinion of the Executive Committee, best serve the interests of ALTA.

The Executive Committee fixed specifications for the position of Executive Vice-president. It was decided that the person filling this position should be a lawyer with some experience in the practice of the law; should have a good personality; ability to write reports and speeches, and to make speeches; have prior experience with a trade association, and the committee also felt that it was desirable, but not mandatory, because of the law background requirement, that such person have some exposure to our industry or to real estate practices.

"Resumes" and other material on many persons were considered. The Committee, as a group, interviewed those whom they seriously considered for the position, after a preliminary interview of each such person had been first made by one member of the Committee.

William J. McAuliffe, Jr., who was employed as Executive Vice-President, effective July 1, 1965, has all the qualifications specified by the Committee. (See article about him in the July, 1965 issue of Title News.)

Bill McAuliffe spent the last week of May at national headquarters' office with Jim Robinson and also with Joe Smith, who was terminating his services with the American Land Title Association on June 1, 1965.

I was sorry to see Joe leave the organization and wish him the best of success and happiness and appreciate and thank him for his able and valuable help during the portion of my term of office that he was with ALTA.

I commend Jim Robinson for the efficient and excellent manner in which he has worked prior to, during and since this transition period and I

also thank him for his invaluable help and assistance.

The Board of Governors, at the last mid-winter meeting, pursuant to the motion of the Chairman of the Title Insurance Section, authorized the President to appoint a committee, consisting of five members, all officers of member title insurance companies, to discuss with officers of the Veterans Administration, at the Washington level, the decision of some officers of the Veterans Administration to discontinue the securing of title insurance on properties taken in lieu of foreclosure.

A committee, with James G. Schmidt, as chairman, was appointed and he will make a report at this convention.

The association, last year, approved a new national publicity program, recommended by the Public Relations committee, and also approved an increase in the membership dues in order to finance the program.

I am sure that all of you agree that the program has been most successful and will be more convinced of its effectiveness and success after you hear the report of the chairman of the committee.

This program has been a very forward movement which should be a continuing one insofar as its activities and costs are concerned, even though the details of the actual program may vary each year.

I assume that all of the members of the association have read the article which appeared in the Wall Street Journal on August 6, 1965, entitled "Closing Costs Fight". This article, confirmed by a statement in it, was timed for and released on the opening date of the American Bar Association convention in Miami.

The substance of the article indicates that its writer obtained most of the material for the article from the Special Committee On Lawyers' Title

Guaranty Funds of the American Bar Association.

The article confirms two important facts. It leaves no doubt that the ABA Special Committee On Lawyers' Title Guaranty Funds is promoting profit oriented commercial title insurance enterprises within the legal profession and that some lawyers are critical of the movement and say it raises serious ethical considerations for the participants.

The majority of the members of the bar are justifiably more interested in the image of the lawyer in the eyes of the public and may understandably have great concern about this article and the possible tarnishment of the lawyer image as the result of it. I believe this is the first time that the monetary aspects of bar fund activities have been exposed to the public and it is possible that many members of ABA, and particularly its ethics committee, will consider this factor carefully.

Relations between title companies and lawyers in real property transactions are most often determined at the county level. In most such areas this relationship is cooperative and complimentary in spite of the agitative activities of the ABA Special Committee On Lawyers' Title Guaranty Funds.

The ALTA accomplishments this year will be shown by the reports of the various committees. Even if I had complete knowledge of all of the reports, I would not usurp the credit due the committees by reference herein to any details.

I congratulate George Garber and Alvin Robin on the programs which they have arranged for their respective sections. The workshop sessions on Monday and Tuesday have splendid subjects and talented panelists.

I think we have an excellent program and hope all of you will enjoy this, the 59th annual convention of this association.

## REPORT OF THE EXECUTIVE VICE PRESIDENT

By WILLIAM J. McAULIFFE, JR.

I am indeed honored to have been selected as your Executive Vice President. I am well aware of the large shoes which I am called upon to fill. This position offers an exciting challenge. You may be assured of my

dedication to be of service to the officers and members of the Association.

Five years ago, your national offices were moved from Detroit to Washington. One of the principal reasons for this move was to make it easier for

your officers and staff to keep abreast of developments in the Nation's Capital and at the same time, to continue to serve as a base for collecting and disseminating information on activities within the various states that may be of interest.

There are indeed many things that are taking place in Washington and in the states which may affect you directly as members of this industry or as individuals.

Let's examine some recent developments in Washington.

In a press release dated October 1, 1965, Commissioner Brownstein stated that the five-year foreclosure binder, at 75 per cent of the rate applicable to an Owner's Title Policy, approved by the Texas State Board of Insurance on August 11, 1965 is acceptable to the FHA "and may be used by mortgagees as evidence of good marketable title in the FHA when conveying one-to-four family properties in Texas in connection with an application for insurance benefits." In the same release Mr. Brownstein stated the FHA will consider the acceptability of similar binders in other states.

On September 24, 1965, Congressman Wilbur Mills, Chairman of the House Ways and Means Committee, introduced the 1965 Federal Tax Lien Bill, H.R. 11256. It sets forth the relative priority of federal tax liens over the interest of other creditors. This bill was developed by a subcommittee of the American Bar Association. It was introduced at the request of the ABA. This bill is virtually identical with a previous bill, H.R. 12545, introduced in the 88th Congress. One revision in this bill relates to the collection by the U.S. of withholding taxes. In addition, there are technical changes incorporated in this bill. And the bill revises and updates numerous provisions of the Internal Revenue Code relating to the priority of Federal Tax Liens over interests of other creditors.

Mr. Mills stated that he was reintroducing this bill at this time in order to give interested parties an opportunity to comment on the bill.

A bill involving a proposed study of the feasibility of converting U.S. weights and measures to the metric system was put off for this Session of Congress, but probably will be taken up after the first of the year—and it may be passed.

The feasibility study bill before the House, H.R. 10329, was reported out of the House Science and Astro-

navics Committee, but on September 9, 1965, the House Rules Committee voted to "defer action" on it. Meanwhile on the Senate side the metric bill, S. 774, was reported out by the Senate Commerce Committee and was passed by the Senate on September 26, 1965.

Both bills would authorize the expenditure of up to \$2.5 million over a three-year period for a survey and investigation by the Secretary of Commerce of the desirability and practicability of a general conversion to the metric system.

Such a change of measurement in the U.S. would indeed be felt by the members of this Association.

On August 18, 1965, a 25-man Advisory Commission to the Public Land and Review Commission was named. In September, last year, President Johnson signed a bill creating the Public Land Law Review Commission. The Commission will make a comprehensive review of the Public Land Laws and the rules and regulations promulgated thereunder and determine whether and to what extent revisions are necessary. The 19-man commission is made up of 6 presidential appointees and 6 members of both the Senate and the House of Representatives. The work of this Commission may well be of interest to those members who are in public land law areas.

Recognizing this, yesterday, the Board of Governors voted that an ALTA committee should be appointed to investigate the work of the commission and to be in contact with the commission if circumstances warranted it.

Over in the Department of Agriculture, the Forest Service has received an appropriation of \$17,300,000 to acquire property this year either in or adjacent to existing National Forests primarily in the eastern half of the United States. Agriculture estimates that they will have 500 title evidence transactions this fiscal year. Next year they anticipate considerably more. This land and water acquisition program is scheduled to continue over the next 23 years. The Department of Agriculture probably will be letting this title evidence work out on a bid basis.

The National Park Service has received an appropriation of \$21,883,000 this year to expand the national parks and \$84,377,000 is available to the states on a fifty-fifty matching basis to develop recreational land facilities.

As you undoubtedly know, there has been a great deal of guessing as to whom the President will appoint as Sec-

retary to the Department of Housing and Urban Development. President Kennedy had said that he would have appointed Dr. Robert Weaver if the Cabinet post was created during his term. Presently in addition to Dr. Weaver, the following individuals have been mentioned as candidates for this position, Robert F. Wagner, Mayor, City of New York; Richard J. Daley, Mayor, City of Chicago; Albert Rains, a former Congressman from Alabama, and J. P. Cavanaugh, Mayor of the City of Detroit.

This year a new housing law with the very controversial rent supplement provision was enacted. This phase of the program is intended to encourage construction or extensive rehabilitation of 375,000 housing units over four years. President Johnson said in signing the bill that he is confident "it will become known as the single most valuable housing legislation in our history."

In the House of Representatives, Congressman Jim Wright of Texas has taken up the project which Lyndon Johnson used to champion when he was on Capitol Hill of dredging a 360 mile long channel in the Trinity River to turn Fort Worth into Port Worth. This is a billion dollar project and the House recently appropriated an initial \$83,000,000 for this purpose. When Trinity River Project was being discussed in the House Rules Committee, Congress-

man James Delaney of New York asked, wouldn't it be cheaper to move Fort Worth to the Gulf?

The distance—380 miles—is roughly equivalent to the distance from Boston to Washington. Interestingly enough, on September 30, 1965, President Johnson signed a bill making \$90 million available for research in high-speed rail transportation and to create a high speed rail transportation system from Boston to Washington.

While talking about transportation, I should report that on September 9, 1965, President Johnson signed the Washington Subway Bill. It authorizes a \$431 million 25-mile rapid transit subway system for Washington. As yet, no funds have been appropriated for this purpose.

In addition to keeping track of Federal legislation, I intend to keep on top of developments concerning bar-related title insurance companies. To do this, I need your help. Please forward to me any information relating to bar sponsored title guaranty funds. I, in turn, will be happy to relay to you any information I have on this subject.

It is my intention to be your eyes and ears in Washington. As you know, if one does not use his muscles, they atrophy—lose their strength and vitality. Please use your Washington eyes and ears—it is not my intention to wither.

## REPORT OF THE FINANCE COMMITTEE

By JOHN D. BINKLEY

*Chairman; President, Chicago Title Insurance Company, Chicago, Illinois*

President Knapp, distinguished guest and fellow members of that ancient and honorable profession, dedicated to discovering flaws in other people—other people's titles to real estate, that is.

Just one year ago, at the Annual Convention in Philadelphia, I was granted the doubtful privilege of announcing to ALTA members that their Association dues had been increased an admittedly significant amount. In retrospect, I am convinced I was the victim of a fast shuffle. Being the newest member of the Executive Committee, the other five members were loud and unanimous in their assurance that I was the chosen one, appointed to break the news to a less-than-delighted group of titlemen.

Now, a year later, the pain of that

experience dimmed by time and some other important considerations, I confess to you that I felt very much like the runner, Pheidippides, who fell dead as he carried the message of the Persian Battle to the people of Athens. Except that on that occasion he gasped, "We have won," while my immortal words were, "We need more money." I have several reasons for being in a more relaxed and confident frame of mind as I report to you this morning as Chairman of the Finance Committee.

First, (and I should have anticipated this at the time) the intelligent and progressive membership of the American Land Title Association, without exception, recognized the need for an expanded program so necessary to enhance the prestige and influence of the

Association and the industry. They met the increased dues obligation, if not eagerly, at least cheerfully.

Second, it is comforting to know that our money was wisely and productively used. As the officers and committee chairmen present their reports you will appreciate (if you don't already) the magnitude of the job that was done this year on behalf of ALTA members. Even with the increase, our dues for the American Land Title Association were at bargain rates.

Third, notwithstanding some unanticipated expenses, the ALTA will finish 1965 with a modest cash surplus. It is always good to know that we took in more than we spent.

Finally, although the Board of Governors has authorized a continuation of the Association's expanded program for 1966, there is no thought of any upward revision of the membership dues structure. Your dues for next year will be assessed on exactly the same basis as they were for 1965.

At the San Francisco meeting, when I became a candidate for the hotly-contested position of Finance Chairman, I had some misgivings about getting involved in columns of figures, budgets, invoicing, vouchers, reports and all the rest. It looked complicated to me.

"You don't have to worry," I was assured. "Mort Smith has handled that job for years. If you have any questions, just ask him." So, what happened? Mort resigned and now I see he is being honored Wednesday morning as a Senior Citizen, aloof from ordinary problems and financial matters.

"Well," my campaign managers said, "Joe Smith has been on the job for 13 years. He can answer all your questions." What happened? Joe resigned. Now he's a competitor and won't even tell me what time it is." Fortunately, Bill McAuliffe, whose report you heard a few moments ago, had made an exhaustive study of the ALTA financial picture, and when I went to Washington several weeks ago to prepare for this meeting, Bill had everything analyzed for me, including the item on his expense account marked "Broad—One Hundred Dollars." Bill explained that meant "broad coverage travel insurance."

Some of you may have wondered why we have a Treasurer and also a Chairman of the Finance Committee and what our respective responsibilities are anyway. You might even suspect that there are two of us so we can watch each other. Well, that isn't the reason both positions were created, although it

might not be a bad idea. Without reciting the excerpts from the Constitution and By-Laws defining our respective jobs, I can tell you this: Larry Ptak, the National Treasurer, who will report to you next Wednesday, holds your money for you, until it is spent of course, and he keeps you informed regarding how much you have and how it is invested—all pleasant subjects. My job is to keep track of where the money came from and try to explain where it went—not always so pleasant!

My report covers three areas. The first concerns the reserve assets of the Association, held by a trustee and invested in certain securities, specified by the Board of Governors. At the end of 1964 that reserve account amounted to \$199,840.76. Income from those reserve assets during 1964 was \$7,450.00, which, as you know, was set aside in a separate trust fund for the purpose of financing a pension program for employees of the National Office. It is anticipated that an equal sum will be realized as earnings of the reserve fund during 1965 and will again be transferred to the pension account.

The second part of my report deals with current income and expense. You will be pleased to know that already, as of September 10, we have collected \$4,085.01 more dues than had been expected. A very few members still have not paid and when their checks are received, we will have exceeded our anticipated dues income by about \$5,200. There will also be some additional income, over the estimate, from miscellaneous sources so that by the end of 1965 we should have a total of approximately \$6,000 more than the 1965 budget indicates. Expenses for some of the items have exceeded the budget. These include postage, bulletins, directory, travel, conventions and miscellaneous. Generally, the additional expense results from increased activity prompted by the success of the Public Relations Program; and from the unanticipated travel and moving costs involved in selecting a new Executive Vice President and moving him and his family to Washington. Some 40,000 extra pieces of mail were received at National Headquarters during 1965 in response to the advertising and promotional campaign. Sorting, analyzing and answering these additional letters, of course, added to our cost of operation. On the plus side, some of the money allocated for certain other budget items will remain unspent. Based upon careful consideration of all the factors, our judgment is that there

will be a net surplus of \$14,443.14 at the end of 1965. This figure is based on the assumption that two ALTA advertisements will appear in the *Saturday Evening Post* between now and December 31. If the opportunity is presented to insert a third advertisement prior to that time, that figure will have to be adjusted accordingly.

The final portion of my report is the presentation of the budget for 1966, approved by the Board of Governors yesterday. We begin with an informed guess as to the amount of anticipated income for the year. I used to have the unworthy suspicion that Mort Smith arrived at this figure by recording the results of the third race at Pimlico and subtracting the year he was born. I now find there is a complicated formula which leads us to believe that dues collections in 1966 will amount to \$225,600.00. To this is added the estimated income from investments and miscellaneous sources giving us a total income of \$235,300.00. By a strange twist of the bookkeeper's pencil, we arrive at a total of expenses which are exactly the same—\$235,300.00. Many of the items which make up this total are fixed charges, such as rent, accounting service, supplies, audit, the Villanova Project Supplement and furniture and fixtures and require no explanation. We expect travel, telephone, convention, postage, bulletin, directory and staff salary expenses to be somewhat heavier than in 1965 in keeping with the expansion of services provided by the National Office. One substantial item in the 1966 budget is the Public Relations Program. Bob Maynard, Chairman of the Public Relations Committee, will give you all the details in his report Wednesday, but for your information, the sum allocated for this purpose by the Board of Governors is \$57,500.00, slightly less than the amount budgeted, but more than was actually spent, in 1965. The cost of employee benefits will be up slightly, partly due to increased social security taxes. levied to

help support the "Great Society" in the style to which it would like to become accustomed, and partly as a reflection of the cost of providing employees of the National Office with broader hospital and medical insurance coverage. One item in the 1966 budget should be explained; that is for Mailing Service. Some fifty complete mailings are made including monthly issues of *Title News*, *Capital Comment*, Convention announcements and Directory notices. In the National Office there is an antiquated Elliott Addressing machine which is the terror of the staff. Card-board stencils are not durable and are messy to work with. The machine skips envelopes and the operator not-so-quietly curses Mr. Elliott. Investigation indicates that an outside mailing service would actually be less expensive and far more satisfactory. It will cost approximately \$460 to set up the new system and about \$540 for servicing throughout the year, so a sum of \$1,000.00 has been allocated for this purpose.

These figures I have been quoting, of course, are net budget figures. Actually, a far greater amount of money is handled by the National Treasurer each year. In 1966, for example, our net budget is \$235,300.00, but registration fees for conventions and conferences and sums received from the sale of promotional material and extra copies of *Title News* and the Directory will swell this figure to about \$280,000.00.

In the past a very strict criterion has been established for the report of the Chairman of the Finance Committee. If I have confused you completely and irrevocably, then I have achieved a grade of "excellent" in meeting this high standard. Seriously, this has been a very brief report on a very important subject. Because of the limitation of time I have had to be sketchy in my discussion of the various items, but I would be pleased to answer my questions and to explain any portion of the statement in greater detail.

Thank you.

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of the 1966 ALTA Membership Directory  
TODAY**



# "THE SOVIET SYSTEM AND THE UNITED STATES"

By LEON VOLKOV

*Contributing Editor, Newsweek, Washington, D.C.*

Mr. Chairman, ladies and gentlemen: The present events throughout the world, including the conflict in Asia, in Southeast Asia, in some of Europe—all can be traced to an event that took place last year, almost a year ago. As a matter of fact it was on October 14 that the leader of the Soviet Union, Mr. Khrushchev, was dismissed by a plot of his closest associates and since then, the course of Soviet policy has taken a different turn.

A year ago, it was not clear, either to Washington or to any world capital, what his dismissal would mean to the world. However, today we know where the Soviet Union is going. It is a rather depressing development, as it turned out to be, throughout the world, because statesmen throughout the world are still assessing what this whole development will lead to.

However, there was one nation in the world that did not take seriously Khrushchev's trouble as other nations did. Here I am talking about the Hungarians.

I don't know how much you are aware of it, but the Hungarians in Eastern Europe are considered a people with good humor. When Khrushchev was dismissed, they were not so much worried about Khrushchev himself but, rather, they were worried about the fate of his son-in-law. As you know, his son-in-law was editing the biggest paper in Moscow and the very night on which Khrushchev was dismissed, his son-in-law lost his job and so the Hungarians say that at this point his son-in-law discovered he had married for love.

I would like to talk about five or ten minutes as to why Khrushchev was dismissed.

Internally, Khrushchev, when he came to power ten years ago, indicated to his people that their Soviet system was the best system in the world, that with their system they could insure the greatest growth of national product; that his people within a matter of five to seven years, would outproduce the United States per capita in meats, breads and all

these food products and, besides, Russia would also be the strongest military power in the world.

However, as the years passed and people were beginning to look around for these achievements, they really could not see much in the way of what Khrushchev had been promising. As a matter of fact, in this area of food products, the Soviet Union, in 1963, had such a bad harvest, that they had to reach into their purse and take a billion dollars and go to the United States and Canada and buy wheat.

Moreover, even this year, a year after Khrushchev was dismissed, the Soviet Union has already purchased wheat for half a billion dollars.

Now, in looking for these improvements, the Soviet people became rather cynical about Khrushchev's promises.

One of the very famous stories circulating in Russia takes place twenty years from now. Khrushchev told them that in twenty years the Soviet Union will achieve full communism and everything else envisioned by Marx. Full communism means that a society will produce so much consumer goods, so much machinery, that there will be no need for money—that the workers will work only as long as they want to work (some of them three hours a day, some two days and some three days a week); that there will be such an abundance of goods and other consumer items that it would be all stored in government stores and people would just walk in and take whatever they want and go home.

Now, some twenty years from now, when this so-called full communism has been achieved, we find a father and son having a little conversation in the evening.

The son says to his father "Papa, what were you doing before we achieved communism?"

The father said, "I was a banker."

"What is a banker?"

"Well, a banker is somebody that works in an office, that deals with money."

"What is money?"

"Well, money is something that you go to market with and you can buy

meat with it."

"Papa, what is meat?"

The Soviet industry, of course, has had some spectacular achievements. After all, it is a new industry. It was built within the last forty years and it has produced, in terms of military power, the most modern weapons, it has also produced those sputniks that stunned the world some seven or eight years ago.

But, as this industry grows, as it becomes more complicated, as new technological ways of producing are emerging, this industry will run into one of the crucial obstacles in the Soviet Union—that is, the state bureaucracy.

The industry as a whole, as well as economy, is managed from Moscow. There is very little initiative that can be applied by a manager in a factory or even by a regional board. Therefore, one Russian economist calculated that the bureaucracy in the Soviet Union, with the growth of industry, grows at such a rate that in 1985 it will take almost the entire growing of our population to man that industry and, therefore, who is going to work?

Of course, many Americans are scared by the growth of the bureaucracy in this country and there is something to be scared about. However, the rate of growth of the bureaucracy in Russia is today a very, very dangerous development there.

As you know from the press, economists in Russia suggested that more authority be channeled to factory managers and regional bodies—to those closer to the raw materials, who would be responsible for production. In other words, they should introduce more and more capitalist elements into the Russian economy, such as the introduction of profit motives, incentives, etc.

As much as Khrushchev wanted to improve along those lines, he, as a conservative communist type, resisted that type of thing.

One single reason, among other reasons, of course, why the men on the top could not tolerate him any more was that he was not resisting these new innovations, these introductions of capitalist elements. Now, a year later, we see that the men at the top did take a very important step, not a big step, but they did take a step toward giving more authority to the local bosses relative to the introduction of the profit motive.

The second item that Khrushchev differed with his associates on was

his foreign policy. His associates, and now the bosses of Russia, thought that Khrushchev was scared too much by his failure in Cuba in 1962. In 1962, there was still a lot of talk in the West about the missile gap, power gap, attributing, of course, the gap to the United States. However, Khrushchev very well knew where the gap was and, as the facts are now known, through great intelligence work and also through some of the administrators of the Soviet leaders themselves, the gap was on the Soviet side. They did, of course, produce long-range missiles that could hit the United States. The accuracy of their delivery and the number of these missiles were no match, of course, to that of the strategic airforce of the United States. They were also no match in relation to the missiles available in the United States, and particularly are no match today to the program of minute men, which left Russia in the act of a rate of a four to one power relationship today between the United States and Russia.

Khrushchev, knowing about this, tried to modify this gap by bringing to Cuba, which was his closest ally, eighty medium-range missiles. It was his intention, after he had installed these missiles in Cuba, to then tell President Kennedy, "Now then, we have an equal power of destruction against your country directly and, therefore, you had better get to the tables and discuss a few issues that we are very much concerned with and which we have on our mind."

The biggest issue, of course, on Khrushchev's mind was Berlin.

Immediately after the Bay of Pigs, what then did our young President of the United States display to a man of Khrushchev's caliber? Well, he displayed a kind of ambivalence, a kind of weakness—permitting Cubans from the United States and from Guatemala to strike against Castro and then, at the last minute, not permitting the United States Navy or Airforce to back them up.

Well, you can imagine what effect these actions had as they were watched by a man like Khrushchev, who came up to the top through having great big fights. You know, Khrushchev succeeded in reaching the top, becoming the number one man, because he was stronger than anybody else. Further, he had to knock off many heads before he got there. This did prove that he was a tough man. Therefore, when he does get to the top in Russia, he is

the toughest man and yet, in the United States, through that foolish method of democratic election, he finds the Americans electing a young man, forty-six years of age, with a rich background, and with really no fighting experience. In other words, Khrushchev thought, "What does he really know about fighting?"

Well, when he saw Kennedy's action at the Bay of Pigs, it confirmed everything that Marxist ideology told him—that the sons of these rich capitalists were no fighters and they could be licked, in fact, they did get beaten.

Also, the Ambassador to Moscow in the United States reported that not only was Kennedy not a fighter but, on the other hand, that the whole American nation had grown fat and lazy. In other words, they ate charcoal broiled steaks, drank Scotch, etc. Therefore, Khrushchev's question was, "Well, what kind of fight are these people going to make?" Also, after that Bay of Pigs situation, a man like Khrushchev could not but be tempted to try in his own way to gain what he wanted.

In other words, here was Castro with no modern weapons. He just could not push around that big American power. Therefore, why not Khrushchev with his missiles and airplanes, with all these sputniks in the air—why could not he try to push around that great President of the United States.

Well, this lured him into that project of sending eighty missiles to Cuba. Now, when the United States President discovered these missiles, you know what happened and I don't have to go back and tell you all about it. However, as a reporter and living in Washington at that time, I still get emotionally tensed up as to that situation.

However, once our President discovered these missiles there, as you know, he took all the necessary action and, further, this was a far different action than that in connection with the incident at the Bay of Pigs.

As you know, on that Monday of October, some three years ago, he went on television and announced that this country was ready to fight a nuclear war if Mr. Khrushchev did not remove his missiles. Well, that week, the week between that appearance on television and Khrushchev's final backing out, this was a very tense week. The Soviet diplomats and newspaper men in Washington, they were

so desperate to find out whether he really meant this, that they even did not mind coming to me and talking to me. In other words, here I was, a man who had fled their regime, who had joined their capitalist opponents, who was working as a journalist.

Not only did they ignore me, but they likewise attacked me in their press. To them, of course, I had betrayed their cause, joined the other side. However, at that particular time in Washington, they were so desperate to find out whether this young President really meant what he was saying, that they were running around town asking people as to his actual intentions and, as I say, they even came to me and asked me about them, as to whether or not President Kennedy really meant what he said.

I remember one time in the National Press Bar where, as you know, the news is created, two Russian newsmen came to a group of American newsmen and said—"Listen, are you kidding; talking about a nuclear war? You are not going to start a nuclear war because there are a couple of missiles out there, are you? Besides, you are not the type of guys who would fight."

Well, there was one man there from a local paper, from a Chicago newspaper, and he said, "Well, if you don't think we can fight, let's step outside and I'll show you."

Well, that Soviet newsmen rushed back to his embassy and cabled to Moscow—"They are willing to fight."

However, of course, through their diplomatic channels they were getting enough diplomatic information to learn that the President of the United States meant what he said over television and, as you know, Khrushchev did back out. In fact, he not only took his missiles back home but he also said that Castro should agree to ground inspection, he deciding almost, for the head of state of Cuba, as to what he should do. This, in turn, led to a big furor between Castro and Khrushchev and it also led to a gap which is still not closed, between Castro and Moscow.

However, once Khrushchev took his missiles back, he kind of was inclined to draw a very serious lesson from this. In other words, he realized for the first time that he was dealing with a power, even one presided over by a young president, which could not be forced by military threats to retreat from any position occupied today in the West.

This means, in connection with the Berlin situation—where the East and West meet and where there are no solid boundaries, no consolidation of fronts and of Russian influence, where the Western powers still have not agreed to the partition of Germany at Berlin, that this situation cannot be altered by military threat.

Well, once he realized this, he began looking for other ways, for both an internal policy and an outside policy.

He also realized, of course, that he was being pushed from both sides. You realize, first of all, that the West was going to stand firm. On the other hand, in the East, a communist world which was the creation of the Soviet Union itself, Red China, was using the humiliation of Khrushchev with the West to assert its own power. The leaders in Red China believe in the great cause of communism and, as a result, used the Cuban fiasco to ridicule Khrushchev and say that he was not only a bad leader but that the whole Soviet system was in decay, that the true fighters against Western imperialism was not Moscow, but the Red Chinese themselves. Therefore, as I say, the Cuban situation did create pressures on both sides and so, Khrushchev had to think of new means of getting some of his programs across. In other words, he had to make a decision either to forget or not to forget about communism.

Possibly you may know, that Russia is situated in an area where throughout centuries it was involved in East-West problems. Initially Russia was overrun by the Mongolian horde three times and then, for the last time, the Mongols came to Russia and they stayed for three centuries. They also know what China as a great power can mean. Russia, of course, was trying to assert itself with the West but, on the other hand, no Russian statesman would like to be involved with struggles against both East and West. One struggle is enough for them.

Therefore, when Khrushchev was confronted with this pressure from both sides, he made some far-reaching decisions.

For one thing, he was getting ready to quit the struggle with the Chinese for influence in the East, namely North Korea, which is a communist country—North Viet Nam. He was leaving this to the Chinese.

For example, in 1964, when the United States Airforce struck against the bases in North Viet Nam, Khrushchev did not respond at all.

He was also moving toward a serious consideration for talks with the West, not now based on threat but really to make an attempt to see how the specific differences with the West could be straightened out and some kind of compromise reached. As you know, he was planning, as far back as last January, to make a trip to West Germany. West Germany is the source of the whole disturbance in the Asian situation. Until the German problem is resolved, there cannot be any serious peace between Russian and the Western powers.

Now, to the other men in the Kremlin, this sounded rather like a panicky conclusion. They thought that Khrushchev was too soft with the United States—that he was moving toward offering some kind of compromise. They further thought this was not necessary—that the Soviet Union could deal with the West, could have commercial relationships and some limited agreements and, at the same time, they could compete with the Western powers and with China in areas like Viet Nam and in areas of South America. These men felt that the Soviet Union should not give up under pressure of the United States in all of these areas.

Therefore, as soon as they were in power, what did they do? Well, they invited the President of the United States, Mr. Johnson this time, to visit the Soviet Union as a return visit to Khrushchev's visit to the United States in 1959 and then, the very day they received a positive answer from the White House, the Soviet Prime Minister went to North Hanoi with an offer of additional military aid in order that the Vietnamese should intensify their struggle against an area which American troops were directly involved in. However, this miscalculated almost to the degree of Khrushchev's miscalculation in Cuba because they thought that Mr. Johnson, in connection with his campaign in 1964, was strong for the issue of bridges to the East. I am sure that you will remember his famous speech which involved that of building bridges to the Eastern world. Well, the Soviets took him seriously and they thought that he really wanted to move into that area and, as a result, they wanted to see what kind of beautiful compromises they could work out of that thing. This, to them, meant a peaceful co-existence. Well, on the second day after that invitation, the Vietnamese in Hanoi attacked Americans based in

South Viet Nam and then, twelve hours later, the United States President authorized the bombardment of North Viet Nam. Well, to the Soviet Prime Minister waiting in Hanoi, this was a complete miscalculation and so, instead of staying in Hanoi the ten days he had planned, he dashed out of that city on the third day, fearing that maybe Johnson had included that in the area of bombardment.

This, in turn, has escalated the conflict between the communist world and the free world to a situation today where the relationship between the Soviet Union and the Western world is deteriorating rather rapidly, especially with this war going on in Viet Nam and with American troops pouring in and, further, with the balance of the fighting now swinging toward the American side.

As a result of this particular situation, the Soviet Union now is in a big predicament. Here is a socialist country, as they call themselves, which has an agreement with the Soviet Union which is supposed to defend this country with all its military might being bombed for six months by the United States and the only visible thing that the Soviet Union has done is moved several missiles, the ground to air missiles (which already have been knocked out by the United States Airforce) over there as a means of help. Well, the action to date has indicated a humiliating performance for the Soviet Union in this communist world.

Further, the Red Chinese see this situation and so they say to their people—"You see, here is our leading communist power with an agreement written to defend both of these countries; not only do they not attack the United States but they are continuing some kind of talks"—thus even making the Soviet situation in the communist world more embarrassing.

Now, Soviet diplomats are going around the world and saying—"What the United States is doing is that they are hurting us very badly and, further, they are hurting us when something must be done in Viet Nam." The point is that the Soviet Union today would be ready to make a compromise in Viet Nam, a peaceful settlement. However, the trouble is that they are not the bosses there—that they walked into a territory which Soviet leaders had avoided for forty-five years—walked into a territory which is not under their total dominance. If it were a situation such as in East Europe,

where their troops were present and there were neighbors involved, then they could put pressure on, they could do anything they wanted. However, Hanoi is very far away from them and, further, Hanoi is on the border with China and, therefore, when the Soviet Union puts pressure on Hanoi to get together with the Americans and compromise on some type of settlement, then the Red Chinese come in and say, "No, you cannot do that." Further, these Red Chinese do have something in back of their threats—they do have influence within the party and, therefore, anyone sitting over the table and talking to the Americans could, at almost any time, be replaced by some hot-headed generals whose leanings were more toward communistic views.

I believe this is a conflict that could probably be decided by a major United States military victory which, in turn, would leave no choice to North Viet Nam but to seek peaceful negotiation. However, until that peaceful negotiation is reached, I think we should expect some further deterioration in Soviet-American relationships.

Their last big meeting in Moscow, even though it authorized some modification of Soviet internal setups, modifications pro-Western, I would call them, although they are motivated by the hard facts of their economy insofar as foreign policy is concerned, they are now in the process of re-assessing their foreign policy during the last ten years. In other words, they are opening up relations with the West, starting cultural exchanges—having their technicians travel abroad and learn about Western technology. This is a very profitable thing for them but, along with these technicians, Soviet writers, professors, political scientists, all of these people for the first time have had an opportunity to go abroad and become acquainted really intimately with the spirit, the political thinking, with the freedoms that Western society lives under. As I say, much of this has been happening during the past ten years and now, some ten years later, they are sitting back and viewing the effects upon their own society of what we might term a "cultural assault."

For you fully to appreciate as to what it really does mean to permit the average Soviet citizen to really take a good look of the outside world, I would just like to go back to my wartime experiences, when the Russian Army was permitted by Stalin to go

into the West. In fact, we were forced to go into the West because Stalin had this terrific ambition of slicing off that part of Europe that today is under Soviet control. This factor is important not because it happened twenty years ago and was a war experience, but it is important because the youngsters at that time, for the first time twenty years ago, who saw Europe that day, the cream of the nation at that time, these are today the Soviet managers of factories and they are the people who, today, are from forty-five to forty-eight years of age. Therefore, that experience that they had during their stay in Europe as military men is being reassessed by them under the present situation, in an atmosphere where a little more freedom is permitted in Russia. Also, these experiences that these people had in the West at that time are also today governing their beliefs in the future of communism.

I well recall some of these wartime experiences and, if I may be permitted to do so, I would like to recall one or two of them to you in order to emphasize this particular point. I, myself, at that time, was one of those young men.

At that time, I was in the Airforce and, also, at that time, ninety-nine per cent of us had never seen anything outside of our own areas. In other words, all we knew about the West was what our government had told us about the West. Further, they told us that Western society lived under capitalistic regimes, where the workers were exploited, that they had almost all of their blood pressed out of them, that there were hungry people all over the West and, further, that there were only a few capitalist people driving Cadillacs and drinking Champagne with the Hollywood stars. Well, this was the portrayal of the West to us at that time.

Now, came the first country taken over by the Russian Army—the country of Rumania. Now, to you Americans, especially when Rumania is mentioned, you think, “what could anybody see so exciting in Rumania?” Well, it was the first country we saw outside of Russia and, believe me, after that I also saw the whole world and nothing really excites me as much as that first visit in that strange land called Rumania.

Rumania, I must also warn you, was a prosperous country during the war because insofar as international standards went during the war, they man-

aged to have smart diplomats. In other words, they were always allied with a winner. When the Germans were winning, they were on their side; when the Allies started to win, then they joined the Allied camp. Therefore, they realized the best of both sides.

Now, we came along and let me tell you that we took over a Rumanian airport in a good Russian plane called a B-25. That airport, we were informed, was surrounded by poor villages, by unhappy farmers and hungry kids. Well, we landed in Bucharest some two hours later and had a Russian car waiting for us called a “Jeep.” Well, we then went to view the first capitalist capital.

As we were approaching Bucharest and were coming down the main street, we started to see the big department stores with glass windows and, also, in some of the other stores we could see hanging in the windows fat turkeys, salami and all kinds of breads. Then we also saw all of the clothing—fur coats, boots, beautiful shoes, blazers, etc.

Now, I come from Moscow and I can say that if there was any life at all in Russia, it was in Moscow. However, until I saw Bucharest, I thought that was the richest and the biggest town in the world, this was the mecca of the world. However, when I saw these clean streets and those handsome men dressed in beautiful clothes, the department stores and the like, I suddenly became very unhappy because Moscow, to me, started to look like a shabby little provincial town.

We could not believe any of this was real. It was a beautiful September day and we found the air to be very gay. The Rumanians, they were stupid enough to think that they had been liberated at that time. As a result, they really came out into the streets and gave us a welcome. Well, we rushed into some of these stores and found that all of these things on exhibit could be bought if you had enough money. Well, we asked these people if they would take Russian rubles and they were stupid enough to think it was money. Therefore, they really sold us everything that we asked for. Later on, of course, they discovered that this money had no international value whatsoever.

Then, we also visited the best restaurants in Bucharest, some six of us. We went to the head waiter and he took us to a table and gave us a menu consisting of thirty-six different dishes. He then asked us what we

would like to eat. Well, my sergeant, who was from a very remote area in Russia, Siberia, never even having heard of a restaurant menu, said—"You have thirty-six dishes here? Bring all of them." Well, they brought us a lot of wine and very good wine and soon we had a good Russian party. Perhaps I should describe to you what a good Russian party is but, anyway, by the end of that party, the head waiter was the only one still able to talk and so he came to us and asked us if we would like a taxi.

Well, that same sergeant asked me what a taxi was and I said that it was an automobile which, for a quarter, would take him home. The sergeant then replied, "Well, why ask—bring ten of them." Well, we all rode in the first one and then the other nine taxis followed us all the way to the Capital.

Of course, this was high living. However, this was also our first time in the Western world and, of course, we did not go home—we traveled from one place to another. I will not mention all of the places to which we went. However, for those first few weeks, we got the same type of reception everywhere else we went. As I said, the Rumanians were giving us all kinds of cocktail parties, dinners, banquets, and all the rest of it. Well, some two weeks later we sobered up a little bit from those receptions.

You know, when the Russian GI, the fellow drafted from a factory in Russia, went and met his counterpart in Rumania, started talking to him about wages and then when that Rumanian worker took him to his home and showed him the hot running water in his house, opened up the clothes closet and showed him how many suits he had, he was amazed. In fact, when this Russian soldier talked to this Rumanian's wife and asked her how many times she cooked meat for dinner and found out that they had meat fifteen times a month, this also amazed him.

When the Russian peasant soldier, the man drafted from the collective farm, which had almost ruined Russian agriculture with all of its attendant state control and without involving the initiative of the farmer, when he met the Rumanian private farmer and talked to that farmer and saw he had little machinery of his own, that he grew whatever he wanted, and also stayed in this farmer's house, and also when these same Russian soldiers met some of these city merchants and other people and found out how they

lived, the result of all of this was that within two months the army, which came into Rumania in very strong numbers, had some 60,000 deserters in Bucharest. Some of these Russians were so attracted by that life, they took off their army uniforms, learned the Rumanian language and settled down to really enjoy themselves.

Now, about the Americans during the war, and here we did learn something about them.

As you will remember, Roosevelt granted the Soviet Union lendlease worth eleven billion dollars here. When these American trucks, with six wheels on each truck, each wheel working, when the Russians saw these pouring into Russia, as well as the B-25's and jeeps and all of this other material from America, all of which was much superior to anything we could get in Russia, we certainly began to think. Also, when all of this American food began to pour into Russia and our airforce officers and men tasted it, they then began to turn to the commissars and say, "How come you are talking about a poor America, a capitalist America? Where does this stuff come from? Also, do they send every last thing? They must have something to eat for themselves. Look how much is coming to us."

Well, when we asked the commissars for answers to these questions, we did not get any place.

Also, you may remember that Stalin, at that time, came out and said that Roosevelt said that fifty thousand engines, airplane engines would be produced a year. Well, this was quoted in the Soviet press as assurance that we were allied with people who could produce and who were strong. As I said, the commissars were embarrassed over all of this, especially in relation to the facts given to us in relation to America previously.

Well, these things that we were seeing, plus the food we were eating, built up a great curiosity toward that country and so we were anxious to meet the Americans and find out what made them run.

It was not until 1955 when we were in Austria, that an invitation was received from our American Airforce counterparts staying across the river—an invitation to a group of our Soviet officers to come over to the American zone and have dinner with the Americans and celebrate the victory which, on our part of the front, was already apparent.

Now, when they selected those Russian officers, I was one of them selected, not because I knew English but because I knew American equipment and they thought that that would be enough to carry on a conversation with the Americans. Well, for three days we cleaned ourselves up—we shined our boots, cleaned our uniforms, got fresh haircuts and shaves and, on the appointed day, we were ready to meet the capitalists, real capitalism. Twenty-five of us boarded a truck and, two hours later, we were in the American zone.

We went to their headquarters, which was in a hotel. We walked into the lobby and here we see a great number of American servicemen. We look at their uniforms and try to determine who is who there, who is a general, who is an officer, who is a soldier.

Now, you see a Russian general, he has epaulets bigger than his shoulders; he has a bald head and big stomach—everything that fits the rank. Also, Russian uniforms change according to rank—the quality of material—everything's different. However, here we look at the American servicemen and we saw the same types of uniform. Of course, we saw some with open collars and short sleeves but, on the other hand, we really did not know who the bosses were. Well, I finally recalled reading some American literature in relation to American equipment which indicated that a white star was a general. Therefore, we finally found an officer with a white star, walked up to him and saluted him. Well, some of my comrades never believed that man with the white star was a general.

Well, we were then later invited to a cocktail party. I would like to call to your attention the spirit that existed between the two armies at that time. We were really allies and our spirit was so great that we were invited to a special cocktail party and, in honor of that cocktail party, we invented a new cocktail—we mixed bourbon and vodka. Of course, that spirit has now long gone and I would not advise anybody to even try that new formula because it takes a lot of spirit to drink it.

Well, after many rounds of cocktails, we were finally seated at a table. The general we had met previously was now in a different uniform. He had put on an evening uniform. He was seated at the head of the table and was acting as our host. My ser-

geant, of course, was still dubious about this man actually being a general. He said to me, "He cannot be a general." I said, "Why?" He said, "Look at what he is smoking." In front of that general was a pack of Chesterfield cigarettes. Also, just some three hours before that, my sergeant had found an American soldier who was also smoking Chesterfields. He asked that soldier for a cigarette and the man gave him this pack of Chesterfields and told him to keep it. Therefore, my sergeant then took out his pack of cigarettes, put them on the table and said to me, "In the American Army, would a soldier smoke the same kind of cigarettes as a general?" Well, that was a question I could not answer.

I might say that from the sergeant's point of view this was a shrewd observation because in the Red Army, where there are supposed to be no differences between rank, you can recognize the rank from the type of cigarette a man smokes. In other words, a soldier does not receive any cigarettes, he gets a very bad tobacco and makes his own cigarettes, like the Oklahoma cowboys do here. A lieutenant gets one size of cigarette, a colonel a bigger size, a general a still larger size and then a marshal smokes a real big cigar.

Well then, my sergeant then pointed to another American officer and said this must be the general. Well, this was an American who smoked Pall Mall cigarettes. Of course, you may not remember that Pall Mall was the only king size cigarette at that time. In our case, at that time, we were trading three Chesterfield cigarettes for one Pall Mall.

You know, sometimes the Voice of America indulges itself in long talks to Russia about a constitution but, on the other hand, they don't tell the Russian people how this constitution works in life. These Chesterfield cigarettes, this was something they understood. When they saw a soldier smoking the same cigarette that a general smoked, this woke up their minds and they started questioning as to what kind of system this was anyway and, further, they also started to ask questions about American wages, housing and all of these other things. In the final analysis, it was a very long question period that the Americans went through in that area.

These people learned not only about Chesterfields but the more educated people for the first time had a chance



to discuss political questions—as to really how a society is organized—what the constitution means—what it meant in actual life. Well, in the next twenty days all of these soldiers and others who learned of this situation were talking about Chesterfields as a status symbol of something that every man could understand.

Well, these twenty million odd men returned home after the war. Stalin at that time was alive. They feared Stalin enough to keep their experiences to themselves. However, Stalin died some twelve years ago and today Russian society is not living under the same type of fear as it lived under when Stalin was alive. These people are now talking more and more about their experiences and learning things from all of these various cultural exchanges.

Also, the American shows sent over to Europe are having a great effect on the Russian people. Many of the Americans do not realize this effect. They do not know that everything sent over from this country, including people like Van Cliburn, that these shows play to a packed house. In other words, some of this entertainment in America will not even get together an audience of 300 people but, on the other hand, in Russia these same shows play to 15,000 people in one night. Of course, it is not only these shows that the Russian people want to see, but they do want to see many Americans because, for many years they have been isolated. It is not only that they are learning about Americans when they come to Russia but they see how they are dressed, how they act and, as a result, many people in Russia today are coming to the conclusion that maybe they are on the losing side of this exchange.

Also, the present government officials are now working toward clamping down on some of these programs. In my opinion, even if they tried very hard to introduce the same type of terror or control that the Russian people had under Stalin, then I believe they would be choosing a very dangerous road for themselves. I think that in the past ten years the Russian people have been moving steadily ahead and that today the average Russian man will probably no longer submit even to a gradual introduction of the Stalinistic element into his life. I also think that if this attempt is made that it will result in a reverse and it will be reversed by people who will oust these people and go much

further in the other direction than Khrushchev himself was willing to go.

Of course, we may still have a few rough years in connection with dealing with the Soviet Union. I don't think that they will ever assemble an entourage to challenge the Western world, especially in relation to the type of challenge that was put up in Cuba. They are, on the other hand, looking inward. They want to build up their industry and they want to bring up the level of military power and when they do, then the whole situation will again become dangerous. However, let's hope that when they do achieve leadership that it will be a different type of leadership. You know, we have learned in the past few years how easily a leader can be removed, even without an election. Therefore, there is great possibility for new leadership in Russia.

Now, I want to end up where I started, by going back a little bit to Khrushchev. In other words, do the people in Russia remember Khrushchev? Well, in a political setup as in the Soviet Union, when a man is in power, he gets all the glory—every day he is on the front page of the newspapers and, further, every word that he says is supposed to indicate his wisdom. However, once that man is out of power, then he rather disappears into oblivion.

Of course, Russians do not dare tell jokes about their present leaders and so they find their outlet in telling jokes about those leaders who have been dismissed. Therefore, a very famous story about Khrushchev these days is that a few months before his dismissal he was kind of worried about his popularity among the Russian people. Not having a Gallup Poll to find out his popularity, he resorted to a different gimmick. One day he called in his postmaster and said, "Why don't you put out some postage stamps with my picture on them and then we will see how well they sell." Well, millions of those stamps were put on the market and they were selling very well. However, the only trouble was that Khrushchev started receiving letters that the stamps would not stick to the envelope. Therefore, he again called in his postmaster and said, "What kind of stuff are you putting on there anyway?" The postmaster said, "I'm sorry, Mr. Khrushchev, but the people are spitting on the wrong side of that stamp."

Thank you very much.

# REPORT OF LEGISLATIVE COMMITTEE

By GORDON M. BURLINGAME

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A synopsis of legislation adopted by many of the states since the last convention of ALTA has been produced and is available. The synopsis was prepared as of September 1, 1965, and purports to be complete as to the states reporting. Of the 50 members of the Committee, 31 have reported and 19 have not, so that while the synopsis is fairly long, it must not be supposed that legislation adopted in all states is covered, nor should it be supposed that no legislation of interest to our members was adopted in the 19 non-reporting states.

At this time it would not only be boring, but impossible, to cover all of the acts, particularly since your chairman doesn't understand 98% of these legislative gems. I am sure the reporters listed with each state will be most happy and prompt in their response to any inquiries you might have.

It will be noticed that 4 more states, at least, have adopted the Uniform Commercial Code, or a reasonable facsimile of that which appears to be everything but "uniform". The states which have taken the plunge since last year are Colorado, Florida, Nevada and Washington. According to your Chairman's count, which of course does not include certain of the non-reporting states, 32 jurisdictions have now adopted this enlightened legislation.

Your attention is directed specifically to the following—Iowa House File No. 115; Massachusetts Chapter 165; New Hampshire Chapter 196 and the Colorado statute referring to the effect of successive deeds containing similar conditions of defeasance, all of which seem to have great merit. Of interest for its possible far-reaching effect, is Maryland Chapter 653. I am disturbed by Michigan PA 89 (HB-2297), establishing the Petkoskey stone as the official state stone, which, coupled with the fact that the official fish of Michigan has by statute been changed from the whitefish to the trout, may indicate an underlying instability, threatening our national image. I refer to these so you will recognize that I did read the

reports sent in and in order to entice you into picking up a copy of the whole report.

You who know me are well aware that I am not impressed by the so-called Uniform Commercial Code. You are further aware, I am sure, that promoters of the Code had their first success in my home state of Pennsylvania, where the legislation was adopted in 1953. I feel it is only proper that I bring to your attention that some such subversive forces seem to be at work again in Pennsylvania. Five or six years ago, a movement was started to have the beagle named the official state dog. At once a counter movement in favor of the great Dane arose and seemed to have some backing, but it was a foregone conclusion that the red-blooded Pennsylvanians would support the beagle. Take heed, for on August 2, 1965, in the House and the Senate, Republican and Democrat, big city politician and rural solon, were in a moment of rare accord. The great Dane ruled triumphant by a margin of 125 to 73 in the House, and 29 to 8 in the Senate. The Governor allowed the bill to become law by the simple expedient of neither signing it nor vetoing it—he owns a Labrador retriever. The great Dane now joins the official bird—the ruffled grouse—a favorite symbol of protest groups. All of you should be vigilant in guarding against such movements which are merely manifestations of forces bent on going to any extreme to undermine our society in general, and our great, patriotic and truly American industry, in particular.

May I thank publicly all those members who furnished me with reports; and since an analysis of these reports consumed a substantial amount of my vacation time, may I say to those Committee members who did *not* report—you have my undying gratitude.

G. M. Burlingame, Chairman

Editor's Note: Copies of the synopsis of State legislation prepared by the Legislative Committee will be furnished, upon request, by the ALTA staff to Association members.

# REPORT OF PLANNING COMMITTEE

By ARTHUR L. REPPERT

*Chairman; President, Clay County Abstract Company, Liberty, Missouri*

A Planning Committee Chairman a few years ago made the statement that just because there wasn't any fire, was no need to do away with the fire department of our city. Well, I feel the same way about the Planning Committee—that just because there have been no great, voluminous reports over the last two or three years is no reason why we should do away with our Planning Committee. After all, the chairman of the Planning Committee does get to sit on the Board of Governors and, as this is a very illustrious group of people who make all the decisions for our association, everybody likes to be in on any decisions made.

The report I have to make this morning is very short.

The committee did feel that the sug-

gestion made at the annual meeting, of a business management school for middle-sized title companies or abstract companies was something that could be looked into further. We suggest that the incoming President take up this matter with the Board, with the idea of appointing a committee to further study this matter and come forth with some preparation for holding of a management school of middle-sized companies of this Association. The feeling was that this was something that the middle class or size companies could use very well in learning to manage their own businesses.

This is the report of the Planning Committee at this time. Thank you very much.

## THE ALTA PRESIDENT'S SCHOLARSHIP FUND AWARD

### PRESENTATION

By JOSEPH S. KNAPP, JR.  
*National President*

In 1964, the Association initiated the practice of awarding a thousand dollar scholarship fund each year to one of the nation's law schools, schools to be selected by the President of the Association. This award is made to a particular school and with their discretion to use it as a scholarship aid and in such manner as they determine best.

Last year's award was made to Washburn University, Topeka, Kansas, and they propose to use it as a revolving fund to aid needy students in their junior and senior years.

It is my pleasure this year to award the scholarship fund to the University of Maryland School of Law.

Dean William P. Cunningham, whom

I have known for some years and who has come to Chicago to receive this award, was graduated from Harvard University in 1944 with an LLB Degree; admitted to the Massachusetts Bar in 1948 and the Maryland Bar in 1954.

For a time he was associated with two law firms and then was also on the faculty of the Harvard Law School, a member of the faculty of the Maryland Law School, a professor of law and has served as a dean since 1962 at the University of Maryland.

He likewise served in the Airforce during the Second World War and is active in many civic organizations.

Dean Cunningham, it is a great pleasure for me to give you this award.

## ACKNOWLEDGMENT

By DEAN WILLIAM P. CUNNINGHAM

President Knapp, it gives me great pleasure to accept this gift of the American Land Title Association to the University of Maryland School of Law on behalf of its faculty. I would also like to express my personal thanks to you, President Knapp, one of our distinguished graduates, for selecting Maryland as the recipient of the award this year. I can assure you that it will be put to good use.

The financing of professional education poses special problems these days for many students and their families. College education has, in many cases, already drained much of the family's available resources. The use of loan funds, as well as scholarships, to finance legal education has grown greatly in recent years, as the needs for these funds have also grown. It is not feasible for many students to save enough to finance graduate studies and, in a society where deficit spending has become respectable, it makes a lot of sense for such students to spread such costs over five or ten years and into their future years when their higher income as professionals makes repayment easier.

We hope soon to be able to say at the University of Maryland that we can offer a combination of scholarships and loans which will enable any qualified student to begin and complete his legal education, regardless of the extent of the student's personal resources at the time he begins his studies. When we can say this, we are making real progress toward our ideal of equality of opportunity for all who can profit from that opportunity. I thank you again for your contribution toward our attaining this goal.

At this moment we at the University of Maryland are in the process of moving into a new two-million-dollar law building. Together with other law schools in the nation, we seek to meet the responsibilities that the profession expects us to shoulder. Our primary responsibility, of course, is to educate the next generation of lawyers and we constantly seek new and better ways of doing this. I also believe that the profession looks to the law schools as centers where new suggestions for improvements in the law and the administration of justice are generated.

I would like to take a few minutes this morning to tell you about one such suggestion. It is a proposal that deserves the careful attention of all in our profession. It is the brainchild of Professor of Robert E. Keeton of Harvard and Professor Jeffrey O'Connell of the University of Illinois. They have recently published a proposal for improving our system of handling auto accident injury claims that is new, exciting and sensible.

There are two reasons why I considered it appropriate to bring this development to the attention of the members of the American Land Title Association here assembled:

(1) The existing methods of handling auto accident claims is of such economic importance to many members of the Bar that it is hard to find a group of lawyers that can be relatively objective in looking at ideas for improvement; and

(2) Your own experience with title insurance provides an excellent background for understanding sympathetically what these gentlemen are recommending in the auto accident area. Not so many years ago, the land purchaser had to rely solely on the opinion of his lawyer as to his title. The use of title insurance has not only given a greater amount of protection to the land purchaser but it has also avoided the necessity of suing the lawyer for negligence as a means of recovering his loss. Your title area is one where the law of Torts has not provided a satisfactory solution of the public's problem.

Similarly, the starting point of this new proposal in the auto accident area is that the concept of fault no longer provides a workable controlling principle for handling the problem of compensating auto accident victims. Our present system is predicated on the fundamental common law doctrine that one injured by the carelessness of another should be made whole by the one whose carelessness caused the injury. Devoted though we are to this proposition, it does not work well in solving the problems produced in this age of the motor vehicle. Driving is a very complicated activity, involving many split-second judgments as to speed, direction and the actions of other

drivers. To predicate a system of compensation for accident victims on assigning fault has proved unworkable and is at the root of the difficulties we are having in our present auto claims system. In most accident cases, whatever fault is present is chargeable to the pace at which we live and move—a pace that makes such accidents inevitable and makes the concept of individual fault an unrealistic one.

In many other respects, we find serious deficiencies in our auto claims system. The amount of compensation the auto victim can expect to receive is speculative and uncertain; depending as it does on such factors as possibility of contributory negligence, the amount of insurance available, and the many variables always present when the result may turn ultimately on the vicissitudes of litigation. The protracted delay before receipt of any recovery is another disadvantage. The costs of administering the system are heavy, including not only the costs of lawyers on both sides, but also the public costs involved in maintaining an ever-expanding court structure to adjudicate the controversies.

The Keeton-O'Connell proposal has these features: The first and fundamental proposition is that the minimum

level of protection for the accident victim—quick payment of out-of-pocket losses up to a limit of \$10,000—would be treated as a cost of motoring, without regard to fault in particular accidents. It would be funded by compulsory insurance covering this basic protection to be required of each car owner. As to damages beyond this first \$10,000, and for pain and suffering elements of damage, the victim would be left to his present tort law remedies. What they suggest is a simplified criterion for paying basic compensation that will aid nearly all auto victims at low administrative cost, with the elimination of compensation for pain and suffering, except in cases of severe injury. The plan has been worked out in great detail and a draft statute implementing these ideas has been published. I am confident we will all be hearing more about it in the years ahead. I commend the idea to you.

Thank you, Mr. President, for giving me this opportunity to be with you here and to bring this proposal to your attention and, also, thanks again for the Association's gift to the University of Maryland Law School. I shall, with pleasure, carry it back with me, along with fond memories of this most pleasant occasion.

## REPORT OF THE DIRECTORY RULES COMMITTEE

By G. ALLAN JULIN, JR.

*Chairman; Senior Vice President, Chicago  
Title and Trust Company, Chicago, Illinois*

Over the past few years it has been my privilege to submit the first report of the morning session on the last day of our meetings. I can't help but confess that this reminds me somewhat of the old vaudeville days.

Many of you will remember that every good vaudeville show opened with gymnasts. I rather suspect that in laying out the program for this morning's session those who were assigned that task concluded that the closest thing to a group of gymnasts or ball bouncers in our association is the Directory Listings Committee.

I rather agree, because the committee which I have the privilege of chairmanship has proved to be a rather successful group of gymnasts, successful in that each time the committee, whose members have successfully bal-

anced each other as any good team should, has submitted recommendations to the Board of Governors and to the Convention as a whole, those recommendations have been accepted and adopted.

At the present time, we are operating under directory listing rules originally adopted in 1963 and amended twice since then, the last amendment having been approved at the time of our mid-winter meeting this past winter. At that time a major change was made which required that all listing material be received by National Headquarters not later than October 1st. Further, the amendment adopted at the mid-winter eliminated the old and cumbersome and expensive process of sending galley sheets back and forth between National Headquarters, members of the

association, and the appropriate officers of the affiliated state associations. This last was put into effect on the premise that all listing material sent to National Headquarters would be sent in correct form and could be relied upon by National Headquarters.

Since the mid-winter meeting no new problem has been forwarded to the committee for the purpose of considering further amendments of the listing rules. This, obviously, does not mean that the rules will meet every situation that may arise within a national organization. Problems have come up. Points of dispute have been raised. But these have been of such a nature as not to fall within the province of the committee whose responsibility is to recommend rules, not to adjust matters of dispute concerning compliance with rules that have been adopted by the Board of Governors and by the Convention as a whole. Provisions for the handling of such problems have been fully established by the Directory Listing Rules under which we presently operate.

I mention the fact that all listing material under the rules as they now exist was to be received by National Headquarters not later than October 1st. October 1st was last Friday. I am told by Jim Robinson that it appears that the information received has been in good form. Apparently each member of the association and each state secretary has been carefully and conscientiously handling the directory listing material for submission to headquarters. Now the ball is being carried by our staff in Washington. As was explained at the time of the mid-winter meeting, our capable staff is still ex-

perimenting to some degree with a computerized operation, hoping that this will simplify and accelerate the production of next year's directory. To quote Jim Robinson, "Publication of the 1966 Directory through the use of this equipment is still a toss-up." If the use of automation is successful we should be saving somewhere in the area of \$1,000 to \$1300 in the final production of the directory. It also has been estimated that the most recent amendments to the directory listing rules—the elimination of the galley sheets, the seemingly endless revisions, which in turn required re-setting of type, additional proof-reading and the like—should result in an actual savings to the association—to you—of between \$1200 and \$1500.

Jim Robinson also tells me that his target date for the mailing of the first copies of the 1966 Directory is January 15, 1966. You will remember that last year because of a number of factors, most of which have been eliminated, considerable delay did occur before the directory was finally published. January 15th is a realistic date which can be achieved with the cooperation of all of the members of the association and of the state affiliated associations. This cooperation apparently has been excellent. All that is needed now to get the directory out on time is "The benevolence of the Gods".

Thank you.

Howard Bernstein  
Ernest J. Billman  
Allen K. Buchanan  
Clyde V. DeVillier  
Joseph G. Wagner  
G. Allan Julin, Jr., Chairman

## REPORT OF THE SECRETARY AND DIRECTOR OF PUBLIC RELATIONS

By JAMES W. ROBINSON

It has been a grand and satisfying experience to participate in the meetings of the various state title associations. In each case the audience has been receptive, courteous, and kind.

It has been equally gratifying and exciting to serve as Secretary and Director of Public Relations for the American Land Title Association. The

first nine months of 1965 have been characterized by increased activity and thoroughgoing changes at the national office and history-making progress in the field of public education. The resignation of Executive Vice President, Joe Smith, naturally led to a re-examination of staff responsibilities and activities.

To assist the Executive Committee in analyzing the work of the national office, I prepared an outline of ALTA staff activities. The list is quite impressive. There are 36 individual projects carried out each year by the staff. Some of them, such as the membership directory and annual conventions, are major projects involving intricate planning and constant supervision. Others are routine, but require a tremendous amount of detail work. Correspondence is heavy. During the month of March, for example, we dictated 356 letters—and we were traveling a good part of the month!

A word of commendation is appropriate for the splendid spirit of loyalty and competence on the part of Frank Ebersole, Administrative Assistant, and several of the ALTA secretaries and clerks whose performances helped to bridge the difficult transition between chief executive officers.

In spite of my frequent and prolonged absences, resulting from an unusually heavy travel schedule, the work of the national office continued without interruption. The sheer physical challenge of receiving, sorting, analyzing and responding to some 40,000 extra pieces of mail prompted by the 1965 public relations program and the additional effort required to process, wrap, and ship hundreds of orders for promotional material, in addition to all their other duties, was met by a small but devoted staff with a minimum of interference with the regular office schedule.

The most dramatic news concerns the success of the 1965 public relations program. In a very few minutes you will hear all about it from Bob Maynard, Chairman of the Public Relations Committee. With becoming modesty, Bob will probably give credit to a lot of people, but I can tell you that the Chairman and his Committee are the ones who really did the work. I wonder how many of you realize the magnitude of the job that was done this year! Our office has been flooded for seven months with letters and post cards from people all over the country, seeking to know more about you and the services you perform. In our office we have several large boxes filled with such mail. Some of them are pathetic; some are laughable; all are interesting.

Last Wednesday I had a telephone call from the Editor of "The Handy Man." Perhaps many of you have never heard of this publication, but it

is one of the many, many magazines devoted to special interests, whose editors have expressed a desire to inform their readers regarding home ownership and the American Land Title Association. Our story has already been carried in similar publications such as *Medical World*, *Sunset Magazine*, *Safeco Agent*, *Changing Times*, and *Pennsylvania Business*. Success in this rich, but frequently overlooked field of readership media results from the initial promotion, "Seven Traps For Unwary Home Buyers." And the list grows. Some weekend this fall our story will be carried on NBC's "Monitor" program on hundreds of radio stations—at no cost to the ALTA.

Yes, 1965 has been an outstanding year! It has been stimulating and rewarding to work with Bob Maynard and the members of his committee who include, Charles Mann, William Robinson, Bill Thurman, Frank O'Connor, and Carroll West. The leadership and creativity of these committee members has set a standard which will be difficult to match in the years to come.

Our danger now is that we might become complacent. Let me quote from the famous pioneer scientist, Sir Isaac Newton, who, at the end of his life, spoke these words: "To myself I seem to have been only a little boy playing on the seashore and diverting myself now and then by finding a smoother pebble or a prettier shell while the great ocean of truth lay undiscovered before me." If Sir Isaac Newton could say this about himself after a lifetime of achievement, then I think it is not unreasonable to suggest that the American Land Title Association still has much to accomplish in the field of public relations.

If my few remarks have seemed too Pollyanna in character, it doesn't mean that I am not aware of the conflicting forces which surround the ALTA and its members. I, too, read the *Wall Street Journal*, and the *Reader's Digest*. In fact, I have here an excerpt from the *Kansas Hawkeye*, dated July 26, 1965:

"The abstract is a bulky document which records in hair-splitting detail the present and past ownership of any piece of real estate in Kansas, back to the time of the original grant. To the honest seller and to the innocent purchaser the abstract is an archaic document which adds an ex-

cessive amount to the cost of legal transfer. It has all become the most arrant and unwarranted nonsense. Perhaps there is no effective and economical substitute for the abstract, but the system it symbolizes could be greatly simplified by relegating all entires prior to, say 25 years ago to the dead past."

As I said, we still have much to accomplish! The emphasis in our generation is on "change." As Carroll Bateman, distinguished member of the P.R.S.A., has said, "We live in exciting times. We live in the most revolutionary society that ever existed—a society that has voluntarily undergone greater changes through democratic processes than have been imposed upon other societies by armed revolutions.

"We live in a society where knowledge has increased a thousand-fold in the last fifty years. What many of us learned in high school thirty years ago is almost obsolete. It has been said that as much scientific knowledge has been accumulated in the last twenty years as in all of previously recorded history.

"We live in a society that is marked by rapid population increases. We had in the United States slightly more than 130 million people in 1940; by reliable estimates we shall have 210 million by 1970 and 245 million by 1980.

"We live in an exploding economy. Our gross national product was more than doubled between 1940 and 1960; by 1980 it is expected to be more than twice what it was in 1960.

"We live among institutions of giant size—not only big government, big business, big labor unions, but also big educational systems, big church organizations, big trade and professional associations, big pressure groups. The complexity of our society has created forces which tend to institutionalize action and subordinate the individual to the group in order to get things done.

"This is the kind of world in which we live. It is a world in which it is very easy for the individual to fall behind, to get 'lost' to become politically, economically, intellectually and morally incompetent."

"Even more dreadful, the individual has become indifferent! Members of the American Land Title Association cannot, and I hope, will not become indifferent. To survive, they must have a voice in the affairs of their

respective communities and of the Nation.

How can this lofty objective be achieved? By being alert to opportunities to exert proper influence in high places. When the Policy Committee of the U. S. Chamber of Commerce meets to discuss housing and real estate, the ALTA should be represented. When legislation is introduced affecting the transfer of real estate titles, the Association should offer testimony.

In regarding the areas of conflict confronting ALTA members, I am guided by the words of the English philosopher, Alfred N. Whitehead who said, "Periods of tranquility seldom lead to creative achievement. Mankind must be stirred up."

My recommendation to the officers who will be elected this morning is that a high level committee be appointed to formulate statements of policy on all matters of importance to the title evidencing profession.

With the leadership the American Land Title Association enjoys and with the honest purpose which has characterized the activities of ALTA members throughout the entire history of the Association, these problems can and will be solved.

The transformation from the administration of Joe Smith to that of Bill McAuliffe has been accomplished smoothly. The new Executive Vice President is determined to serve the Industry and the Association in the most effective manner possible. I am sure you know that he has my whole-hearted support in this determination.

It has been a rich and rewarding experience to work with Joe Knapp and the other fine officers. I would love to spend the next three or four hours telling you about the national office, but we have splended talent waiting in the wings, so I will merely say—see you all in Chandler, Arizona!

<b>GENUINE Engraved Stationery</b>	<b>FREE DIES AND PROOFS</b>
	<b>LETTERHEADS</b>
	<b>\$19.00 FOR 1000</b>
<b>BUSINESS CARDS</b>	500 FOR \$11.00 • 1000 FOR \$15.00
<b>BUSINESS ANNOUNCEMENTS</b>	500 FOR 28.00
<b>RUBBER STAMPS</b>	• 60¢ PER LINE • OVER 3½" \$1.20 PER LINE
<b>NOTARY OR CORP SEALS</b>	• HAND OR DESK \$7.95
<b>Write for FREE PROOF TODAY</b>	
<b>DEWBERRY ENGRAVING CO.</b>	
3201 SO. 4TH AVE., BIRMINGHAM, ALA.	
WORLD'S LARGEST ENGRAVER	



# REPORT OF THE PUBLIC RELATIONS COMMITTEE

By ROBERT K. MAYNARD

*Chairman; Manager of Advertising and Public Relations,  
Lawyers Title Insurance Corporation, Richmond, Virginia*

The Board of Governors of the American Land Title Association at a meeting on September 20, 1964, in Philadelphia, Pennsylvania, unanimously approved specific budget recommendations for a Public Relations program for the calendar year 1965.

I am pleased to report the implementation of those recommendations as follows:

## Consumer Advertising

It was contemplated that a total of twelve half-page advertisements would be inserted in the *Saturday Evening Post* on the "remnant" plan, achieving approximately 43 per cent of that magazine's circulation. Although only six advertisements have been carried, with the inclusion of the September 25 ad, the percentage of circulation achieved is in excess of 60 per cent, with our advertisements appearing in a total of 24,443,500 copies of the *Saturday Evening Post*. On a basis of three readers for each copy, a fair assumption is that approximately 75,000,000 readers have seen at least one of the ALTA's consumer advertisements in the *Saturday Evening Post*, prior to the convening of the ALTA Convention in Chicago.

To date, slightly more than (500) inquiries from (178) cities located in (44) different states have been received at the National Office, traceable to the *Saturday Evening Post* advertisements, including the response by coupon carried with the August 28 ad.

Although the degree of public education accomplished by the *Saturday Evening Post* advertising campaign is not possibly ascertainable, the approval of ALTA members has been positive and consistent. Each of the four advertisements were reproduced in poster form and made available to members at cost. These were well received by the members.

Individual readers writing for the free booklet, mentioned in the *Saturday Evening Post* advertisements, have been supplied copies of "ALTA Answers Some Important Questions." This same booklet has been made

available to ALTA members. The response has been splendid. To date, 85 members have ordered 17,225 copies of the booklet.

## Publicity—Professional Writing Team

The very first combined effort of the National Office and the professional writing team of David and Deane Heller was so fantastically successful that it is difficult to assess its true value to the ALTA and its members. To date, more than (28,000) letters and post cards from individuals in at least (1,600) cities located in every state in the country have been received at the National Office in response to just one press release mailed to approximately 1,000 newspaper and magazine editors. This press release announced a new flier, "Seven Traps for Unwary Home Buyers." Press clippings and postmarks indicated that the release was carried in about 1,350 different newspapers.

In response to an offer made by the Hellers, publications have requested specially written articles on the subject of title evidence. (Nine) of these have already been written and submitted.

The ALTA press release was carried in full in such prestige publications as the *New York Times*, the *Washington Post*, the *San Francisco Examiner*, and many others. The *United Press International* rewrote the story and made it available to their subscribers, resulting in the printing of the release in hundreds of additional newspapers throughout the country.

The response to this promotion has been consistent as well as enthusiastic. Inquiries continue to pour into the National Office, bringing fresh evidence each day of new benefits to the Association and to ALTA members. Editors of many periodicals have requested permission to list the "Seven Traps" leaflet in their "literature available" column. Many instructors of real estate law classes have requested supplies of the "Seven Traps" leaflet for distribution to their students.

A rich, but frequently overlooked source of readership media, is the long list of house organs, trade journals, and other publications devoted to specific interests. Our story was carried in the *Pennsylvania Business*, *Medical World News*, *Sunset Magazine*, *Changing Times*, *Safeco Agent*, and many, many others.

Approval among ALTA members has been equally strong. To date, ALTA members have ordered 37,511 copies of the "Seven Traps" leaflet.

The ALTA staff was authorized to purchase full-page advertising space, if possible, in the Convention issue of each of the following trade journals:

*The Mortgage Banker*  
*National Association of Home Builders Journal*  
*Savings and Loan News*  
*NAREB Quarterly*  
*Right of Way Magazine*  
*American Bar Journal*

A format has been developed for this institutional advertisement and the first ad appeared in the issue of the *Right of Way Magazine* immediately preceding the annual convention of American Right of Way Association. The same general format will be used for each of the other five publications.

I am going to ask Jim Robinson to report on such matters as his Regional P. R. meeting and Distribution of the ALTA film and his other Headquarters activities.

1965 has been an outstanding year! The consumer advertisements have been well received and have set the stage for a future program of public education that is badly needed and long overdue.

The startling success of the "Seven Traps" promotion is one of those fortunate events which occurs once in a lifetime in the field of public relations.

#### **Budget Proposal for 1966**

Your Public Relations Committee feels that it would be a disservice to the Association members if the basic educational program were to be significantly curtailed or changed. Therefore, the Public Relations Committee recommends a continuation of the *Saturday Evening Post* advertising. However, with the 1965 experience demonstrating the difficulty of picking up satisfactory remnants every month, we suggest only ten ads during 1966 at a total cost of \$45,000.00, including \$5,000.00 for production costs or if *Saturday Evening Post* remnants should be discontinued, we recommend the expenditure of approximately the

same sum for a series of advertisements to appear in other media, carefully chosen by the Public Relations Committee.

Having benefited by the initial work of the professional writing team of David and Deane Heller to an unexpected and probably, unduplicatable degree, it seems appropriate to recommend that the services of the Hellers be continued on an expanded basis. Toward this end, a proposal for 1966 has been obtained from David Heller.

The proposal points out that in 1965 only one news release was issued. This was a block-buster, in Heller's words—but we cannot expect the same long-term results from following releases. So, Heller's proposal calls for from 3 to 6 releases in 1966. Your committee feels we should tie down the releases to a minimum of 4. More special, to-order articles will be written; the Hellers would work with members to help them get material printed in home town newspapers; they would prepare a rousing good speech on the title business; they would also work on promotion within the industry to get more exposure for our movies; and finally, they would prepare four or five articles for TITLE NEWS informing members of what is being done in the P. R. field and how-to articles explaining how to get more publicity at the local level. The cost: \$7500 for the year.

The Committee recommends, in the extension of the advertising program through 1966 and the expanded use of the Hellers, that serious consideration be given to facing squarely the problems of closing-costs and bar sponsored title insurers. This does not mean that the Public Relations Committee feels we should either attack or answer the adverse articles published, but that some of the money and effort to be expended in our continuing campaign should be used to educate the public on the subject of title fees and the value of the impartial service rendered by corporate title companies.

Although the Regional Public Relations Meetings have been highly successful, time and interest limit the number of such meetings which can be conducted. The Public Relations Committee therefore recommends that the Public Relations Director be authorized to plan and conduct such meetings as can be conveniently held in 1966. However, we also recommend that the sum of \$1,200.00 (plus travel expenses) be added to the regular

“Conventions and Conferences” budget item to cover these Association sponsored meetings. This should not be a separate budget item of the public relations program.

In view of the disappointing results of the film distribution program, it is recommended that some thought be given to utilizing the prints now in possession of the distribution firm for distribution to civic organizations, high school auditoriums and other audiences in addition to television. A budget item of \$1,500 seems proper.

Since a standing objective of the American Land Title Association is to maintain and improve relationships with the various groups concerned with the transfer of real estate titles, it is recommended that institutional trade journal advertising be continued in 1966 on exactly the same basis as in 1965. A budget item of \$3,500 is suggested for this proposal.

#### RECAPITULATION

Suggested Consumer Advertising	\$45,000.00
Professional Writing Team	7,500.00
Film Distribution	1,500.00
Trade Journal Advertising	3,500.00
<b>TOTAL</b>	<b>\$57,500.00</b>

In addition to the above specific budget items, the Public Relations Committee recommends the continuation of the revolving account of \$2,000.00 which will be used for the production of promotional material to be sold to Association members at cost. This budget item is designated “special public relations projects.”

#### PUBLIC RELATIONS COMMITTEE

Robert K. Maynard, *Chairman*  
 Charles H. Mann, Jr.  
 Francis E. O'Connor  
 William L. Robinson  
 Bill Thurman  
 Carroll R. West

## “IT’S A GREAT TIME TO BE ALIVE”

By JENKIN LLOYD JONES

*Editor and Publisher, Tulsa Tribune, Tulsa, Oklahoma*

Ladies and Gentlemen of the American Land Title Association: I am sure that all of you who know your land title history know that it was William the Conqueror who sought to bring order out of chaotic and conflicting claims for land, and to order the compilation of the Domesday Book, so that there might be an authority on land ownership in the British Isles with the full force and majesty of the Crown behind that authority. And today, 800 years later, this book is still final authority for titles of the time.

Ever since then people engaged in the land title business have been by their very nature optimists. In spite of wars, pestilence, famine, fire and earthquake, you have had to believe in the probability that a system of law will prevail and a condition of reasonable equity will survive. If chaos is just around the corner, there is not much point in your business.

It is a pleasure, therefore, to speak to this audience because in this bewildering world it is good for a newspaperman to stand before a group of people who are pretty sure that the

ball game is going to go the full nine innings.

Right now, the world is full of hand-wringers and crepe-hangers and doom forecasters who counsel us that all is lost. The people I like are the people who, without kidding themselves about present perils and future danger, are convinced that mankind is only at the beginning of his winnings.

Since the start of recorded history, we have had a long record of history of prophets who proclaimed the end of the world and went to the mountain tops to meet annihilation.

It is noteworthy, ladies and gentlemen, that all of them have either had to climb down or starve to death in private, and we have many sentimental antiquaries who are sure that all the golden ages are past.

Well, golden ages are instructive and inspiring, but if you apply the acid test of modern aspirations to them, it is astonishing how quickly most of them dissolve.

A few years ago, Edward Arlington Robinson wrote a few verses about a character named Minniver Cheevie

who was in love with the past.

"Minniver Cheevie, child of scorn grew lean as he assailed the seasons. He wept that he was ever born, and he had reasons. Minniver loved the days of old when swords were bright and steeds were prancing. The vision of a warrior bold would set him dancing.

"Minniver sighed for what was not and dreamed and rested from his labors. He dreamed of steeds and Camelot and Trams' neighbors.

"Minniver cursed the common place and eyed a happy seat with loathing. "He missed the medieval grace of iron clothing.

"Minniver Cheevie born too late scratched his head and kept on thinking.

"Minniver coughed and called it fate and kept on drinking."

Ladies and gentlemen, there is a lot of Minniver Cheevie in all of us. We are inclined to grow enamored of these so-called golden ages.

It is wonderful to stand in the Acropolis. And you think of Euripides and Phideas. If you can forget the tiny huts of the half slave Helots, or overlook the fact that had you been born in ancient Athens, the chances are you would have been half slave.

It is splendid to stand in St. Marks Square in Venice and feel the surge of the Renaissance, but behind the Doges Palace there is the Bridge of Sighs and the dungeons and the reminder that in that glittering age, men falsely accused rotted in their chains.

Britain of the First Elizabeth was glorious in its vigor, but Marlowe was murdered at 21. Ben Johnson died in poverty. They gave Raleigh the ax for founding an empire; and the drunken mobs went forth every Sunday to jeer at boys about to be hanged on Tyburn Hill for stealing the worth of a shilling.

And our own children glued to the Cyclops eye in the living room are sure the winning of the American West must have been the most glorious time of all; for wasn't this the age of strong, virile men trying to outdraw each other on Front Street, and glamorous dance hall girls comforting the lonely peace officer?

Well, there were certainly gun fighters, and many an unmarked grave over which our transport trucks roared and our combines rattle marks the remains of a bright-eyed lad who heeded Horace Greeley's advice and was killed for his purse.

The glamorous dance hall girls weren't so choice if you ever examine

the old saloon photos, and they carried syphilis, which meant paresis and insanity and death. Diphtheria filled the graveyards with children and railroad barons bought legislators as easily as they bought rails.

No, if America were suddenly handed the Old West on a silver platter, it would recoil in horror. So the thesis of this speech, ladies and gentlemen, is that "This is a Great Time to be Alive." This is the greatest time to be alive.

Those of us in this hall have been given a privilege denied to any of our ancestors, and if we are bored or disheartened or fearful, it is not the fault of the times, but because our imaginations are barren, our courage is feeble, and our faith is weak.

Let me hasten to voice the thought that every one of you is thinking. These are also dangerous times. They are immensely dangerous, for man has the capability now, not merely of murdering his own kind, but of expunging life from the earth. He can, if he wishes, send a sterilized planet spinning off into an eternity that will see the radioactive rain drops level the Pyramids and the last skyscraper sink into the primeval slime.

He lives in an uneasy moment for while he hesitates to use his new and awful weapons, neither has he found a substitute for war. War continues. Crude, cruel and destructive as war was, it was the means by which pressures and strains of a constantly changing world were eased. Old, withered nations gave up their choice real estates to peoples of greater vigor. The knowledgeable triumphed over the ignorant. Outworn philosophies and unworkable social systems fell before new enthusiasms and superior organization. The good didn't always win, but as earthquakes relieve the pressures in an endlessly shifting earth crust, so did wars allow for adjustments in a constantly changing world of men.

Now we are told this ancient remedy is to be denied us. The cry arises that war is unthinkable. The people of good will demand a rule of law, a parliament of nations with peace enforced by international agreement.

So we had the League of Nations, and now we have the United Nations. The United Nations has recently become the only organization in the world that can't tell the difference between assessments and voluntary contributions.

It has an assembly currently dominated by nations possessing the least wealth, the least education, the feeblest civilized traditions, and a small minority of the world's population.

When we Americans pressured the European powers to give up their colonies, little did we dream that these colonies would fragment themselves into tribal states, or that we would be trying to tailor our foreign policy to please ex-postal clerks and witch doctors from such unheard of places as Togo, Upper Volta and Burundi.

The United Nations also has a Security Council with a case of built-in paralysis due to the veto. More and more it seems likely that the United Nations is not the vehicle by which we shall arrive at perpetual international justice, but how shall we apportion the perfect world parliament? By population, and give India ten times the vote of Britain and Pakistan six times the vote of Canada? By area, and give Antarctica 25 times the vote of France and Greenland eight times the vote of Italy? By gross national product or per capita income and have the United States outvote the whole of Western Europe? Or one country, one vote, as the United Nations Assembly now has it and where the Republic of Chad, which, when I visited it a few years ago possessed two college graduates, stands as tall as the mightiest nations in the world.

I sometimes grow a little weary of these bleaters for peace who keep talking about the necessity of world law without bothering their heads about the perplexities of world law.

The perplexities are immense, but I think we will eventually have world law. It will probably come after the next atomic war which will leave civilization so shattered that they will be avid for any system of order, and order will mean an assembly that can decree that too few Americans are occupying too much land, and that we must move over to accommodate a few hundred million Asiatics. I am not too sure that all of us will be crazy about this rule of law.

The reason why I believe a general atomic war will be inevitable is because we will almost certainly be unable to control the population explosion before the desperation it will cause will trigger a nuclear convulsion.

I don't wish to sound apocalyptic. If atomic war comes, I don't believe it

will kill of human kind, but it will certainly destroy a large portion of the world's population, particularly in the heavily settled areas where the expenditure of missiles will be deemed most efficient.

And the cause of this tragedy will be, oddly enough, man's mystique of himself as a godlike animal for he has forgotten, in spite of the fact that he has a soul, he also has a mouth, and that as long as he has a mouth, he violates to his peril the laws of nature that govern all other animals.

Man understands perfectly that overgrazing of pasture means ruined lands and poor creatures, and ranchers in Oklahoma govern their herds accordingly. Man wouldn't think of hatching chicks beyond his resources to feed them. He carefully thins his forests so that trees may grow strong and tall, but he has grossly upset the human death rate through his newly acquired genius in preventive and corrective medicine while he has stubbornly failed to do anything about a birth rate that was normal and necessary in the days when the normal life span was 35 years. The result is that at the present time the world's population is rising at the rate of 130,000 a day. We are adding the equivalent of Canada, Mexico and Central America to the earth's people every year with the curve rising sharply.

Fortunately, we Americans live in a blessed country where an accumulation of our resources and our skills and our form of government has permitted us to provide more for everybody as each decade passes. For us, this euphoria will continue for some years yet to come, but much of the world faces disaster. In spite of desperate efforts to industrialize, the per capita income of India is sinking. By borrowing vast sums, Egypt has built the high Nile Dam and a vast system of irrigation that will increase the arable acreage 30%. By the time the dam and the ditches are finished, the population of Egypt will be 38% greater than it was at the time the project started, and there is only one Nile.

Now, how we are going to meet this problem is still not clear, but it is pretty certain that the era of baby bonuses will be short-lived. It is pretty certain that we will soon recognize the insanity of providing federal funds to encourage the irresponsible production of illegitimate children, most of

whom are not only miserably served by their parents, but genetically deprived as well.

Our children's children will not only not get tax exemptions for large families, but it is probable there will be tax penalties. Still, I can't see how, at this late hour, we can stabilize the world's population soon enough to avoid an atomic struggle for land and resources, and while this may temporarily relieve the population problem, it will be a solution that will violate all the tenets of religion, humanity and common sense.

So you may now be asking yourself whether I was joking when I entitled this speech, "It's a Great Time to be Alive."

Let me hasten to deny it. I merely wish to plead "not guilty" to being a Pollyanna. We have some tremendous trials ahead, and mankind will go through great agonies, as he encounters them, because his philosophy has been overleaped by his cleverness and his forward vision is still too short to permit him to react in time to the "bridge out" sign.

We are not stupider than we have been. In most respects we are more intelligent. The trouble lies in the fact that the speed we have now achieved requires an intelligence greater than we now possess. So if you put me down as a short-range pessimist, I plead "guilty," but on the Western horizon I see what appears to be clearing weather.

Mankind, I believe, has a tremendous future, and this future began about 700 years ago when old Friar Roger Bacon hit upon the scientific method. And what is the scientific method? It is simple. You test. If the result appears to be a phenomenon, you don't swallow a talisman or try to drive the devils out of it or look around for a witch to burn. You seek to explain what happened within the laws of nature, and there, ladies and gentlemen, to borrow a current Chinese phrase is, "Where man took a great leap forward."

It seems hard to believe that before old Roger came along, the advancement of learning depended largely on fitful inspiration, intuition and accident. Knowledge was not disseminated. Some time before the dawn of the Pharaohs, some naked tribesmen in Africa stumbled upon the blow gun, and some time before the birth of the first Inca, another naked tribesman in the Amazonian jungles also invented the blow gun. Neither taught

the other. There was no communication, and so it was all over the world: Man inventing, forgetting, reinventing. Arts being lost, civilizations carrying their secrets to their graves, and all the time man wandered about in the thick jungle of taboos and magic trying to work his charms, grinding up unicorn's horns and attempting to find that combination of henbane, dragon's blood and pieces of the true cross which would turn a lump of lead into purest gold.

Even after Friar Bacon laid out his primitive laboratory, the world was painfully slow to accept the scientific method. Paracelsus met his end when he laughed at the theory that too much bile caused illness.

The servants of a German physician threw him out the window. Galileo was forced to recant because he dared to discover how the solar system really works, and as late as 1925 the young high school biology teacher, John Scopes, was fined, not because what he taught was demonstrably wrong, but because he had moved too far ahead of the philosophy of Tennessee.

Still, the method caught hold. Men wrote down their findings and their formulae. Each generation began to add compound interest to what had been known before, and the curve of man's discoveries was slowly steepened toward the vertical.

The old grandpa's musket was standard in the British Army for 111 years from the Battle of Blenheim to the Battle of Waterloo.

The Springfield Rifle lasted 35, from 1903 to 1938. The M-1 Rifle was used for 12. Since then radical improvements have tumbled over themselves so quickly that the United States Army is at a loss when, if ever, to order a standard replacement.

So climactic is this explosion of knowledge that already one of the chief worries of modern industry is again how to avoid wasting time and money rediscovering the already discovered.

The trouble isn't the ancient one, the failure to record that which has been found. The trouble is that too much is recorded. An army of scientists can't keep up with the developments in even a very narrow field.

There is, for example, no science newer than space science. Yet, a few months ago at Huntington Beach, California, I visited a Douglas Aircraft library filled not with books, but with electronic drums on which the company is desperately trying to

record the results of space research by itself and its competitors. Unless we generate an atomic cloud that kills off all but a handful of remote bushmen, man will never know less than he does now. So widespread is this dissemination of wisdom that our progeny are unlikely to suffer a disaster comparable to the burning of the ancient library at Alexandria, and from here on the road is up and the vistas are going to grow broader fast.

We are living a long time today, and our children will live longer. Those who moan about the terrors of an atomic age ought to visit an old New England graveyard and contemplate the fact that only yesterday 30% of our forebears didn't reach their sixth birthdays. We are impressed by the awful toll of cancer and heart disease, overlooking a joyful truth, and the truth is that these are ailments of age which most of our ancestors didn't live long enough to contract.

Last New Year's day I asked our boys to check the state health records in Oklahoma. Throughout all of 1964 there were among our two and one-half million citizens no deaths from typhoid, none from small pox, none from diphtheria, polio or malaria, and yet these were the diseases that had filled our pioneer cemeteries.

The march of preventive medicine is only the first dividend. Much more exciting is our dawning ability to replace worn-out body parts with artificial or borrowed ones.

Artificial kidneys are wheeled up and down the corridors of your hospital. The Duke of Windsor goes to Houston to have an aneurysed artery replaced by a plastic pipe. Completely severed limbs have been successfully reattached. We are on the threshold of human overhauls that stagger the imagination. Yet, mere survival is no advantage if the survivor has lost his zest to live, so a major segment of medicine is devoted to geriatrics, the art of prolonging health into old age.

On an ancient steamer crossing Lake Titicaca in Bolivia last November I came across a cheerful octogenarian from Ohio. "When I retired at 70," he said, "I thought I would like to see a little of the world. At 75 I decided I would like to see a lot of it, and now I want to see it all."

That is what geriatrics is trying to do for us.

The most exciting of all is the dream, still beyond the horizon, of remaking men. Some very sober medical

geniuses are convinced that when we learn to understand the life forces in the amino acids, and when we can probe some distance into the fantastic complexities of genes and chromosomes, it will be possible to eliminate by medical means those inherited characteristics which produce instability and weakness and to stimulate the strengths and virtues.

Admittedly, this is moving up very close to the Throne of God, and in unscrupulous hands, a world of docile submen could be produced, perfectly conditioned to bow to the will of a master elite.

Let us not forget Aldous Huxley's "Brave New World," or George Orwell's "1984." But I have never watched the beery crowd at a bullfight without reflecting that man could stand a lot of improvement.

All these marvelous developments have precipitated a crisis in education. There is so much more to learn than there ever was. The crisis would have been great enough in any case, but it was intensified in America by the so-called progressive educators in the far out disciples of John Dewey who started slowing down teaching in America at the precise moment they should have been speeding it up. What they did, of course, was to abandon the scientific method. Instead of testing objectives, they embraced, for example, as an article of faith, the look-see method of reading which was supposed to teach children to read faster. It didn't, and now our colleges are struggling with thousands of undergraduates who can't spell "undergraduate," and who move their lips as they stumble through their textbooks.

The public must also share the blame that begrudge salaries to teachers that are cheerfully paid to bricklayers and Playboy Bunnies. The football coach taught science on the side. High schools were judged by the height of the drum major "shako" and the shortness of the skirts on the baton twirlers.

No one seemed to worry if little Johnny quit counting as soon as he ran out of fingers. Our schools were dedicated to teaching children "how to adjust to the peer group" as the progressives put it. In other words, how to be comfortable as part of a faceless mob.

Well, the results were awful. Just in time, the Russians put Sputnik into the air, and America reacted characteristically with panic.

All of a sudden education, hard

education, that is, was in. Everybody started running around crying that we had fallen behind, that the nation's survival depended on our catching up. The togetherness school for teaching ran for cover. On every hand you heard suggestions for crash programs.

The confusion has been indescribable, but some wonderful things are happening. The consolidation of little schools to provide a wider choice of subjects has become fashionable over the dead bodies of the village storekeepers. The new mathematics which has rendered gaffers of our generation incapable of doing the homework of our fourth grade nephews is leading our children into the binary system in the computer age. There has been a great and healthy swing back to phonics reading. Experiments in many grade schools are showing us what the Europeans have always known, that foreign languages are most easily absorbed while a child is learning his own language. Visual aids and television teaching are at last on the march, and while there is a bitter argument about the efficacy of programmed learning and teaching machines, there are honest efforts to test them.

The point is that if we don't drop the ball now or retire into complacency, there lie in our hands tools for vastly intensifying our teaching methods and shortening learning time.

We grossly underestimated the capacity of healthy young minds to absorb information. Our trouble lies in the fact that in most cases, our teaching has been too slow and too dull. We are heading into an era in which all children not cursed by subnormal IQ's will be reading in pre-kindergarten, in which the ring-around-the-rosy set will comprehend not only simple arithmetic, but some pretty sophisticated mathematics, and many college courses are going to drop down into high school.

All this is going to be absolutely necessary if the next generation is to be able to use the tremendous new truths, inventions and discoveries which are crowding in on us today.

Another reason why this is the most wonderful age in which human beings have ever lived is because we now possess tools which, when we learn to use them properly, will render it more difficult for mythology and illusion to survive.

The science of statistics make it possible to amass facts as we have never done before.

An adequate number of facts will permit us to develop evermore precise laws of probability, and when we understand the probabilities well enough, we can make forecasts of steadily improving accuracy.

That we continue to flounder in a swamp of error is not the fault of our techniques for knowing. It is because essentially we remain wishing animals, hoping animals, instead of becoming what the Lord made us, reasoning animals.

The British pound is in dire trouble because too many Englishmen can't get it through their heads that with the Empire gone, they must export or perish, and you can't meet the competition by going out for tea.

Potentially rich nations of Latin America are trying to finance early retirement and complete Social Security by the simple device of printing money. In our own country we have a class of visionary humanitarians and opportunistic politicians who would like to dismiss perpetual deficits by pointing with pride to what they call "social gains." Yet, there is no older truth in human affairs than that wealth is only the real or potential possession of something that human beings need or think they need, that it cannot be divorced from production, that production, unless it is slave production, depends upon confidence in the currency, and that no system of social benefits can survive national bankruptcy.

At the present time, nations are sailing down reef strewn channels without lookouts to scan the waters ahead, and with the sails filled with the winds of their own desires; but the day will come when both economic and political science problems can be reduced to formulae, when a properly programmed computer will be able to come up with some very significant answers in five microseconds.

Even with our present state of knowledge, there is no excuse for the disasters of wishful thinking now being visited on men and nations. One good proof that illusion has difficulty surviving, can be found paradoxically in the growing menace of Communist expansion. Communism unhappily doesn't work very well because it can't deliver on its promises. It attempts to isolate its people from the outside world. It seeks to fill their brains with propaganda and to sterilize their eyes and ears by censoring print and jamming the airways. But time works against this technique. Curtains leak



light. Complaints become audible, and as the core grows rotten, the necessity to expand becomes imperative for faulty philosophy must either wither, change, or buy time by conquest.

Right now in Asia the time buying is under way. It can only succeed if we who know freedom lose our nerve for the best proof of collectivism's weakness is the fact that it cannot sit in peace and win the world by its glorious example of prosperity and happiness. It must wage war either covertly by subversion or overtly by armed attack.

Even where communism wins, it faces the embarrassment of example. I recently visited every capital in Central and South America, and don't think that the muffled screams from Morro Castle haven't been heard from the Rio Grande to the Straits of Magellan.

The Communist convulsion will be long and immensely dangerous. There will be successes. You may see much of Africa pass for a time under nominal Communist regimes because any form of authoritarianism is preferable to chaos, but to say that communism will take the world is to say that the world will take an ideology that cannot live with any degree of human freedom and cannot deliver any substantial amount of human welfare.

The wave of the future—that is what Adolf Hitler said Nazism was.

And now, ladies and gentlemen, what of us? What of the hundreds of millions of us who stand in the sun beyond the shadow of coercion and terror, who are the masters of our own tongues? What is our obligation? Our proper place in history?

I would say that we must be a generation of courage; not flag-waving courage or rifle and drum courage, but quiet determination that great opportunities will be seized and horrible possibilities will be recognized and resisted.

We never had ancestors who needed courage as we do. Always before there were unassailable castles or concealed caves into which the timid could retreat. Today there are no citadels, no 'fraid holes. All the world can be a battle ground, and this must be a generation of discernment. We must learn to distinguish between eternal verities and changing conditions. The changing conditions will require flexible minds.

We must constantly review our political prejudices, our business techniques, our economic ideas and social

theories lest they become unreal and obsolete and illusive.

This is no time to get ossified. There is too much new data pouring in. But we must also remind ourselves that among all the marvelous new synthetics man hasn't yet found a substitute for honesty or decency or devotion or faith, and fashions that claim that any of these are unnecessary or out of date are themselves illusions.

Morality has only one excuse for existence, and that is that it provides the climate under which a just and orderly society can flourish. That is excuse enough.

All Americans living today have arrived in the electric moment in our national history. The ideology that people are too stupid to rule themselves, that they are better off conforming to new cases and edicts handed down by a self-appointed aristocracy, remains strong in this world. The Czar of Russia, the Empress Dowager of China and the old dictators of Cuba were no friends of the democratic system, but at least, they had no common ideology. Their successors have, and that ideology contains an article of faith that free people will eventually debauch themselves through indiscipline and selfishness, and that their states will not survive against the single-minded determination of their enemy.

This, we do not believe, but stubborn faith in free institutions is not enough. We must make freedom work as it never worked before. What about financial responsibility and fiscal soundness? Are we, through our disinclination to vote taxes to match our demands and desires, willing a disaster upon our children? If so, let's pray the Lord's forgiveness and mend our crooked ways.

What about public welfare and relief? Are we making adequate provision within the scope of our resources for protecting the old and the ill and the plainly unendowed so that no innocent person will lack necessities? Or are we through misplaced sentimentality and hope of political gain creating a class of professional mendicants who will eventually destroy our ability to help even those who deserve and need help?

What about our institutions? Are we turning the education of our children over to people willing to accept a peasant's wage? If so, our children will get a peasant's education.

What about the twisted, the vicious

and the anti-social among us? Are our courts firm in the doctrine that it is the innocent who have the first claim upon the law, and that he who weeps for the offenders must first weep for his victim? And at the same time, are we dissatisfied with penitentiaries that do not make penitents, reform schools that fail to reform, and the whole medieval system of correction that further perverts the already perverted, further weakens the already weak, and serves as a strange hospital that takes in the ailing and turns out the mortal sick?

These are questions of the hour, and honest answers can't be delayed until tomorrow. These are the times when we must walk out under the stars along and divest ourselves for the moment of our political labels, our foolish preconceptions and our rigid dogmas and ask ourselves: "What is right? What is true? What is reasonable?"

We must do this because in this great moment fortune has given us, the American people, an unexampled opportunity to throw weight into the balance of the history of the world. If we shirk this opportunity or use it badly or sell it for a mess of pottage, we will be forgotten quickly and we will deserve the forgetting.

Let no one dream of the good old days. This, as Winston Churchill said, "May be the finest hour. This hour will not be seized by moral cowards."

It was just eighteen months ago when poor Kitty Genavese was repeatedly stabbed and slowly killed at midnight in a Long Island suburb while a 10-story apartment house full of people seethed with horror, but it was 30 minutes before one man out of 300 peeping from behind his curtains had the courage to call the cops. "We

didn't want to be involved," wailed the tenants.

Because too many good people don't want to be involved, the parks of our great cities are empty after sundown and people walk the streets in fear.

This, ladies and gentlemen, is the time to get involved. Only the weak and the insecure have any valid excuse for cowardness. If you are never going to miss a meal, if you have no reason to be afraid of the boss, if your social position is satisfactory, then ask yourself this question: "How is my yellability? When I see injustice, do I yell? When I see corruption, do I yell? When I see cynicism and filth and sleazy standards and utter fakery, do I yell? Or am I afraid that I might be laughed at as a foggy, that I might be thought old-fashioned, that I might be accused of being out of the main stream of current thinking?"

Let me make a suggestion. Fly over the lower Mississippi. See how for 50 miles on either side of the present channel you can trace the meanderings of what were the main streams of past centuries, but all the meanderings of the great river have never been able to change its true direction, the direction of the sea.

There are immutable laws of decency and self-discipline which transcend the confusions of fashion, and without which no civilization will survive. Time's awasting. We are not getting any younger. Do we stand or do we flop? This is not an age for sissies nor for whiners nor for those who shirk their duties to other men or waste their time, but for people of daring and courage. This is an age for joy. The dangers are immense. The promise is immense. Let us pray that we may live above ourselves. It's a great time to be alive.

## EULOGY—McCUNE GILL

By RALPH HUNSCHÉ

*President, Title Insurance Corporation of St. Louis, St. Louis, Missouri*

The members of the American Land Title Association record this expression of their sense of loss and regret at the death of McCune Gill.

He will be remembered preeminently as a titleman, but also as an attorney, author, historian and teacher. He was recognized as a leader in these fields by his community. As ripples roll from a stone thrown into a

pool of water, so his intellectual influence will be felt in generations to come.

He was associated with the title industry and with Title Insurance Corporation of St. Louis and its predecessor companies for more than sixty-three years. At the time of his death at age eighty-two, he was Chairman of the Board of Directors

of this company. He loved the industry and gave freely of his time and energy to increase its stature and recognition. He served in many capacities and on many committees and in 1923 was President of the Missouri Title Association and in 1936 was President of the American Title Association.

To those of us who knew him well,

## REPORT OF THE COUNCIL OF PAST PRESIDENTS

By **MORTON McDONALD**

*Chairman; Chairman of Board, The Abstract Corporation, Deland, Florida*

President Joe, most of those present, I am afraid, think of this report as the report of the nine old men. We don't consider it that way. We are somewhat confused, and like the monkey I recently heard of who had been taught to read and talk, his keeper required that he read the Book of Genesis from the Bible and to read Darwin's theory on relativity. After he got through he asked him what he had learned. He said, "Well, I am confused. I don't know whether I am my brother's keeper or my keeper's brother."

We past presidents are somewhat in that condition.

There are at the present time, to the best of our knowledge, 22 past presidents of the American Land Title Association, seven retired and fifteen just tired. We had 13 at our luncheon Sunday. Two others are present at the present time.

We came to the decision and conclusion that the Association is not running quite as well as we could run it ourselves, but that it would survive.

To you younger members, any time you see that past national president's

he will be remembered for his kindness of heart, his willingness to extend a helping hand, his keen memory and his delightful sense of humor.

To express the esteem and appreciation of the membership of this Association for McCune Gill, it is ordered that this resolution of our sentiments be entered upon the records of the American Land Title Association.

ribbon on the badge, we are glad to talk to you because we don't know it all, but we think we do.

We do want to compliment and express our appreciation for the recognition given us at the reception Sunday evening. It was outstanding. There were some great photographs, and I would like to ask at this time that all past presidents wear their medals to the banquet tonight. We are proud of that.

Now in closing, I would like to give you just a few figures. We are always interested in figures. Sometimes the type of figures change that we get interested in, and at the present time I made a little checkup of the 13 past presidents who attended the luncheon Sunday and found that the total number of conventions attended by those 13, totaled 331 national conventions. If you consider a period of time of 24 hours to go and come to the convention and three times 24 hours for the time staying at the convention, it would amount to 3 years and 229 days.

Now you can decide whether it was wasted, enjoyed or what. We, as past presidents, have enjoyed every minute of it. Thank you.

## ADDRESS

By **MAURICE G. READ**

*President, National Association of Real Estate Boards*

It is a pleasure to greet you in the name of Realtors of the United States who are so closely allied with the 40,000 men and women engaged in the title evidencing profession.

Problems that develop for Realtors

in marketing, appraising, and managing real property are not separate and distinct from the problems that confront title experts in their work of assuring the security of real estate as an investment.

During the current shortage of water in New York City, some restaurants that put up signs near the hat warning patrons to "Watch Your Hat and Coat" have added another sign which reads: "Water Is Not Served Unless Requested." One thirsty diner observed the latter sign and requested water. Having solved that problem, he heeded the other sign and watched his hat and coat. While so engaged, someone stole his glass of water.

He had problems that were more closely related than he thought—and so, perhaps, do we.

That really is my principal message today—to cite some of the reasons why Realtors and those engaged in title insurance need to keep attentive to the mutual problems of our interlocked fields of work.

Those engaged in both our fields are interested in an active and unencumbered real estate market. This is so elementary that we seldom stop to think that free movement in our market, one of the strong features of our national economy, is not paralleled in every free nation, and is not to be taken for granted in ours.

It can be injured. In fact it now faces a definite threat.

The threat, which is large-scale, arises from a legislative event of small scale.

Congress recently acted to repeal the nominal federal documentary tax that requires a buyer of real property to affix to his deed revenue stamps in the amount of 55 cents per \$500 of the price paid for the property. This tax has thus amounted to \$122 for the buyer of a \$20,000 house. It has not been regarded as burdensome, and it has had a statistical utility. Generally, buyers place no more stamps on a deed than are required. The deed, with these stamps affixed, being recorded in a place available to the public, provides appraisers, economists, statisticians—and the merely curious—with a source of useful data on the market. About a dozen states have similar stamp taxes.

In Nebraska the state legislature recently adopted a law which will substitute for the federal tax a state stamp tax of 55 cents per \$500 of the price paid—exactly the same as the federal rate—on January 1, 1968, the date on which the present federal stamp tax will expire.

If there is to be a substitution of state for federal stamp tax, it should

certainly follow the pattern of this Nebraska act, recognizing that the statistical value of the measure is its sole justification. Under those circumstances, we would propose to the various states that there be uniformity in the rate, recognizing its statistical value.

The threat that so greatly concerns us, however, is the recommendation of the Advisory Commission on Intergovernmental Relations that states use the repeal of the nominal federal tax as an occasion for establishing substantial sales taxes—or "transfer taxes" as it prefers to call them—on real estate which is generally recognized to be saddled now with a disproportionate share of the costs of local government.

But in the view of the Advisory Commission, a newly imposed sales tax on real estate, as a consequence of the withdrawal of the nominal federal tax, should be regarded as having, to use the Commission's words "an attractive revenue potential."

This recommendation seems to ignore the facts about local taxation. Our modern society has come a long way from the pioneer days in which ownership of real estate was the primary measure of tax-paying capacity, but local tax systems have not progressed proportionately beyond the tapping of real estate to bear the costs of local government.

Recently Governor Edmund G. Brown of my State of California pointed out that real estate taxes "are unnecessarily excessive in most areas of California."

Governor William H. Avery of Kansas summed up the problem with his observation that: "At the turn of the century 75 per cent of Kansas income was from land or improvement in land. Now it's only 25 per cent, yet our ad valorem tax is continuing to carry approximately 75 per cent of the load in education."

Excessive burdening of real estate with the costs of local government was recently cited, in a *Wall Street Journal* survey, as the reason for a lack of new buildings in downtown Boston, and for discouragement to new industrial development in Utah.

These are but typical instances, yet property taxes are reported to be in a continued rise by more than a billion dollars a year.

With municipal costs also rising, what we need is an equitable and extensive broadening of the local tax

base, rather than increased dependence upon the already overburdened tax source of real estate.

State action that would leap over the nature of the federal tax that is being removed, and use its removal as a justification to supplant it with a sales tax on real estate should be regarded as unconscionable.

For a generation we have had a succession of major federal programs directed at placing home ownership within reach of an ever-widening segment of American families. Since the 1930's these programs have brought about a virtual revolution in home financing, surrounding the home buyer with more safeguards, constantly reducing down payments, lengthening amortization periods in the interest of lower monthly charges, so that almost every family headed by a wage-earner can look forward to owning its home.

A sales tax on real estate would be a down-payment tax nullifying much of the improvement in behalf of home-ownership opportunity that has been brought about in these constructive forms—a development of concern to prospective home buyers, to Realtors, and to title companies.

In our respective fields of work we have discovered that we have problems in public awareness of the nature of our services. This is evident by the fact that both the American Land Title Association and the National Association of Real Estate Boards are now launched on extensive programs of institutional advertising in national magazines to describe our services.

We need to exert ourselves in this, not so much because we have been unduly circumspect in explaining our work, but because the real estate market itself, the motivation of principals in the market, and the circumstances surrounding real estate transactions have become infinitely more complex in the past few decades.

A chairman of one of the committees of our National Association was once described in a home-town newspaper as a "fifth-generation real estate man." In accounting for this designation, he referred to real estate firms with which his father and grandfather had been identified, and remarked that when you go back further than that just about everyone, to some extent, was in the real estate business.

We were then a predominantly

agricultural nation. Zoning and subdivision regulations were undreamed of. No one had heard of a "scenic easement," air navigation rights, or of a mosquito abatement special taxing district. There was no multiple listing, sale and leaseback, or mortgage insurance. We did not have federal income tax laws that sometimes turn the normal incentives of a real estate buyer topsy-turvy. We had no anti-stream pollution laws, urban renewal, multiple overlapping local taxing jurisdictions, or a highly mobile population active in real estate markets.

In those days the transfer of property ownership was a relatively simple matter, and perhaps the average citizen who may have added a few acres to his farm from time to time felt no need of professional service in entering into a property transaction.

But those days are gone forever. We live in an increasingly complex urban industrial society with a vast array of complicating factors in the buying and selling of real property. This development has brought about a greater need for specialized professional service in marketing or acquiring property. In our respective fields of work, we have developed such professional services which can protect the interests of our clients, avoid costly misunderstanding, speed his transaction, and assure him peace of mind in making an all-important move.

And so we need to do more to acquaint the public with these services.

Public relations practitioners, in making a useful point, take a liberty with the English language by speaking of the numerous "publics" that a particular organization should keep in mind. Perhaps we are mutually "publics" for each other.

Interviews that have been carried out on our behalf indicate that many home buyers look to the Realtor or his salesman to explain the details of services to be performed by title companies, to describe the features of title insurance, and to give advance estimates of closing costs.

We trust that our communication with the public, and the relationship between our members and yours, create a full acquaintance with the specialized services of Realtors.

Possibly the findings in our interviews suggest appropriate subject matter for your communication with the public, including the special "public" that is represented by the sales-

men and employees of Realtors.

It is appropriate that both our organizations build a broad public understanding of the services we offer as our economy heads toward higher levels and a greater volume of real estate transactions.

As the economic advance continues, it becomes increasingly important that we look beneath the surface of statistical measures and examine the role of the business community in promoting a healthy pace of growth in the delicately balanced economic conditions that prevail.

The concern most frequently expressed relates to unforeseen depressing factors, and it is evident that various governmental moves are under consideration to offset any pronounced slowing down of the economy.

It is not beside the point, however, to give some thought to pitfalls of

an overheated economy that lie in the opposite direction, for inflation is a destructive menace that can nullify achievement and wipe out the fruits of production.

The strength of real estate as an investment—its tangibility and excellence as an equity holding in a growing nation—may under the shadow of inflation attract imprudent investors.

In our field of work we have a high obligation to remain alert to the danger, and to exert a restraining influence against unsound real estate investment, or financing on the basis of questionable valuations.

This is our avenue of service to the maintenance of orderly balance in the national economy, which can take us to a greater day in widespread property ownership among the families of America.

## REPORT OF MEETING OF AFFILIATED STATE TITLE ASSOCIATIONS

By ERNEST J. BILLMAN

*Chairman: President, Security Title Insurance Company, Los Angeles, California*

Good morning, Ladies and Gentlemen; It is a real pleasure for me to appear on the same program with my good friend, Maury Read, and we really have cooperation in California.

Once our Dodgers won the pennant, Maury was very kind to refer all requests for tickets that he had in San Francisco to me. And I am in the dilemma at the moment of what to do with these requests because they are coming from very important sources. I attempted to refer them to my friend, McConville in Minnesota, but he wouldn't accept this from California.

Our meeting the other day was one of interest to me, and I believe to most of the men and women who were in attendance. It left me somewhat frustrated when I realized that many of the people in the room had the same problems that he had in California, and I could only think about the chap who was having a beautiful dream that his wife and Bridgette Bardot were fighting over him, and his wife was winning.

We discussed many subjects, and what I will report to you this morning will have to be very much of a general nature.

I was tremendously impressed with the interest displayed by the people there. Thirty-six states were represented by their state affiliated officers. In some instances not only one officer, but two and three. This created a much better program and gave us the opportunity to discuss many subjects on a state level.

We tried to stay out of technical matters, and we tried to do and discuss those things which we felt were important to us at the state level.

We first went into the question of the directory; how important it was to have the information in the hands of the secretary by the first of October. We also discussed how important it was to extend the invitations to the national officers to participate in our state conventions, and this should be done at an early date.

One of the important items was: How are these things paid for? And

it was amazing to me to see the budgets of our various associations. Some were at no dollars, and one association has an annual budget in excess of \$100,000.

So it is very evident to me that those of us who participate on a national basis should offer assistance and help and guidance to some of the associations who are compelled to operate on a very small basis by reason of the lack of funds to carry on the program which is so necessary in their state.

We, in California, have a very active association, and we have a budget that gives us the opportunity to provide many services for our members that many states do not have.

We discussed the Association's approach and attitude and help in a legislative program. This again is very, very important because the results that we can obtain through the use of our association and the help are the important things, and we can accomplish so much more.

In some states this past year, the association was helpful in having placed on the statutes, legislation which would require a title plant. In another state an unearned premium reserve was set up. That was in my state of California.

In addition, we had legislation that was passed in regard to the posting and filing with the Commissioner of Insurance, rate schedules, policies and endorsement forms. We can accomplish many things for the good of our industry.

We discussed the types of membership—associate, affiliate, underwriting, abstracters and so forth, and we tried to cover every phase of our activity that might be of interest to the people in the room.

There were many subjects that we would like to discuss, but time would not permit it. All in all I felt that from this meeting I gained so much. I had the opportunity to meet many of my co-workers in this business whom I had not had the pleasure to meet before.

I would suggest to you if you have not attended one of these meetings of the state affiliated officers, that you take the time, because they are discussing our daily problems at the state level and at the level in which we operate each day.

I appreciate the opportunity of being the chairman of this committee because I gained myself. It was an honor for me and my company that I was able to be here.

Thank you very much, Joe.

## REPORT OF COMMITTEE ON MEMBERSHIP AND ORGANIZATION

By ROWAN H. TAYLOR

*Chairman; First Vice President, Mississippi Valley Title Insurance Company,  
Jackson, Mississippi*

**EDITOR'S NOTE: UNFORTUNATELY, MR. ROWAN H. TAYLOR, CHAIRMAN OF THE COMMITTEE ON MEMBERSHIP AND ORGANIZATION, WAS NOT ABLE TO ATTEND THE ANNUAL CONVENTION IN CHICAGO. THE FOLLOWING REPORT WAS PRESENTED BY COMMITTEE MEMBER, THOMAS J. HOLSTEIN, PRESIDENT, LA CROSSE COUNTY ABSTRACT COMPANY, LA CROSSE, WISCONSIN**

Under ordinary circumstances the work that a committee such as this does can be judged by the length of its report. That is, very likely the longer the report the less work has been done by the committee. I hope this report will be different. It is comparatively short because, as chairman I admit that we have not functioned as we should. In spite of the committee and because of the Association Staff, mainly Jim Robinson,

the ALTA has had what must be judging by past statistics a fairly successful year in obtaining new members. I am informed by Jim Robinson that 15 new members were approved at the Mid-Winter Conference and that the Board will consider 33 applications at its meeting on October 2. By the time this report is read some action will have been taken on that 33. In addition, because of a listing problem in Ohio, 59 new individual

memberships were approved for attorneys in Ohio. This was an unusual situation however, and something this committee had nothing to do with.

Past committee chairmen have taken different approaches to the work of this committee. One pursued it from the angle of forming new state associations. Mr. Rattikin last year made individual contacts with prospective members and was highly successful at it. The first way seems too broad and the last way seems to require too much individual effort. This year our contacts have been through state associations. Letters were written to the Secretaries of each requesting a membership roster so that a comparison could be made of the state membership and the national membership. There seem to be 35 state associations and of the number approximately half require that membership be compulsory in both the state association and ALTA. The problem in these states is to get members for the state association. At the same time this is done the ALTA automatically gains. Without giving names, one typical state had 131 licensed abstractors and title insurance agents and 33 of them did not belong to the state association and, therefore, not to the ALTA.

In the other states that were kind enough to reply membership in both state and national associations is not compulsory. The ALTA story has apparently been told with varying success. In one state for example, better than half of state association members belong to ALTA and in another less than 1 out of 10. These are extremes.

Some states have no association

because of the way business is conducted.

Attached hereto are membership rosters and letters of reply from various state associations.

Some suggestions would apparently be in order for the next Chairman of this committee. A determination should be made by the Board of Governors of ALTA as to how forceful a membership campaign is to be waged. If an all out drive is to be made, some expense money should be appropriated so that all state conventions could be attended by someone for the one purpose of telling the membership story. The membership committee should be largely increased, perhaps with a member from every state. Depending on the state situation, action should follow one of three courses:

(1) In states where dual membership is compulsory the effort should be directed to an increase in state membership.

(2) In states where ALTA membership is not compulsory an all out effort should be directed at those state members who do not belong to ALTA.

(3) In states without associations the individual contact method will have to be used.

I apologize to the members of the committee for not having called on them more for advice, but at the same time they should be thankful that they were not called on for much work either.

It has been a pleasure to serve the Association in a very limited way. I wish that it could have been more effective.

## REPORT OF THE JUDICIARY COMMITTEE

By RAY L. POTER

*Chairman; Vice President and Chief Title Officer, Burton  
Abstract and Title Company, Detroit, Michigan*

Your committee has made a conscientious attempt to include in this report brief summaries of significant decisions handed down in the last year by the state and federal courts, which decisions relate to the abstract and title insurance business or are thought to be of interest or importance in the general field of real property law.

Many of the members of the committee have been very diligent in their reporting. Unfortunately we can give no guarantee of completeness in our coverage for, life being what it is and the title business as good as it is, some members have not been able to perform their assigned tasks. However, thanks to the performance by a few above and beyond the call



of duty, much of the otherwise unexplored territory has been reviewed.

The decisions reported here are more numerous than has been customary but represent a small portion of the cases which have come to our attention. The selection of the cases to be included has been more than a little arbitrary and personal. The responsibility for this and for the editing is that of the chairman.

My sincere personal gratitude is extended to the members of the committee.

Respectfully submitted,  
Ray L. Potter, Chairman

Detroit, Michigan  
September 25, 1965.

#### ABSTRACTERS' LIABILITY

*Viotti v. Giomi*, (Cal) 230 C A 2d 730; 41 Cal Rptr 345 (1964).

A title company was held liable for negligence in omitting reference of a recorded declaration of homestead from a litigation report although the report was labeled "Preliminary Report only. No Liability hereunder."

Regardless of the designation of the report, the person employing the abstractor has the right to rely on its accuracy. The language used does not exculpate the abstractor from liability nor limit recovery to an action in contract. On appeal the judgment against the title company was reduced to limit liability to damages caused proximately by its negligence.

*Fogelberg v. Cassata*, 25 Wis 2d 67, 130 NW 2d 203 (1964).

Where a land purchaser recovered a joint and several judgment against seller on warranty and abstractor for sewer assessment and judgment was paid by the abstractor, the abstractor was permitted to recover from the seller who knew of the assessment and whose loss was not caused by the error in the abstract.

*Broser v. Royal Abstract Corporation* (Civil Court, NYC) 46 Misc 2d 717 (1965). (Appeal pending)

Having obtained abstract for use in mortgage foreclosure, plaintiff obtained deed in lieu of foreclosure and promptly contracted to sell the land. Omission from the abstract of judgment for \$1,763, discovered. After notice to and attempts to settle with abstractor, funds withheld from sale proceeds and used to pay judgment. Abstract expressly limited liability to \$1,000.

Judgment for \$1,763. *in tort* entered. Failure to foreclose (which would have cut off judgment) was not contributory negligence for plaintiff had no knowledge of judgment and was entitled to rely on abstract. The clause limiting liability to \$1,000, would be applicable in an action on contract but not in tort. Other defenses were urged.

#### ADOPTED CHILDREN

*Matter of Park*, 15 NY 2d 413, 207 NE 2d 859 (1965)

Will gave remainder, after life estate to daughter, to her issue with gift over on failure of issue. Daughter's only child predeceased her leaving surviving a natural daughter and an adopted son. Statute gave adopted child right to inherit from adopting parents but not the right to take a gift dependent on foster parent's leaving surviving issue.

The majority held the natural daughter and adopted son shared remainder equally, arguing that statutory purpose was to prevent defeat of gift over by adopting child. Dissent to effect majority view defeats partially rights of natural child.

*May v. Curry* (Tex) 385 SW 2d 602 (1964);

(Court of Civil Appeals. Writ of error denied by Supreme Court).

Prior to 1951 an adopted child inherited from the adoptive parents but not through them. By 1951 amendment, an adopted child inherited from and through the adoptive parents. A child who was adopted prior to 1951 was held to have the right to inherit from a natural son of the adoptive parents (the son having died in 1963 and the adoptive parents at an earlier date).

#### ADVERSE POSSESSION

Title to land extending beyond line of record ownership to a fence held to have been established by adverse possession although occupant did not know fence was not record line. *Loewenburg v. Wallace*, 151 Conn 355, 197 A 2d 634 (1964); *Rosebeck v. Criste*, \_\_\_ Ariz \_\_\_, 398 P 2d 678 (1965). Evidence of whether occupant would have claimed to fence had he known it was beyond record line was properly excluded. *Northwoods Development Corp. v. Klement*, 24 Wis 2d 387, 129 NW 2d 121 (1964). *Sanders v. Worthington*, (Tex) 283 SW 2d 910 (1964).

Where owner leased land and indicated to lessee latter could occupy to a fence which actually was beyond the boundary of the land as described in the lease, it was held that the lessee's occupancy to the fence was occupancy of the owner for purposes of establishing adverse possession.

*Adams v. Johnson*, \_\_\_ Minn. \_\_\_, 136 NW 2d 78 (1965).

The presumption a cotenant holds with permission of his cotenants was held to be overcome by evidence of exclusive occupancy for 50 years, payment of all taxes and insurance and retention of all profits.

#### AIR SPACE

*Jankovich v. Indiana Toll Road Commission*, 379 US 487, 12 L Ed 2d 305, 85 S Ct 493. (1965).

The Supreme Court of the United States dismissed, "as improvidently granted" its writ of certiorari theretofore issued to review *Indiana Toll Road Commission v. Jankovich*, \_\_\_ Ind \_\_\_, 193 NE 2d 237 (1963).

The City of Gary enacted an ordinance creating an airport commission, regulating the height of structures for 6 miles in all directions from the airport and prohibiting any structure within 6,000 feet from the end of a runway which would interfere with a specified glide angle. The toll road was constructed to within 743 feet of the end of a runway at a level 6½ feet higher than permissible. Action taken to compel removal of encroachment into glide angle.

The Indiana Court held that the right to the reasonable and ordinary use of air space above land is a property right which cannot be taken without just compensation and that Gary had attempted to appropriate usable airspace without compensation in an unconstitutional manner. The court made a distinction between zoning regulations which restrict use of property through lawful exercise of police power and the taking of property for public use.

The Supreme Court of the United States found the Indiana decision was supported by an independent and adequate state constitutional ground and, therefore, dismissed the writ of certiorari.

The allegation that the Indiana decision is inconsistent with the Federal Airport Act and therefore founders on the Supremacy Clause was examined and found without merit. *Roark v. City of Caldwell*, 87 Id 557, 394 P 2d 641 (1964).

An ordinance restricting height of structures and limiting use of land adjacent to an airport was held unconstitutional as authorizing the taking of private property without compensation, following *Indiana Toll Road Commission v. Jankovich*, \_\_\_ Ind \_\_\_, 193 NE 2d 237 (1963).

## BANKRUPTCY

*Britt v. Damson*, 334 F 2d 896 (9th Cir 1964).

Within 5 months after divorce granted and property settlement effected, former husband filed petition in bankruptcy. Trustee sought to recover community property awarded to former wife.

Held: (1) Although generally a trustee has all the rights of a creditor holding a lien, the statute has been interpreted to include only property in which the bankrupt has an interest. Here that interest had been terminated. (2) Creditors of marital community cannot set aside a divorce award as fraudulent under section 70. (3) Charge settlement was fraudulent under section 67 requires remand to determine whether former husband was rendered insolvent by transfer of capital remaining was unreasonably small to carry on his business.

*In the Matter of Diversified Development Corp.*, 341 F 2d 58 (7th Cir 1965).

Plaintiff, a Missouri banking corporation, became a mortgagee of Illinois land. Mortgagor went into receivership in Illinois. Since plaintiff was not qualified in Illinois it was barred from intervening in receivership and from foreclosing. However, since its claim was valid, although unenforceable in the state court, plaintiff was permitted to file a claim in subsequent reorganization-Bankruptcy Act, since the Bankruptcy Court does not sit as a state court.

## COMMUNITY PROPERTY

*In re Salvini's Estate*, 65 Wash 2d 426, 397 P 2d 811 (1964).

A gift of land was made by conveyance to husband and wife. Upon the wife's death, question arose whether land was held as community property or as tenants in common.

Notwithstanding general rule that property acquired by gift is separate property, it was held, as a matter of first impression in Washington, that the gift was to the community and was community property.

## CONDEMNATION AWARDS

*Petkus v. State Highway Comm.*, 24 Wis. 2d 643, 130 NW 253 (1964).

In partial taking of property for limited access highway, no damages awarded because special benefits (changing highest and best use from agriculture to service facilities for traveling public) found to exceed value of land taken.

Definition of special benefits to be considered extended from rule established in *Washburn v. Milwaukee & Lake Winnebago R. Co.*, 59 Wis. 364, 18 NW 328 (improving physical condition and adaptability to use) to include enhanced value resulting from change in highest and best use because of proximity to new highway.

*State Highway Commissioner v. Watt*, 374 Mich 300, 132 NW 2d 113 (1965).

To construct new highway a portion of defendant's motel property was taken. Traffic will be diverted from old road, on which motel fronted, to new road from which access to motel will be indirect. Thus business will be reduced presumably.

Commissioners valuation set aside by majority on the ground it considered decrease in business prospects. Diversion of traffic is not a proper element of damage. Making route to highway less convenient is not compensable. Three justices dissent on ground before and after valuation requires considering diversion of traffic.

*Max Wolf v. The Commonwealth of Puerto Rico*, 341 F 2d 945 (1st Cir 1965).

In evaluating land in condemnation exclusion of evidence on possible future zoning change was erroneous.

## CONDEMNATION, INTEREST ACQUIRED

*Buck v. City of Winona*, — Minn. —, 135 NW 2d 190 (1965).

City condemned land for park purposes. Later 5 acres were found unsuitable and city proposed to sell. Sale enjoined since city held easement

only.

The nature of the interest acquired by condemnation depends on authorizing statute. If statute does not permit taking a fee, only such interest as is necessary for purpose can be taken.

## DEED CONSTRUCTION

*Townsend v. Cable*, (Ky) 378 SW 2d 806 (1964).

A clause in a deed reserving a half interest in oil and gas for the benefit of Jesse Townsend who was otherwise a stranger to the deed was held effective to transfer said interest to Townsend. The intention being clear (to the court), technicalities should be disregarded and intention given effect notwithstanding the long established rule that words of exception or reservation are not words of grant.

*Ross, Inc. v. Legler*, — Ind. —, 199 NE 2d 346 (1964).

Strip of land 50 feet wide was conveyed to a railroad in 1908 by a metes and bounds description. There was no indication less than fee title was intended except description was followed by words "said strip of right of way being located in . . ." The strip was used for railroad purposes until 1948 when such use was abandoned and the land was conveyed to plaintiff. Seizing on the language quoted above and asserting that public policy opposes grant of such strips in fee simple, the majority held the railroad acquired only an easement which was extinguished when the railroad use was abandoned. Strong dissent.

*Winter v. State Highway Commissioner*, 376 Mich 11, 135 NW 2d 364 (1965).

The State had authority to condemn property for a limited access highway and to acquire either easements or fee title. In fact, easements acquired in most cases. One land owner voluntarily conveyed fee to state resulting in the prompt discovery of oil on the land conveyed.

Former owner sought to reform deed to convey easement only since that is all the State needed. Action dismissed.

*Fuller v. Drenberg*, 3 Ohio State 2d 109, 209 NE 2d 417 (1965).

An agricultural drain, which had been boxed in a sewer pipe line and was not ascertainable from the surface, was held to be a public watercourse in which the public has the same rights and privileges as in a natural watercourse. It was not such an incumbrance as to create liability under a warranty deed.

## DIVORCES, FOREIGN

*Simons v. Miami Beach First National Bank*, 379 US 877, 85 S Ct 1315, 14 I Ed 2d 232 (1965).

H & W, while domiciled in New York, obtained a separation decree awarding W alimony. Later H moved to Florida and obtained a divorce. W was served by publication but did not appear. After H's death in Florida, W sought to set aside Florida divorce decree and, even if same were found valid, to obtain declaration she had dower in Florida land. Action dismissed. Florida Supreme Court declined review. U. S. Supreme Court granted certiorari.

The U. S. Supreme Court (5 separate opinions) held the divorce was valid and dower was properly extinguished. There was no violation of the full faith and credit clause since H made alimony payments as required by New York until his death, so there was nothing left of the New York decree for Florida to dishonor.

## DOWER

*Hamm v. Piper*, 105 NH 418, 201 A 2d 125 (1964).

Where a husband conveyed his land to his daughters for an apparently inadequate consideration by a deed which was not signed by his wife and where the husband continued to occupy the land, it was held error to dismiss action by the wife's administrator against the husband's executor to establish dower rights—a prima

facie case was established entitling the administrator to a hearing on the merits.

#### EASEMENTS

*Walner v. City of Turlock*, 230 C A 2d 399, 41 Cal Rptr 29 (1964).

Upon appeal from a judgment granting a permanent injunction enjoining removal of a wall in which plaintiff had an easement for support, the judgment was reversed solely on the ground that the trial court failed to make a finding on the issue of whether the obsolescence of defendant's building had progressed to the point of making it economically disadvantageous for the servient tenement to continue subject to the easement.

Apparently the California law recognizes that obsolescence can become tantamount to destruction and extinguish an easement to the same effect as destruction of the servient tenement without fault of its owner.

*Renner v. Johnson*, 2 Ohio St 2d 195, 207 NE 2d 751 (1965).

Subdivider installed sewer and water lines under one lot to service another. Lots deeded separately with no reference to lines which were not discernible on the surface. Plaintiff, owner of lot being serviced, seeks to enjoin owner of other lot from interfering with lines.

Although plaintiff may have had an implied easement, it is based on the equitable right to reform his grant and is, therefore, unenforceable against a bona fide purchaser of the alleged servient estate.

#### ESCROWS

*Ingemar Johansson v. U. S.*, 336 F 2d 809 (5th Cir 1964).

The opinion deals with the problem of attachment of a federal tax lien to funds in escrow and indicates that, if a valid escrow arrangement was in effect prior to attachment of the federal lien, an advance under the escrow would be for a valuable consideration and free from the lien.

Upon remand to the U. S. District Court, S. D. Fla., a finding was made that there had been no escrow contract.

#### FIRST REFUSAL

*Gochman v. Draper*, (Tex. Civ. App) 389 SW 2d 571 (1965).

Lessee subleased to plaintiff giving latter first refusal if lessor desired to sell during term of sublease. Thereafter lessee mortgaged his estate by deed of trust containing a power of sale. Upon default, defendant purchased at foreclosure sale. Plaintiff held entitled to specific performance. The fact the sale was through foreclosure does not prevent sale from falling within "desires to sell" provision. Lessee "desired" to mortgage with power of sale.

#### GRANT AS CONTINUING CONTRACT

*McGuire v. Sadler*, 337 F 2d 902 (5th Cir 1964).

Plaintiff seeks to enjoin sale by Texas Land Commissioner of land claimed to be School Fund land on ground plaintiff owns same under earlier grant from the State. Dismissed for want of jurisdiction. Reversed, holding plaintiff should have his day in court.

A land grant carries the obligation not to repudiate a valid conveyance. A second sale by the State would be an impairment of contract implicit in original grant.

#### INVERSE CONDEMNATION

*Martin v. The Port of Seattle*, 64 Wash 2d 309, 391 P 2d 540 (1964).

196 property owners, complaining of injury resulting from vibration and noise caused by numerous low flying jet aircraft making direct overflights in some cases and merely flying near by in others, sought "inverse condemnation" in an action against a governmental agency having the power of eminent domain—i.e. sought to recover the value of property taken without compensation.

Such recovery allowed both where there was direct overflight and otherwise. The state constitution requires compensation for "taking" and for "damaging."

*City of Jacksonville v. Schuman* (Fla Dist Ct App) 167 So 2d 95 (1964). Cert. den. Sup Ct of Fla 172 So 2d 597 (1965).

Plaintiffs, who own land near a busy airport, alleged the noise and fumes, generated by the daily around the clock landing and departure of 90 commercial jets plus a number of the newest (and noisiest) military fighter jets which passed over plaintiffs' property at altitudes often as low as 100 feet, were tantamount to the taking, appropriation and confiscation of their property rights without the just compensation guaranteed by the constitution. Plaintiffs sought to recover the value of the property taken. The City appealed from denial of a motion to dismiss.

The appellate court found a cause of action had been stated. A continuing trespass or nuisance can ripen into an unconstitutional taking. A case of first impression in Florida. Court cites and follows *Martin v. Seattle*, 64 Wash 2d 309, 391 P 2d 540 (1964).

#### JOINT AND SURVIVORSHIP ESTATES

*Bernhard v. Bernhard*, \_\_\_\_\_ (Ala) \_\_\_\_\_, 177 So 2d 565 (1965).

Where statute (Title 49, Sec 9, Code of 1940, recompiled 1958) abolished common law joint tenancies but provided that effect should be given to provision for survivorship contained in the instrument creating the estate, land was conveyed to a husband and wife as joint tenants with an express provision that the entire fee should vest in the survivor. The husband sought to have the land sold for division.

The court found the deed created a tenancy in common plus a remainder in fee in the survivor. Division was denied since a remainder is not subject to division except by the voluntary act of all parties in interest.

#### LANDLORD AND TENANT

*Foodfair Stores, Inc. v. Blumberg*, 234 Md 521, 200 A 2d 166 (1964).

A lessee under a percentage lease opened additional stores in the vicinity. Lessor claimed such a lease includes an implied covenant by lessee not to divert trade and to attempt to attain maximum volume of business.

It was held that every contract implies parties are bound to act in good faith, but that no lack of good faith was established by the record.

#### LAND TRUSTS

*Gramer v. Roman*, (Fla) 174 So 2d 443, (1965).

In an action for specific performance against a trustee under an "Illinois Land Trust Deed", the denial of a motion to dismiss on grounds the beneficiaries were not made parties was affirmed.

The trustee held under a deed which designated the grantee as trustee, gave him broad powers to sell, etc., relieved third parties of the obligation to inquire concerning authority and disposition of receipts and specified that all beneficial interests were personality. The deed did not disclose the terms of the trust or identity of the beneficiaries.

Fla Stat Sec 689.071 FSA (enacted in 1963) provides that such a deed vests title in the trustee with power as specified in the deed. Since said statute is remedial it was held to apply to the deed in question notwithstanding the recording of the deed prior to the passing of the statute.

#### LIFE ESTATES

*Kennedy v. Durham*, 220 Ga 310, 138 SE 2d 567 (1964).

For the first time, the Georgia court held that on the petition of a life tenant alleging the land so held was unproductive, it was proper to direct the sale of the fee simple and reinvestment of the proceeds for the benefit of the life tenant

and the remaindermen.

*Holmes v. Holmes*, 65 Wash 2d 212, 396 P 2d 633 (1964).

Testamentary gift to wife "to use for her care and maintenance as she finds necessary" with remainder to another upon her death was held to give the wife the right to use and to sell freely during her lifetime.

#### LIFE ESTATES, FORFEITURE

*Worthington Motors v. Crouse*, \_\_\_\_\_ Nev \_\_\_\_\_, 390 P 2d 229 (1964).

In an action by remaindermen against a life tenant for waste, it was held that the remedy was damages and not forfeiture of the estate. The court adopted the majority view that forfeiture cannot be ordered in the absence of a statute authorizing same. The Statute of Gloucester was not adopted by Nevada when Nevada adopted the common law.

#### MUNICIPAL CORPORATIONS

*County of Los Angeles v. Nesvig*, (Cal) 231 CA 2d 603 (1965).

A device for the municipal financing of the construction of the Theatre and Forum (part of Los Angeles' Music Center complex which is reported to pay a significant part in a cultural renaissance alleged of be going on in Los Angeles) was found constitutional.

The validity of a ground lease of county property with a lease back to the county after construction of the two buildings was upheld where entered into in good faith and no immediate indebtedness for the aggregate rental installments was created. The county's liability was confined by the terms of the instrument to each installment as it fell due and each year's payment was for consideration furnished that year. Thus no violence was done to the constitutional prohibition against a county incurring debts exceeding the revenue in a given year without elector assent.

#### OIL AND GAS

*Rein v. Humble Oil & Refining Company*, \_\_\_\_\_ Okla \_\_\_\_\_, 400 P 2d 800 (1965).

A statute authorizing the Oklahoma Corporation Commission to regulate the production of oil and gas to prevent waste and to secure equitable apportionment among owners of leasehold interest of oil and gas underlying their land, and to fairly distribute among them the costs of production and of the apportionment is a proper exercise of the police power and does not violate the provisions of State or Federal Constitution.

An oil and gas lease which provided that its 10-year term would be extended and continued by drilling upon leased premises, if commenced before the expiration of the primary term, was held to be extended and continued in force and effect where producing well was completed on land not covered by the lease but within a drilling and spacing unit established by the Corporation Commission under the aforesaid statute.

#### PROFESSIONAL RELATIONSHIPS

*Calbom v. Knudtson*, 65 Wash 2d 137, 396 P 2d 148 (1964).

Defendant, a C.P.A., indicated plaintiff was not a satisfactory attorney and induced plaintiff's client to employ another attorney to probate an estate.

Finding that defendant intentionally and maliciously interfered with an existing professional relationship, the court entered judgment in tort for the full fee plaintiff would have received had he probated the estate.

#### QUIET TITLE JUDGMENTS

*Saiz v. Saiz*, 74 NM 558, 395 P 2d 907 (1964).

Husband and wife joined as plaintiffs and

secured judgment quieting in them title to land of which wife was the record owner. After husband's death, the wife secured judgment quieting title in her against husband's heirs.

The first judgment did not determine the rights as against each other of the parties plaintiff who were not adversaries. There is no impediment to assertion of full ownership by the wife in the absence of actions creating estoppel.

#### RECORDING LAWS

*Trager v. Hiebert Contracting Co.*, 339 F 2d 530 (1st Cir) (1964).

A general attachment, properly filed under Massachusetts law against all property of the defendant as well as specifically described property, which, through error of the U. S. Marshall and the indexing clerk, was indexed against the described property only, was held effective as notice to subsequent purchasers of the land which was not described.

#### RESTRICTIVE COVENANTS

*Decker v. Hendricks*, 97 Ariz 36, 396 P 2d 609 (1964).

Warehouse ordered removed as being in violation of building and use restrictions. Builder knew construction violated same. Hardship and comparative value of land for warehouse purposes and other purposes were found unimpressive arguments when made by an intentional wrongdoer.

*Turner v. Standard Oil Company of Kentucky*, 220 Ga 498, 140 SE 2d 208 (1965).

An addition to a gasoline station, whether properly called a shed or marquee as plaintiff claims or a canopy to protect employees and customers as defendant claims, is a building within meaning of restriction that no building shall be erected within 102 feet of the road.

*Winslette v. Keeler*, 220 Ga 100, 137 SE 2d 288 (1964).

In a case of first impression, the Georgia court held enforceable a subdivision restriction requiring the approval by developer of plans as to conformity and harmony of external design with standards of the neighborhood. It was also held that an allegation of compliance and the arbitrary and capricious refusal of the developer to approve stated a cause of action.

*Mam Restaurant v. Rector St Properties Assoc. et al.*, 16 NY 2d 623, 209 NE 2d 113 (1965).

Defendant NY Telephone Co, lessee of 5 1/2 floors in building involved, established with consent of lessor an "Office Canteen" where outside company was permitted to sell soup, sandwiches, desserts and beverages to employees only. At suit of plaintiff, who operated a public luncheonette in same building under a lease which provided landlord would not rent other space for same line of business, held landlord had not violated lease for Telephone Company was not operating a public restaurant.

*Kroger Company v. J. W. Weingarten, Inc.*, (Tex) 380 SW 2d 145 (1964) Court of Civil Appeals. Writ of error denied by Supreme Court.)

Land was leased for use as a supermarket. The owner and others who owned land in the area entered into an agreement restricting all other lands owned by any of them within 2 miles against use for a supermarket. Because parties who had no interest in the leased premises participated in the agreement, it was held void as a combination in restraint of commerce and a violation of the Texas anti-trust laws.

#### RIGHT OF INGRESS AND EGRESS

*Estate of Waggoner v. Gleghorn* (Tex) 378 SW 2d 47 (1964).

Statute giving person who claims right to use land, wholly or partially surrounded by land of another, the right of ingress and egress over such land via a reasonable route designated by the owner, but which statute provided no compensation was held in violation of the Texas Constitution.

#### RULE AGAINST PERPETUITIES

*Traywick v. Transcontinental Gas Pipe Line Corp.*, ——— A1a ———, 170 So 2d 802 (1965).

In ejectment, it was alleged that defendant's easements violated the rule against perpetuities and were void. Said easements permitted establishing and maintaining pipe lines and the adding of additional lines for which grantor should be paid \$1. per lineal rod.

The court viewed the expandable easement as a vested interest in the fee and no violation of the rule. A vested expandable easement was distinguished from an option to acquire future servitudes.

#### SERVICE BY APPLICATION

*Bekins v. Huish*, ——— Ariz ———, 401 P 2d 743 (1965).

A judgment granting specific performance of a contract to sell Arizona land was entered against a non-resident who had been served by registered mail outside of Arizona in accordance with statute. On motion to set aside on theory action was in personam and requires personal service, it was held that statute permitting service outside of state was not limited to any particular type of action and could be relied upon here in a quasi in rem action.

#### SPECIFIC PERFORMANCE

*Barnes v. Sind*, 341 F 2d 676 (4th Cir 1965).

Plaintiff sought specific performance of contract to convey land knowing defendant's wife had inchoate dower but indicating willingness to take title subject to that infirmity. District Court ordered defendant to quit claim.

Plaintiff appealed claiming he was entitled to a warranty deed. To obtain specific performance in Maryland, the plaintiff must pay the full purchase price without deduction for defects. The appeal indicated a warranty was desired as a basis for a claim which, if successfully made, would circumvent the rule. Specific performance denied. Remanded to determine damages.

*Mountain View Corporation v. Horne*, 74 NM 541, 395 P 2d 676 (1964).

Contract vendor, representing himself to own unencumbered fee simple, contracted to sell same. In fact, the land was subject to a mortgage and other encumbrances all of which were cleared by vendor after he started action for specific performance.

Held, rescission of contract by vendee is not justified by failure of vendor to have the clear title he agrees to convey where vendor can perform at agreed time. Specific performance granted.

#### STATUTES OF REPOSE

*Board of Education of Central School District No. 1 v. Miles*, 15 NY 2d 364, 259 NYS 2d 129, 207 NE 2d 181 (1965).

Sec. 345 of Real Property Law provides that rights of entry and possibilities of reverter shall be extinguished unless a declaration of intention to preserve same is recorded not more than 30 years after creation unless created prior to September 1, 1931, in which case the declaration may be recorded at any time prior to September 1, 1961.

Plaintiff, who acquired land in 1854 for educational use subject to reversion if such use ceases, terminated such use in 1962 and now

seeks judgment reverter barred. No preserving declaration had been filed.

Held, statute is unconstitutional as impairing contractual rights established by 1854 deed. Retrospective legislation can impair vested rights only to extent justified under police power to protect bona fide purchasers (as, for example, recording acts protecting against prior unrecorded instruments).

*Love v. Lynchburg National Bank & Trust Co.*, 205 Va 860, 140 SE 2d 650 (1965).

Plaintiff showed that more than 35 years had passed since minerals under his land had been reserved, no exploration or mining had taken place, taxes had always been assessed against surface owner only, no mineral deed had ever been recorded and 6 months had elapsed since case was docketed and no exploration had taken place. Under Secs. 55-154 and 55-155 of Code, mineral rights were extinguished under these circumstances and plaintiff is entitled to such a judgment if act is constitutional.

Held, act constitutional as a remedial statute of repose founded upon rule of convenience and regard for property rights. Since it is shown that mineral rights are of no value, no property rights are impaired or taken.

*Great Lakes Pipe Line Co. v. Wetschensky*, 193 Kan 706, 396 P 2d 295 (1964).

The court held void, because of uncertainty and ambiguity, Sec. 60-502 of the Kansas Code of Civil Procedure which provided that no person, regardless of disability, who is out of possession of real property, will be permitted to maintain any action to enforce any interest which arose more than 25 years before commencement of the action unless a preserving affidavit has been filed before the interest was terminated.

#### SUBMERGED LANDS (UNDER GREAT LAKES)

*Klais v. Danowski*, 373 Mich 262, 129 NW 2d 414 (1964).

Title to land patented by U. S. before Michigan became a state is vested in the patentee or his successors and did not pass from U. S. to the State of Michigan even if the land was or is submerged under the waters of the Great Lakes. The owner of patented lands continues to be the owner notwithstanding submersion of the lands and subsequent restoration to a dry condition by any cause. (A later statute prohibits filling lake bottom except with consent of the Department of Conservation).

#### TITLE INSURANCE LIABILITY

*Lane v. Security Title & Trust Co.* (Tex) 382 SW 2d 326 (1964) (Court of Civil Appeals. Writ of error denied by Supreme Court).

Local agent of title insurer issued binder for mortgage policy failing to show 2 liens. Binder relied on for construction. Permanent lender required policy of another company. Liens discovered and paid. Suit against agent and title insurer in tort. Agent, found to have acted willfully, held liable in tort for actual and exemplary damages. Title insurance company, which had no knowledge, held liable for actual damages only.

*American Title Insurance Company v. L. Tonnett Byrd*, (Tex) 384 SW 2d 683 (1964).

Art. 4004, Revised Civil Code of Texas, which permits recovery of actual and exemplary damages for false representation of any material fact with regard to a real estate transaction, was held not to apply to a suit against a title insurance company based on the failure (through oversight) to show an outstanding mineral interest on a title insurance commitment. Exemplary damages were denied without prejudice to an action in contract or tort.

*Applefield v. Commercial Standard Insurance Company*, (Fla) 176 So 2d 366 (1965).

Plaintiff alleging he purchased various mortgages in reliance on defendant's title insurance binders agreeing to insure same as first mortgage, sought declaratory decree that title insurance policies be issued and that defendant be required to remove encumbrances which were in fact senior to the mortgages acquired.

Judgment for defendant was affirmed on the ground that plaintiff and his attorney knew no title examination had been made by defendant's issuing agent, his attorney knew of existence of senior encumbrances and so advised plaintiff, but plaintiff accepted assignor's affidavit that assigned mortgages were first mortgages in lie of investigating. Plaintiff was charged with his attorney's knowledge and plaintiff's failure to disclose his knowledge to the insurer rendered the binders null and void under the terms thereof.

*Harrison v. National Title and Abstract Co.* (Tex), 391 SW 2d 112 (1965).

Plaintiff purchased land across which ran power line and obtained title insurance policy which, apparently, excepted a 30 foot easement (within which existing line ran) and was subject to "Rights of Parties in Possession." Power company actually had a 100 foot recorded easement the policy did not show. Power company expanded its use into said larger easement. Plaintiff sues title company which defended on "Rights of Parties in Possession" exception.

Held said exception covers the said recorded easement. Rule of Board of Insurance Commissioners held inapplicable.

#### TRESPASS

*509 Sixth Avenue Corp. v. New York City Transit Authority*, 15 NY 2d 48, 203 NE 2d 486 (1964).

In 1939 a subway was constructed which, at a point 30 feet below the surface, encroached on adjoining land. The plaintiff acquired said land and in excavating discovered encroachment. Suit for damages. Plea of 3 year statute of limitations governing injuries to land.

Held, the encroachment was a continuous trespass giving rise to successive causes of action. Action would be barred only by creation of easement by prescription or acquisition of title by adverse possession.

#### UNAUTHORIZED PRACTICE

*Chicago Bar Association v. Quinlan & Tyson, Inc.*, 53 Ill App 2d 388, 203 NE 2d 131 (1964).

Lower court enjoined real estate brokerage firm from giving clients legal advice concerning real estate matters and from preparing legal documents such as deeds, land contracts and documents necessary to clear title except defendants were permitted to prepare initial sales contracts provided regular forms were used and no changes were made. The intermediate appellate court modified injunction to restrain from preparing any instrument and otherwise affirmed.

It was said there is no distinction between filling in blanks and drafting the entire document. The "incident to business" rule is an evasion of the hard core principle of the public interest which must control the decision. The character of the act and not whether compensation is received is determinative. Parties to the transactions require representation by one of high skill and undivided loyalty.

(It is reported that a petition for leave to appeal to the Illinois Supreme Court was denied but that a later petition was granted. Close to 50 real estate boards are joining in amicus curiae briefs.)

(It is also reported that a proposed constitutional amendment is being prepared to negate the

effect of this decision.)

*Cape May County Bar Ass'n v. Ludlam*, 45 NJ Super Ct 121, 211 A 2d 780 (1965).

Defendant, a non-lawyer, was enjoined from engaging in the practice of law by drawing bonds, mortgages, deeds, warrants, releases of mortgages, affidavits and other legal instruments and from carrying on a conveyancing business. This was not a denial of a property right although defendant is the third generation of a family of conveyancers.

*Lawyers Title Insurance Corporation v. Georgia Bar Association* (Superior Court of Bibb County, Georgia)

Chapter 9-400 of the Georgia Code specifically authorizes title insurance companies to prepare documents as an incident to the issuance of title insurance. After the Unauthorized Practice Committee of the Georgia Bar authorized filing of suit against Lawyers Title, the later brought action for a declaratory judgment. On demurrers the Trial Court has ruled in favor of the constitutionality of the act. Decision has been taken under advisement. (An early decision and an appeal to the Georgia Supreme Court are anticipated.)

#### UNIFORM COMMERCIAL CODE

*Alloway v. Stuart*, (Ky), 385 SW 2d 41 (1964).

A chattel mortgage, filed as a financing statement, was held sufficient to give notice to third parties even though the mortgagee did not sign same. The court said it took this view because a strict application of the new Uniform Commercial Code would result in depriving the creditor of an otherwise good security and would be a hardship. It is indicated that "in a few years" the strict rule might be applied.

#### U. S. LIENS

*Dime Savings Bank of Brooklyn v. Beecher, Jamaica Savings Bank v. Williams*, (NY) 23 App Div 2d 297 (2nd Dept) (1965).

U. S. judgment liens, based on loans insured by the F.H.A., were held junior to subsequently accrued real estate taxes.

Under the National Housing Act real property held by the Commissioner is not exempt from local taxation. The court reasoned that, since Congress did not intend to make U.S. owned land exempt from local taxes, it could not have intended to make U.S. liens superior to local taxes.

*Commercial Mortgage & Finance Co. v. Woodcock Construction Co.*, 51 Ill App 2d 61, 200 NE 2d 923 (1965).

After execution of deed of trust, owner entered into contract for improvements which resulted in the filing of mechanics' liens which appeared junior to the deed of trust. Thereafter internal revenue liens were filed against grantor and U.S. seized and sold land. Plaintiff, trustee under the deed of trust, foreclosed. The purchaser from U.S. and mechanics' lien claimants assert their interests.

Held, the deed of trust is a first lien. Subject thereto, the purchaser from the U.S. holds clear title, he having acquired all of the interest of the taxpayer free from the mechanics liens which were junior to the U.S. lien.

*In the Matter of Mesa Steel Corporation, Bankrupt*, 229 F Supp 669 (D C Ariz 1964).

An unrecorded mortgage, valid as between the parties under Arizona law, held prior to a later federal tax lien which was assessed against the successor of the mortgagor.

*Phoenix Title and Trust Co. v. Stewart*, 337 F 2d 978 (9th Cir 1964).

Deed to Phoenix "as trustees" was recorded containing no reference to an indebtedness or security interest (evidenced by promissory note executed simultaneously). Subsequent judgment

creditors and subsequent state and federal tax liens were held junior to what was regarded as a mortgage lien.

*United States v. Speers*, 335 F 2d 311 (6th Cir 1964) (Certiorari granted 379 US 958, 85 S Ct 665, 1965).

The Supreme Court will review this C. C. A. decision that a trustee in bankruptcy has the status of a judgment creditor and, as such, has priority over a federal tax lien not recorded until after bankruptcy. Other circuits have held otherwise.

(In *US v. Pioneer American Insurance Company*, 374 US 84, 83 S Ct 1651 (1963), it was held that attorney fees on mortgage foreclosure were subordinate to a federal tax lien arising before foreclosure in a state (Arkansas) where the amount thereof was uncertain and not choate until fixed by the court.)

*Camptown Savings & Loan Ass'n v. U.S.* 85 NJ Super 18, 203 A 2d 529 (1964). Same result reached where amount of fee fixed by court rule which has the force of a statute.

*First National Bank of Levistown v. Tilzey*, 238 F Supp 750 (D C Mont 1965). Same result reached where state statute expressly made attorney fees part of the costs allowable to the mortgagee.

*In re Johnson*, 65-1 USTC Par 9378 (D C Ore 1965).

In competition for priority between a federal tax lien assessed August 8, 1963, and a state personal property tax lien which by state law arose January 1, 1963, it was held the federal lien was prior, for the state lien did not meet the choateness test until October 14, 1963 at which time the amount of the state tax was finally determined and a warrant was issued authorizing collection. The relation-bank principle does not apply.

*U S v. Rahar's Inn*, 65-1 USTC Par 9411 (D C Mass 1965).

Circular priority: First lien—principal and interest on mortgage and city tax. Second—US tax lien. Third—later city taxes which were prior to the mortgage lien but junior to the US lien. Fourth—claim of mortgagee for insurance premiums paid and legal expense of foreclosure.

Held, after paying principal and interest on mortgage and earlier city taxes, US has the next priority (which will exhaust fund available). The result was to make the later city taxes payable from the mortgagee's share and to provide no reimbursement for the insurance and legal costs. In effect, the mortgagee's share was reduced because of the US lien over which the mortgagee had priority.

*Greenup v. US*, 239 F Supp 330, 65-1 USTC Par 9362 (D C Mont 1965).

After US had filed a tax lien against a land contract vendee, the latter surrendered possession and quitclaimed to vendor. The right of US reaches only the property or right to property of the taxpayer. In this case, the lien reaches only the vendee's possible cause of action against the vendor for unjust enrichment. The court gave US 10 days in which to advise it will attempt to prove there is such a cause of action. Otherwise a decree will be entered that the lien is ineffective.

*US v. Yazell*, 334 F 2d 454 (5th Cir 1964).

In suit by US on SBA notes signed by husband and wife, it was held that the Texas law barred a personal judgment against the wife affecting her separate estate notwithstanding the US assertion that, since US was the plaintiff, federal law applied. This decision appears to conflict with *US v. Helz*, 314 F 2d 301 (6th Cir 1964).

## USURY

*National American Life Insurance Company v.*

*Bayou Country Club*, (Utah) 403 P 2d 26, (1965).

Transaction in which defendant executed mortgage for \$65,000, but received only \$50,000., the other \$15,000. having been divided between lender and broker, was held usurious and the statutory penalties were applied. It was clear an illegal rate of interest was intended and efforts to make it appear otherwise were a sham. The purpose of the usury statute prevents escape on the grounds the borrower knowingly participated in an illegal transaction.

## WILL CONSTRUCTION

*Jackson v. Lee*, 193 Kan 40, 392 P 2d 92 (1964).

In a case of first impression in Kansas, a specific devise to son Robert for life with remainder "to his heirs in fee simple" was held to give the remainder to Roberts' heirs in accordance with the statutes of intestate succession, thus giving Robert's wife an undivided half interest.

*Kimbark Exploration Co. v. Von Lintel*, 192 Kan 791, 391 P 2d 55 (1964).

Testator made specific devise to wife for life, remainder to certain children. Land was subject to oil and gas lease executed by testator. Production was obtained after testator's death. Plaintiff seeks declaratory judgment as to proper disposition of reserved royalty.

Generally the life tenant would be entitled to the royalties from wells brought into production under leases or other authority granted by persons who created the life estate but not otherwise.

So held since the Uniform Principal and Income Act, particularly G.S. 1961 Supp. 58-909, has no bearing since it attempts to cover only the situation where the life tenant makes the lease.

*Esate of Southey*, 26 Wis 2d 335, 132 NW 2d 532 (1965).

Request to housekeeper-companion conditioned upon being so employed at decedent's death held effective notwithstanding fact decedent's health required her to be institutionalized where claimant continued as companion and attendant.

## ZONING ORDINANCES

*Padover v. Township of Farmington*, 374 Mich 622, 132 NW 2d 687 (1965).

A township zoning ordinance, affecting undeveloped new suburban area, required minimum lot size of 20,000 sq. ft. as part of comprehensive plan involving population control. Plaintiff sought judgment ordinance is invalid as not reasonably within police power and because ordinance's effect is to lower land values.

The majority upheld the ordinance pointing out the value of a plan to be followed for a number of years in the development of a modern community and the distinction between judging reasonableness in a built up community and in a new suburban area, it being said that in the latter area the court has been "too dogmatic in its insistence that the test of reasonableness be based upon present existing conditions."

*Village of Oak Park v. Gordon*, 32 Ill 2d 295, 205 NE 2d 464 (1965).

In an area where zoning ordinance permitted no more than 2 roomers, defendant had established a legal non-conforming use of renting to 4 roomers. Thereafter, in 1958, the village enacted an "amortization" ordinance requiring such non-conforming use be removed before May 1, 1961.

"Amortization" ordinance held invalid as against defendant. Although entitled to the presumption of validity, presumption may be dissipated by showing public welfare does not require change in use and resulting loss to property owners.

Zoning ordinance prohibited gasoline stations within 200 feet of a hospital, church or theater. Plaintiff attacks ordinance as unconstitutional and, in particular, as to his land which lies within 200 feet of a church since another station (erected before ordinance was passed) is operating within 181 feet of the same church.

Held, the ordinance is constitutional as within police power to guard against danger where large numbers of people gather. Presence of the legal non-conforming use does not make enforcement of ordinance against plaintiff unlawful discrimination.

A state statute authorizing a city to pass zoning ordinances affecting land outside the city, but within a prescribed short distance therefrom, and an ordinance affecting such extraterritorial land were held constitutional and effective. The proper interest of a city in the orderly development of adjoining territory was said to make this a valid exercise of police power.

Nor was any constitutional objection found to an extraterritorial ordinance freezing established zoning uses for 2 years, as permitted by statute, to permit preparation of a comprehensive plan.

## “OPERATION—GO”

By WILLIS H. EDMUND

*Executive Consultant, The Goodyear Tire & Rubber Company, Akron, Ohio*

Mr. Knapp, Ladies and Gentlemen: Competition like this today, I think, has a great tendency to tear down your ego very quickly. It also proves to us that we never know where the competition is coming from.

In Terre Haute, Indiana, during the summer one day, they have what they call a “clerical golf day.” It is a day when all the ministers and the priests and the rabbis get together. They have a nice game of golf in the daytime and a banquet in the evening, but the competition has been getting a little tough, and there has been some recruiting going on in the past few years.

This last summer, about two weeks before the tournament, one of the priests in Terre Haute called Sam Snead in White Sulphur Springs and asked, if he would come up and play with the priests in the tournament.

Sam kind of laughed over the phone. He said, “Well, I am not so busy,” he says, “but I am not Catholic.”

The priest said, “That’s all right. We are going to make you a non-signor for the day.”

So Sam went up and played in the tournament. A couple of days later he was back in White Sulphur Springs.

One of his friends said, “Did you go up and play in the tournament?”

And Sam said, “Yes.” He said, “Did you win?” Sam said, “No.”

He said, “Who did?” And Sam said, “Rabbi Palmer.”

We are living in the jet age today. I heard the definition of a jet age the other day. “Your breakfast in London; lunch in New York; cocktails in San Francisco and your bag-

gage in Buenos Aires.”

And there is a lot of truth to that if you do much flying, but the person today who says that something can’t be done is usually interrupted by some smart guy who is already doing it.

Never has competition been as tough and as smart in everything as it is today.

I heard the definition of a competitor the other day. “It’s a person who gets in a revolving door behind you and comes out ahead of you.” That is how tight things are.

Recently down South an older man was riding in a bus and in the seat beside him was a GI. This GI was the Gary Cooper type, and he didn’t have much to say. The older man was trying his very best to get this boy to talk to him. He asked him his name, and the boy told him that. He asked him where he was from, and the boy told him that. He finally said, “Son, I see you are in the paratroops.” The boy said, “Yep.”

The man said, “The 82nd Airbourne Division?”

And the boy said said, “Yep.”

The man said, “I will bet you have made a lot of jumps, haven’t you?”

And the boy said, “Nope, not one jump, but I have been pushed 47 times.”

Business and industry of all kinds today are actually being pushed into the products and the service that we find in our market places. I know one businessman who has this plaque hanging on the wall of his office. It says: “My competitors do more for me than my friends do. My friends are too polite to point out my weaknesses,



but my competitors go to great expense to advertise them. My competitors are efficient and diligent and attentive. They force me to search for ways to improve my product and my service. My competitors would take my business away from me if they could. This keeps me alert to hold what I have. If I had no competitors, I would be lazy and inattentive. I need the discipline that they enforce upon me. I salute my competitors. They have been good to me. God bless them all!"

Ladies and gentlemen, the signs are pretty much out for us to read today, pretty much in a position for us to set the course that we go by.

In Nebraska, recently outside a little town, they put up a traffic sign and on the traffic sign it says this: "One dollar fine for every mile over 35 miles per hour. Pick out a speed you can afford."

Sermons can be preached on texts of this kind, and the guys who handle the slide rules tell me that just three years from now, \$20 out of every \$100 that we spend will be spent for programs and products that are not even thought about today, and by the year 2000, which is less than 40 years from now, we are supposed to have twice as many people in our country. We are supposed to have double the income we have now. Everyone is supposed to travel twice as much as they do now, and we are supposed to have one and a half times as much leisure in which to do these things.

Can you, in a serious moment this afternoon, imagine the great responsibility to three or four cross-sections of our country with twice as many people here?

What about the federal government? I say to you sincerely that one of their greatest responsibilities starting right now is to cooperate with every one of us to keep the free enterprise system that has made America what it is today.

There are a lot of people worried about how are you going to feed twice as many people. I get acquainted with a lot of farmers and ranchers and soil and water conservation people. They tell me there is nothing to worry about. In 1840 it took four farmers to feed five people. In 1941 a farmer could feed ten persons; and in 1964 one farmer could feed 32 persons. Why? Because the mechanical revolution of America has never stopped, and since the days of World

War II, we have had a chemical revolution that has given us the know-how to do just about anything that we want to.

The farmers and ranchers tell me that if they had to, within a year and a half or two years, they could increase the output of food and fiber in America by 85% on no more acres than are being farmed at the present time.

What is going to be the responsibility to us who are in business and industry with twice the people here? More people want more products. More people want better products. More people want low cost maintained, and I say to you that one of the biggest words in the English language today is the word "service" and if we don't have it in connection with our product or with our business, we can be in difficulty.

What is the challenge to education? And we could talk an hour about that because the influx and the explosion of the young person is already here. We need more facilities. We need more and better teaching on a lot of levels, and we in industry this afternoon, in spite of the degrees that are earned by our wonderful young people in our colleges and universities, would like to see the spotlight put just a little bit more on vocational and technical education.

We believe sincerely we cannot exist as a nation without trained hands as well as trained minds. We cannot be a nation of all chiefs and no Indians, and we will never exist as a nation of all generals and no soldiers.

Twenty-seven years ago, it was in Tulsa, Oklahoma, when a small group of men got together one night to sing, not because they wanted to go into grand opera, but because they like to sing, and from that first meeting has come one of the most interesting and unique organizations in America, the Society for the Preservation and Encouragement of Barber Shop Quartet Singing.

Now why do I mention that group to you? Because, my friends, they have two classifications of membership, and I don't care what organization you belong to—it can be your business, it can be your association in convention here, it can be church or fraternal organization—you must have the equivalent of those two groups. One they call the canaries. Now the canaries are the ones who can sing, or think they can sing. They make up the

quartets and the choruses, and they stand up in front and do the entertaining, and they are just wonderful. But the other group they call the crows, and the crows can't sing, and the crows know they can't sing, and I guess about the most important thing about the crows is the fact that they know they can't sing.

But they love the canaries, and on the nights when they have meetings, the crows come early. They put up the tables. They set up the chairs. They hand out the song books, and on the nights when they have refreshments, the crows do the dirty work.

Whatever organization it is, you must have the equivalent of those groups because they complement each other, and while we are talking about the logic of education, I think it is wise at this time to mention a word that has a dirty meaning in many sections of this country, and that is the word "automation."

We must never forget, my friends, that automation, as we have it today, is the net result of education. There are a lot of people this afternoon who would like to slow down automation, but let me say to you that the people who would slow it down will have to start closing the classroom doors on potential engineers, chemists, accountants, and mathematicians. To educate our young people and then have them not use that knowledge is just the same as putting a 35-mile-per-hour governor on a 1965 automobile.

The three fastest growing areas today in business and industry are sales, research, public relations and advertising. There is a rumor going around Akron, and I don't know how important this is, or how true it is, but in one of the large companies they put out an interoffice communication in the sales department. On this communication it says this: "If you must drink during the lunch hour, please drink whiskey and not vodka. We would rather our customers would think you were drunk than stupid."

You know, corporate citizenship today in a company or a business is a direct reflection of the management. A lot of people across the length and breadth of this country today are worried how much they can believe in the advertising programs that they see and that they hear. My answer is this, that if a management is moral and ethical and believes in Christian practices, there will be no need for any concern about its policies, its advertising, or its products. Honest com-

panies don't mislead people. They put their best foot forward.

Points of view today about a great many things are about a dime a dozen. A chicken and a pig went down the street the other day. They saw a sign on the wall that said: "Ham and eggs, \$1," and the chicken looked at the pig and said, "You see, we can be partners in this affair." And the pig looked down his long nose at the chicken and said, "Not in this ham and egg business. With you it's routine. With me, it's a sacrifice."

We are faced with two wars in this country this afternoon. One of them is a cold war. Give a little, take a little. We are probably going to have it for a long time, but my friends, we are faced with an economic war, and the four worst enemies in that economic war are right inside our own country. Number one is complacency. Number two is selfishness. Number three is continual higher cost. Number four is lower productivity.

One of the darkest spots on the escutcheon of the American people this afternoon is the fact that too many people are looking for something for nothing.

I was in Duluth, Minnesota recently, and I sat in the hotel. I picked up the newspaper, and there was an editorial in there on fringe benefits. I tore it out.

Everyone sitting here knows what fringe benefits are, and I think to a point we are in favor of them, but let me send home with you three or four lines from that editorial. It says: "The time may come when fringe benefits will equal a third or a half of the pay roll." It is now 25%, in case you are interested. Conceivably it could get more, and that may take some of the anxiety out of living. But let me also send home with you this afternoon, the punch line of that editorial where it says, "Some one must point out the fact sooner or later that a slave had no wages at all, just fringe benefits."

You know, in the midst of all of our international situations today, there are some bright spots. I am an optimist at heart. I think we have a great country. I think we have the greatest country in the world, and I think we need more people talking about it.

I think we should have more flag-waving, and I have found out that there are many so-called Americans today who think that it is corny to be patriotic.

Governor Romney of Michigan the other day made this statement, and this is a bright spot to me. He said, "Maybe we should change the name of our way of life to consumerism rather than capitalism because," he said, "The countries of the Communist bloc are turning much faster to our way of consumerism than we are turning to their way of communism," and there are three pretty good answers to that particular point.

One of them is the broadening of the educational pace in the Communist countries. A second is the exchange programs that we have in art and music and athletics. A third is this 8-hour day of broadcasting that goes on every day on the "Voice of America."

They tell me in Moscow today it is nothing unusual to see a Moscovite in the Kremlin Square openly listening to the "Voice of America" broadcast on his transistor radio.

There is another bright spot, my friends. Pressures for change are being felt in every home behind those so-called curtains as the children are badgering their parents for new freedoms from the rigidities of Communist living.

We might even assume some time that the dance rhythms of our teenagers, raucous as they sound to the ears of many of us, might do more in international peace than some of the deliberations that go on in the United Nations. These things are not beyond our thinking.

We are on the threshold of the Rocket Age in this world, as you very well know. Several months ago a New Yorker went to New Jersey to visit a friend of his who was a chemical engineer in a laboratory. They sat talking for a few minutes. The phone rang. The engineer went out. While he was out, the New Yorker was thirsty. He looked around for a water cooler. He couldn't see any.

He saw a glass of liquid sitting there on the sink. He smelled it. It smelled all right. He tasted it. It tasted all right, so he drank it.

Pretty soon the engineer came back in, and he said, "What happened to the stuff that was in the glass?"

The New Yorker said, "I was thirsty, and I drank it."

"Oh," the engineer said, "You shouldn't have done that. That was liquid fuel for a rocket." He says, "What it's going to do to a man's stomach, I don't know. You had better

take it easy for a couple of days."

So the New Yorker went home, and a couple of days later the phone rang in New Jersey, and the engineer answered the phone, and it was his friend all right. He says, "How are you?"

The New Yorker said, "I am just fine, but you have got to help me." He says, "The gas is all gone from my stomach, but I am in London without a passport."

Somebody said the other day that the ox cart is just as good as a rocket ship if you don't know where you are going. Many people think that the invention of the wheel was the greatest thing that has happened in our civilization, and it was important, but do you remember that it took 5000 years after the wheel was invented for man to get smart enough to put steam to the wheel to make it run? But after that, it was only 140 years until we had wings on those wheels. After that, whether we like it or not, it was only 40 years until we had bombs for the wings to carry around. After that it was just 12 years until we had a space ship in orbit around the earth, and after that four short years until we had a man in the orbiting space ship.

Why this fast regression of figures in these latter years? The answer is very important and very simple. Ninety-two per cent of the world's greatest scientists of all times, my friends, are living today.

I was riding on the Ohio Turnpike the other day, and I pulled up behind a big truck. Across the back of that truck was printed a sign, and on the sign it said this: "Don't hug me. I am going steady." "Steady" is a big word in our vocabulary, and let's not forget it.

Some few years ago there were two All-American football players in the team of the West Point Military Academy. One of them was named Mr. Blanchard, one named Mr. Davis, and Mr. Blanchard was a fullback and Mr. Davis was a halfback, and when they played football on Saturday afternoons they excited the sports writers of America to the extent that when they wrote about them, they called them "Mr. Outside," and "Mr. Inside."

You and I today are playing a game that is very important, and to win that game our offense must be as well balanced as any championship football team. We look to the outside. We see world affairs. We see space activ-

ities. We see research and development, but to have this balanced offense, let us come closer home. Let us look inside. Let us see the family and the church and the school and the community.

Down in Charlotte, North Carolina, behind the counter of a small restaurant there is a sign, and on the sign it says this: "If you ain't got no money, you has already et."

I want to say a word about security, and I want to say it because it is one of the problems and one of the lessons that have to be taught to many of our younger people today who have a mistaken idea of what security is.

I listened to Dr. Billy Graham from Denver the other night when he was speaking to a group of young people. He said, "You can have the greatest job in the world, and you won't necessarily have security." I want to go one step further and say to you that security is not anything that you can put your foot on. It is not anything that you can put in your pocket. It is not anything that can be bought or sold or guaranteed or married or inherited. Security, my friends, does not come from government. It does not come from organizations like yourself. Security is only one place in the last essence, and that is down inside you and me and every other person as an individual.

They put free cheese into a mouse trap, but the happiness of the mouse, once he gets in there, is pretty short lived, and it is just the same with a man as it is with a mouse. There is no such thing as a free meal. Somebody has to pay for it.

Our young people in this country today are the greatest natural resource that we have, and you and I should publicly apologize to them today for the press and for the news media because the spotlight today is not put as much on to the wonderful things that our young people are doing. Too much is being put on to the five and six per cent of the needle heads who are causing all of the difficulty in this country. The spotlights of our publicity and the pats on the back should go into the classrooms and auditoriums and the choruses and the bands and the scouting programs and 4-H and Future Farmers and all of dozens of organizations that I could mention.

Last October the Olympic Games

were held in Tokyo. You remember that. Sure you do, but do you remember that the United States sent 355 young people over there, and they broke world and Olympic records 450 times in the two weeks that they were there. Three of our young, Goodyear employees were in that Olympic Basketball Game. They told me when they got back to Akron that the "Star Spangled Banner" was played so many times in recognition of what they had done that people actually walked through the games area humming it like it was some new pop tune.

In the face of the tendency of a lot of us today to be concerned about our young people, let us point with pride to a group of these kids who went to Tokyo, 15-, 16-, 17-, and 18-year-old swimmers, for example, who brought back to America nearly half the gold medals that we won.

These kids are the cream of a nation-wide project that was started some—15 years ago which is called "group age swimming," and there are now 300,000 young American boys and girls in that program, and my friends, the four basic words in that project are these: "Dedication, sacrifice and hard work."

It is not strange that those are the same four words that made America what it is today, and it is not strange that those are the same four words that will be keeping America in the number one spot.

It has been a great honor for me to be here, to be a very small part of your convention. I would like to say good afternoon, if I could, with a little lesson in public speaking I learned recently from a small boy who went to church with his mother.

On this Sunday morning the minister preached a little too long, as they sometimes do, and the boy got tired and fidgety in his seat. After the service was over the minister went to the front of the church to greet the congregation.

The mother and the little boy went down the middle aisle, and when they got back to the minister she took him by the hand. She said, "Sir, I want you to know my soul is filled with the spirit of your message."

The minister thanked her. He turned to the little boy. He shook him by the hand. The little boy looked up, and he said, "And I have had a belly full, too." Thank you.

# REPORT OF THE SPECIAL COMMITTEE TO STUDY RELATIONS WITH THE VETERANS ADMINISTRATION

By JAMES G. SCHMIDT

*Chairman; Executive Vice President, Commonwealth Land  
Title Insurance Company, Philadelphia, Pennsylvania*

In May of this year, the Board of Governors directed the President to appoint a Special Committee to confer with the Veterans Administration because of the fact that they had the practice of discontinuing the use of title insurance at the time of acquiring real property, either by foreclosure proceedings or acquiring it in lieu of foreclosure.

Actually, the problem was not new. As far back as 1961 there was already an indication that the Veterans Administration was changing its practice. In California, Florida and Texas the local loan guarantee officers had given directives that there would be no necessity for a title insurance policy at the time of the acquisition by the VA by foreclosure proceedings.

This was called to the attention of the Executive Committee of the American Land Title Association, and as a result, there were some conferences between Joe Smith and John Dervan, the National Director of Loan Guarantee Service of the Veterans Administration. This led to a speech at the St. Louis Convention in September of 1962.

At that time John Dervan told us that during the period from 1944 to 1962 the Veterans Administration had acquired about 90,000 homes from lending agencies by reason of their acquisition at foreclosure on GI loans.

Now with this tremendous amount of acquisitions and the sales which result therefrom, the VA was more and more conscious of the necessity for saving money, and as a result, they had at last decided at that time in those areas in which the seller provides a title insurance policy that they would not pay for the cost of a title insurance policy for the purchaser, nor would they require a title insur-

ance policy for the VA if it took back a purchase money mortgage at the time of sale.

You will note that in his talk, he carefully avoided this other question as to the necessity for title insurance by the VA itself at the time of the foreclosure or acquisition. Nevertheless, he did not mention this, although already there was the beginning of a practice in certain areas to discontinue the requirement for title insurance.

In fact, in Texas the directive had gone out that instead of requiring title insurance the VA itself would examine the work of the foreclosing attorney and see that it had been carefully done and decide as to the validity of the title. So in effect, in Texas this became known as the "Houston Plan," and it began to spread gradually to other areas until finally in June of this year, June of 1965, there was a directive in Michigan to the effect that they would no longer pay for the cost of a search at the time there was a non-judicial foreclosure sale in the State of Michigan.

Incidentally, it is of interest that there have been more foreclosures with more acquisitions in the State of Michigan on GI loans than in any other one area.

In any event, this was the background, the information which was before us at the time of the appointment of the Committee, and it was with this information that we went to Washington to confer once more with John Dervan and talk with him about the problem.

He was most cordial, but at the same time, he was adamant as far as his stand on this question of the necessity for title insurance. He believed in title insurance. He felt it was the best form of title evidence. He had

requested it for his own home, but when it came to the question of the VA considering the fact that the money which they expended in these foreclosure matters had to come out of a revolving fund, which was generated by the VA itself, he was most anxious that there should be a reduction in cost. In fact, in the last few years there had been an acceleration of the acquisition of properties until now it amounted to about 30,000 properties a year, and they had acquired more than 160,000 properties on GI foreclosures.

In discussing the matter with us, he pointed out, of course, that at the time of the original loan they definitely require satisfactory title evidence, and in many cases this was title insurance. They made sure that such title evidence was good at the time of the granting of the loan, and he felt that at the time of the foreclosure or acquisition there was only the necessity of some kind of a search bringing the title down from the date of the loan to the date of the acquisition. And of course, this depended upon the type of acquisition.

For example, if it was a deed in lieu of foreclosure, he appreciated that it was absolutely necessary to have a complete search of the title down to the date of acquisition, and that he also had to consider the question of subordinate liens, that is, those liens which might have existed prior to the loan but had been subordinated to the mortgage or deed of trust. And considering the necessity for such a search, he felt that it was necessary that there would be a search but was willing to pay what he felt would be a fair price or fair fee for the service which might be rendered and for the search itself.

When it came to the question of a judicial foreclosure, he was also cognizant of the various problems involved. He knew that it was necessary that the search should be made for bankruptcy, federal liens, state liens, tax liens, municipal claims, financing statements, and this had to be done, and again he was willing that the department would reimburse the lending attorney for a charge which would be fair for the service rendered.

As far as the validity of the proceedings, the court proceedings themselves were concerned, he also realized that there were problems, that there might be a defect in the foreclosure,

that there might be a question of the mental incompetency of the owner of the property, a death in probate proceedings, that there might be a failure of giving proper notice, proper posting. The question of military service. He realized all of these things, but he felt that the VA attorney would be able to go over the work of the foreclosing attorney and determine whether or not the proceedings were absolutely effective.

As to the non-judicial sale, here he felt that there was less reason for paying for a title search. He felt that the problems here were so small that it would be possible for the foreclosing attorney himself to determine the questions of bankruptcy, military service, and some of the other problems which arise in a case of the non-judicial sale.

Now we realize that some of the lending agencies—I know the Metropolitan Life Insurance Company has since that time been insisting upon a search being made and has been paying for such search and has been arguing, at least, for the VA as to whether they should be reimbursed for the charges which they have incurred.

Now you see, he understands the problems, and he somehow feels that by going over these proceedings, by taking certain risks, that the risks are so insignificant that as a result they can take a chance on this in the department.

In fact, to a large extent, the VA is self-insured. They are self-insured under such questions as fire loss, windstorms, and items of that kind, but he also appreciates that the problem is a local one. In other words, that it depends upon the necessity in a particular area, and actually, he is willing to a large extent to decide the problem in accordance with what has been determined by the local loan guarantee officer. So therefore, the report of our Committee to you would be that this must be handled on a local level.

It is necessary for you to exert your best salesmanship to show the department, show your local loan guarantee officer, that it is necessary to get the title insurance, the title service which we can render. And in doing this, you must consider three problems.

Consider first the risk. Stress the fact that even though maybe they have had few losses in a short period of time in which they have changed their practice, nevertheless, there is a great possibility of loss in the future.

Similar to the fact that a title company might go along for a period of time and have few losses and then have some catastrophic losses at some particular time.

So first, stress the risk in your salesmanship.

Secondly, the cost. They are most interested in the cost, and therefore, it does become necessary for us to have some fair charge, depending upon the amount of the work and the risk in your particular area, and you are in a far better position to determine what that charge would be. It cannot be done on the national level.

And lastly, you should consider the work load because after all, some of the work which they have been doing

in going over the proceedings handled by the local attorney means considerable time upon the part of the personnel in the VA Department, and if that is eliminated for them, they should be able to pay for the cost of those services which can be done much more effectively by the title insurance company.

So this is our report to you. Exert your salesmanship. Handle this on a local level, and I feel confident and the members of the Committee feel confident that something can be accomplished.

James G. Schmidt, Chairman  
George B. Garber  
Alvin W. Long  
E. Gordon Smith

## REPORT OF TRUSTEES, ALTA GROUP INSURANCE TRUST

By RICHARD E. FOX

*Comptroller and Treasurer, Chicago Title Insurance Company, Chicago, Illinois*

There is good news for each of the companies who are members of the ALTA Group Life Insurance Plan. Within the next few days you will receive a dividend of 15% of the premiums paid during the 1964-65 policy year. Once again, the good experience factor of your plan allows us to pay a substantial dividend.

This is the fourth consecutive year in which a dividend has been declared. Dividends have been paid in five of the seven years during which the plan has been in operation, and have averaged 10%. During the past six years a total of \$37,000 of dividends have been paid and this year the dividend will be \$13,000—that is \$50,000 of dividend payments for the seven years of operation.

Claims totalling \$40,000 were paid in the last policy year. The success of the plan is indicated by the fact that \$302,250 has been paid out in death claims in seven years. That is an average of \$43,000 each year. In addition, we have established a reserve which should help us to maintain a stable premium amount, even in a year of extraordinary death benefit claims. Claims to date in the current policy year total \$20,000.

As of August 1, 1965, the plan in-

cluded 1,014 covered employees, with a volume of life insurance in force of \$7,900,000. These figures compare with 1,000 employees and insurance in force of \$7,700,000 at the same date last year.

The Trustees have reviewed the retention made by the insurance carrier, John Hancock Mutual Life Insurance Company. We feel that the rates are competitive. Actually, a major portion of the retention is done on a cost accounting basis.

An additional point with regard to this year's dividend payment—it will be paid on the basis of an eleven-month policy year. Earlier this year, the Trustees approved a change to a policy year ending on April 30th. Former policy years ended on May 31st. Our insurance carrier requested that they be allowed additional time in which to prepare their annual report to the Trustees. The policy year will return to twelve months this year. The expanded report that we recently received supported the carrier's contention that they could render a much more substantial report if they had an additional month in which to prepare it.

With the recent change in Executive Vice President of ALTA, we have had

a change in the Board of Trustees. Mr. Joseph Smith has resigned as Trustee and Mr. William McAuliffe has been named as his successor. Joe Smith has done an excellent job as Trustee, as he did in all of his other duties. We will miss him on the Board. Bill McAuliffe sat in at our recent Trustees meeting and indicated that he has keen insight into the many facets of a group insurance program. We welcome him to the Board of Trustees.

At the Board of Trustees meeting on September 17, 1965 we received proposals to include several different types of insurance in the ALTA group insurance program. They are:

1. Voluntary Accidental Death and Dismemberment—That is a coverage designed to provide a member and his employees substantial protection in the event of loss of life, dismemberment, or permanent and total disability as a result of an accident.
2. A program of salary continuation designed for the members of ALTA.

We have previously polled the members on the subject of hospital-surgical and major medical coverages. At that time the indications were that the association did not have a sufficient interest to support a group. It is likely that you will be polled later this year to get indications of support for these other forms of group insurance. The Trustees of the ALTA Group Insurance Trust are here to assist you in getting the coverages that you need and want. Speak up, we are interested in hearing what you have to say.

This reminds me that we have not been receiving proper response from a few of our insured to questionnaires on the coverage of employees of member companies included in group life insurance coverage. Each member company signed an agreement to furnish any information required in the administration of the Trust at the time of subscription to the plan. If you do not answer this form of report you will seriously jeopardize your insurance program and leave us with no alternative but to cancel your life insurance coverage.

In the event that you wish to have one of the Trustees (Mort McDonald, Bill McAuliffe and myself) attend a State Title Meeting, the Trustees have consented to perform that additional service. This service is performed cost-

free to the state and the national associations.

The ALTA plan is a plan for *Title and Abstract* people arranged and administered by members of your Association. The risks are not combined with other types of occupation. As time goes on, you will find that our net premiums will probably be much lower than would be applicable in individual cases.

Here is an opportunity to give your employees security for their families. By participating in the Association's Group Life Insurance Plan you can contribute to the security and peace of mind of your employees by helping protect their families against the financial loss resulting from death through any cause.

By so doing you will have demonstrated to your employees that *you have a real interest in their welfare*. This can only result in increasing their satisfaction with their job, and in better employee-employer relations.

We urge you to consider this Group Life Insurance Program for the following reasons:

1. It makes possible life insurance at low group rates, presently with no medical examination.
2. It offers group insurance for smaller companies who are ineligible for group insurance on their own.
3. Even in many large firms, proprietors, partners and officers are not eligible for insurance to the extent made possible through this plan.

Remember, fringe benefits are an important part of the salary package of today's employees. If you do not have a good fringe benefit program you will probably regret it in the future as you lose valuable employees to more far-seeing employers.

One of the advantages of your ALTA membership is the fringe benefits that you receive from the Association. The Group Life Insurance Program is an important one of them.

Perhaps some of you took an earlier look at this plan and decided that it was not the proper plan for your company. Did you find a better coverage? Or, are you still without a life insurance program for your employees? I am sure that the latter question covers more companies than does the first question. Why not take another look at this plan now? You'll find that it is tailor-made for the *smaller company* that is such an important part of the total ALTA membership.



# REPORT OF THE RESOLUTIONS COMMITTEE

By CLEM H. SILVERS

*Chairman; Immediate Past President; Owner, F. S. Allen Abstract Company,  
El Dorado, Kansas*

It is a pleasure for me to present for your consideration the following two Resolutions:

*First:*

WHEREAS, Arthur A. Gretz, who served for nearly fifteen years as Manager of the Philadelphia Agency Office of Federal National Mortgage Association, retired from government service effective July 31, 1965; and

WHEREAS during his years of active service in the capacity mentioned he contributed greatly to the Title Industry;

NOW, THEREFORE, BE IT RESOLVED That the members of American Land Title Association express their thanks and appreciation to Mr. Arthur A. Gretz for the years of excellent service performed by him as Manager of the Philadelphia office of Federal National Mortgage Association and for his contribution to the Title Industry.

*Second:*

WHEREAS the delegates in attendance at this annual convention of our association have enjoyed a memorable, worthwhile and entertaining convention in the city where our Association was born 58 years ago; and

WHEREAS, the success of the convention was due to the efforts of Mr. Alvin W. Long, Convention Chairman, and his committee, Mrs. Alvin W. (Kit) Long, in charge of entertainment of our ladies, and Illinois Land Title Association, as the host association, which association was joined by the State Associations of Indiana, Iowa, Michigan, Missouri and Wisconsin in sponsoring the Salute to Past President of ALTA;

NOW THEREFORE, BE IT RESOLVED That the sincere thanks of the officers, delegates and members be extended to Alvin W. Long and the members of his committee, Mrs. Alvin W. (Kit) Long, the Illinois Land Title Association, and the State Associations of Indiana, Iowa, Michigan, Missouri and Wisconsin, for their generous efforts and hospitality which assured the success of the convention.

WHEREAS, all delegates in attend-

ance have benefited by the excellent contributions of our guest speakers, all of whom have brought to us a significant and worthwhile message;

NOW, THEREFORE, BE IT RESOLVED, That the members of our Association express deep appreciation for their part on the program to:

Color Guard, First National Bank  
Post No. 985, American Legion;

Thomas Coulter, Executive Vice  
President, Chicago Association of  
Commerce and Industry, Chicago,  
Illinois;

Leon Volkov, Contributing Editor,  
Newsweek, Washington, D.C.;

Dean William P. Cunningham,  
School of Law, University of  
Maryland, Baltimore, Maryland;  
Edward McFaul, Consultant, Speech  
and Human Relations, Chicago,  
Illinois;

James W. Rouse, President, James  
W. Rouse & Company, Inc., Balti-  
more, Maryland;

John H. Muller, Senior Vice Presi-  
dent, The Equitable Life Assur-  
ance Society of the United States,  
New York, N.Y.;

Jenkin Lloyd Jones, Editor and  
Publisher, Tulsa Tribune, Tulsa,  
Oklahoma;

Maurice G. Read, President, National  
Association of Real Estate  
Boards; and

Willis H. Edmund, Executive Con-  
sultant, Goodyear Tire and Rub-  
ber Company, Akron, Ohio.

WHEREAS, for many years this Association has enjoyed the friendship and participation in our activities of the representatives of the Life Insurance Industry;

NOW, THEREFORE, BE IT RESOLVED, That the delegates here assembled again express their thanks and appreciation to the representatives of Life Insurance Companies for their continued interest and helpful contributions to our mutual problems;

WHEREAS, the officers, members of the Board of Governors, Chairmen of the Sections, and the members of the staff of our National Office have given so generously of their time and

talents in so successfully guiding the affairs of our Association the past year;

NOW, THEREFORE, BE IT RESOLVED, That the delegates present, on behalf of all members of our Association, express their most sincere thanks and appreciation for their contribution to the success of this association and of this convention to:

President Joseph S. Knapp, Jr.  
Vice President Don B. Nichols;  
Treasurer Laurence J. Ptak;  
John D. Binkley, Chairman, Finance Committee;  
George B. Garber, Chairman, Title Insurance Section;  
Albin R. Robin, Chairman, Abstrac-

ters Section;  
All members of the Board of Governors;  
William J. McAuliffe, Jr., Executive Vice President;  
James W. Robinson, Secretary—Director of Public Relations;  
Frank H. Ebersole, Administrative Assistant;  
The Chairman of the various committees of our Association.

Mr. President, I move the adoption of these Resolutions.

Editors Note: The above Resolutions were unanimously adopted at the general session of the 59th Annual Convention in Chicago, Illinois, October 6, 1965

## INSTALLATION OF OFFICERS

At the General Session Meeting in Chicago, Illinois on October 6, 1965, the following officers, having been duly nominated and elected, pursuant to the provisions of the Constitution and By-Laws, were installed in office by Joseph S. Knapp, Jr.

President, Don B. Nichols, Hillsboro, Illinois  
Vice President, George B. Garber, Los Angeles, California  
Treasurer, Laurence J. Ptak, Cleveland, Ohio  
Chairman, Finance Committee, John D. Binkley, Chicago, Illinois

### BOARD OF GOVERNORS (Term Expiring 1968)

Robert H. Morton, San Francisco, California  
Herman Berniker, New York, New York  
Jack Rattikin, Jr., Fort Worth, Texas  
Thomas J. Holstein, LaCrosse, Wisconsin  
Frank T. Summerson, Hoxie, Kansas

### ABSTRACTERS SECTION

Chairman, Alvin R. Robin, Tampa, Florida  
Vice Chairman, Hugh B. Robinson, Carrollton, Missouri  
Secretary, Mrs. Marjorie Bennett, Petersburg, Illinois

### EXECUTIVE COMMITTEE

Edward W. Withrow, Fort Collins, Colorado  
M. Edwin Prud'homme, Texarkana, Texas  
Roy T. Heller, Pittsburg, Kansas  
Robert Cahill, Jr., Lincoln, Nebraska

### TITLE INSURANCE SECTION

Chairman, Gordon M. Burlingame, Bryn Mawr, Pennsylvania  
Vice Chairman, Richard D. Godfrey, Oklahoma City, Oklahoma  
Secretary, Frederick R. Buck, Baltimore, Maryland

### EXECUTIVE COMMITTEE

Ernest J. Billman, Los Angeles, California  
Joseph H. Smith, Richmond, Virginia  
G. Allan Julin, Jr., Chicago, Illinois  
E. D. McCrory, Houston, Texas

# ABSTRACTERS SECTION

## REPORT OF SECTION CHAIRMAN

By ALVIN R. ROBIN

*President, Guaranty Title Company, Tampa, Florida*

I will not long delay the more interesting part of our program, and will take only a few minutes to briefly review more or less in chronological order, the events of the past year as our Section has been affected.

As you all know, not long after the adjournment of our 1964 Convention, Joe Smith submitted his resignation to President Joe Knapp. Although this was not exclusively a Section matter, your Chairman as a member of the Association's Executive Committee, participated in the task of securing a successor for our former Executive Vice President. This work of the Executive Committee, which was authorized by the Board of Governors, culminated in the selection and employment of Bill McAuliffe, who commenced his association with ALTA last July 1st. In the interim, there was much correspondence, consideration, and some extra traveling beyond that which is normally contemplated. You have already heard our National President report on this matter, and I too, would say that the Committee's efforts were productive, and that we have acquired a very able person in our new Executive Vice President, Bill McAuliffe.

Again this year our Section conducted regional conferences. These meetings were held in Oklahoma City, Denver and Des Moines, on April 5th, 6th and 7th, respectively. Although the attendance was slightly less than last year, the enthusiasm ran just as high. We had approximately 60 people at each of these sessions, and I am sure they will all agree that these down to earth, informal get togethers are well worth attending. I want to especially thank the team of dedicated Abstracters, including the staff at National headquarters, who so greatly assisted in the planning, preparation and presentation of these conferences. For

me this was a most interesting experience and in a poor paraphrase of a very famous statement, I would say "Never before have I traveled so far, on so many airplanes, with so little sleep, in such a short period of time". For the traveling team, this schedule is rigorous, to say the least.

I think also, a reference here to some of our Sections Committee work is in order. We have presently three Committees engaged in work for our mutual benefit, all of which will report during this Convention. The first is our Committee on State Sponsored Abstracters Schools, under the Chairmanship of Frances Elfstrand, Miss Elfstrand will tell us later this morning of the Committees work since our last annual Convention. The second is our Committee to study the proposed project of Certified Land Title Searcher Institutes, which is Chairmanned by Tom McDonald of Sanford, Florida. Tom will also be heard from this morning, and will bring us up to date on the work of this group. The Third is our Committee on Abstracters Liability, Errors and Omissions policies, headed by George Harbert, from whom we heard in yesterday afternoon's workshop on this subject. This Committee has worked diligently to better our position, and broaden our coverage under these policies. All of our Committees have functioned efficiently, and we are indebted to them for the results of their work.

During the past year I have had the privilege of representing ALTA at four State Conventions. They were, in order of attendance, Iowa, South Dakota, Minnesota and Utah. Each was a very pleasant and rewarding experience. Each provided an opportunity to make new acquaintances, as well as to renew old friendships. I was impressed in all cases by the serious business-like attitude of these State Associations, and the sincere,

earnest efforts of their membership toward a betterment of our industry.

I also want to thank, and express my appreciation to the other Section officers, our Executive Committee, our Special Committees and all of the others who so diligently and re-

sponsively supported all of our activities throughout this year. It has been my privilege to work with all of you, and it has been a considerable honor to have served as Chairman of this Section. Thank you.

## “HOW TO KEEP YOUR FOOT OUT OF YOUR MOUTH”

By EDWARD McFAUL

*Consultant—Speech and Human Relations, Chicago, Illinois*

I have a very embarrassing question to ask you. How many of you heard me speak before, would you raise your hands?

How many have never heard me speak before?

Now, the embarrassing question, how many don't care one way or the other?

You would have to sit in the front row, too. I will try to change your opinion. I don't know.

A man convinced against his will is of the same opinion still

And yet, I wouldn't blame you, really, I wouldn't. If I were sitting where you are sitting and it was announced that the speaker was going to speak on the subject, “How to Keep your Foot out of your Mouth,” I think I would say to myself, “That is a pretty saucy title and I think this speaker must be kind of a wise guy.”

I hasten to say I built this talk out of self-defense. Nobody needed it more than I did. And whenever you begin to arrange the various facets of your personality you always begin to ask yourself various philosophical questions. I asked myself this question, “Where did communication first break down? How come in my own home where we think we know something about the problems and semantics of communicating, after all of our discussion, the kids say to me, ‘Well that isn't what you said.’”

And I say, “By George, that is what I meant.”

And in between what I said and what I meant, there sits a desert of nothingness. Now if you want to go back to where communications first broke down, let's go back to Old Noah. Forty days and forty nights of rain, and the rain stopped and the waters receded, and Noah sent out a

dove, and the dove came back with a sprig of green and Noah said, “Mama, I think it is safe to land.”

And down came the gangplank, down came Mr. and Mrs. Noah, down came their three sons, Ham, Shem, Japheth and their wives, and down came the animals, two by two, the elephant and the kangaroo, and they had virile sons and daughters, and they started a great civilization on that plain and when it reached its peak, “Now what shall we do to be remembered?”

And somebody said, “Let's build a tower to heaven.”

And they started. And one day the Lord looked down and said, “What is going on?”

“We are building a tower to heaven.”

He said, “Stop it.”

Why? Maybe He was afraid if they got too close to heaven, they would revert to the pagan gods, the sun, the moon and the stars as their ancestors had done for so many thousands of years and forget the one God, Jehovah.

He said, “Let us,” and that has confounded biblical scholars, “Let us go down and confound their language that they may not understand each other's speech.”

Now how do you confound a person's language? Of course, I don't know that, either. Maybe in those days, too, they slept with their mouth open and the spirit put His finger in, and stirred up the speech of each one. And in the morning when they woke up, the architect could not understand the language of the carpenter and the carpenter could not understand the mason and it all ended in confusion and the Tower of Babel was never built. And finally, we have the word “babble” to talk much and say little. And I think we have been confused

ever since.

Not only do we not understand foreign languages mainly because the demand is not as great in America for foreign languages as it is, let us say, in Europe. I think so many times the difficulty is that we can't even understand each other when we speak the same language.

Let me give you a few silly examples and they may not be quite so silly, predicated on this fact, if it can be misunderstood, it will be misunderstood.

Remember the teacher in the third grade who said, "If any boy or girl here wants to go to the bathroom, let's raise two fingers."

And the big, dumb kid in the back said, "I don't see how that would help none."

Remember the sheriff who threw the drunk in jail, and the drunk said, "What did you throw me in jail for?"

The sheriff said, "For drinking."

And the drunk said, "O.K. Let's get started."

I don't think that is what the sheriff meant.

I spoke in Bristol, Tennessee one night. It was a very lovely day, like it is in Chicago this morning, and I walked around the courthouse and sat on an old green bench and talked to an old-timer. And as we were talking I said, "By the way, how old are you?"

He said, "Well, I'm 87."

I said, "Well, you don't get around much any more?"

He said, "Oh, yes, I do. The other night my son took me to a wedding. I fainted. They brought me two. So I fainted again and they brought me two more."

So it looks this city slicker was being taken on this old green bench here.

You remember the blacksmith who said, "I am getting older. I would like a husky young apprentice."

So they sent him a big, husky youth. He said, "You are my new apprentice. Notice, first lesson, I take the cold horseshoe, I put it in the forge, I get it red-hot, I put it on the anvil. Now when I nod my head, you hit it with a hammer."

He left a wife and two children. The apprentice is a blacksmith.

You remember when Christine Jorgensen, the young man, went to Denmark for the operation and came back a young lady. She was quite surprised when the custom officials said to her, "How long have you been

abroad?"

How much waste occurs in American industry because somebody didn't get the full message?

This woman went into the stationery store and said, "I would like some stationery."

The clerk said, "Do you want your name and address on it?"

She said, "Yes, I do."

He said, "Do you want it in the upper left-hand corner or in the upper right-hand corner?"

She said, "No, I want it in the middle."

When it came back, there it was, right in the middle, just where she asked for it." You heard her.

Some time ago I was speaking in Michigan for the Grayline Casting Company, and I will try to explain it this way. They had taken a double page spread in Fortune Magazine, on slick pages, expensive. And down at the bottom of this advertisement they had listed in small print, under Grayline Casting Company, the various casting companies in the United States, Alabama, Michigan, Indiana and so on.

One of the companies said, "Look, this is prestige advertising. Leave out these little letters here. Leave that blank space about that high and we will put in our company name and send it off to our clients. It is good prestige stuff and we want 35,000 of these at 18¢ apiece."

They arrived. I have news for you. Somebody didn't get the message. It was all filled in. They said to the man who paid for that \$6000 mistake, the advertising company, the printer said, "We don't know." But we know enough about business to know that somebody paid for the mistake.

They said, "Does this happen very often?"

They said, "Yes, and the bigger the company the more likely it is to happen. The message starts up here, it trickles on down, somehow, somewhere, some way it changes and when it gets to the bottom, it is not the same message as when it started."

Then the priest was saying mass, and out of the corner of his eye he saw three of the local rabbis come in. Out of the corner of his mouth he said to one of the altar boys, "Three chairs for the rabbis."

Well you know how it came out.

Here is a lady supervisor in a factory. And she said to one of the girls, "Marie, this afternoon I would

like to have you work on the shearing machine," finishing the rest of the idea inside her head, "Marie is one of the best girls I have, and when Marie works on the shearing machine, production goes up to its peak very rapidly."

Is that what Marie heard? Marie heard, "Work on the shearing machine." She figured the rest out in the head. She thinks, "Sure, nobody else wants to work on that dangerous greasy outfit. They shove me around like a dirty deuce in a new deck. I think I'll quit this place."

A few more words of explanation might have kept a fine employee from being a disgruntled one.

How many of you, older in the ways of handling people and dealing with people have ever said to somebody, "I would like to have you do so-and-so and so-and-so?"

And you come back in a few hours and say, "How come these last two things are not done?"

"You didn't tell me."

"Oh, yes, I did." But if you had taken a stenotype or tape recording, you would find out that you had not said it. You have said it so many times, it is old hat to you, but to the young green hands that need to be trained; please, will you give them the full message.

In no human activity in which we engage do we spend more time than in talking. One-third of our waking lifetime is so spent. And many of us think because we have a voice, we can automatically communicate. I doubt it. Not any more than because your uncle died and left you a violin, you can automatically play it. There are some techniques. Those are the things we want to talk about this morning.

I like what Nietzsche, the old, gloomy German philosopher said to a group of young people. He said, "So you are planning to get married. Have you asked yourself this question, 'will this partner that I am about to take make an interesting conversational partner all the rest of my life, or will we spend years in sullen silence?'"

So many times I have talked to my friends in the marriage counseling business and have said, "What happened to that nice looking couple who just left your office?"

They say, "Oh, the same old thing, lack of communication. She says he doesn't talk to me anymore and he says the same thing about her." Sil-

ence always separates.

Couldn't we talk about this matter of communication verbally? Every radio and television station, every high school and college would have to come to a halt as of now and much of the business of the American Land Title Association would come to a screeching halt at this moment if it were not for the fact that you can verbally communicate.

I know a middle-age couple, and do you know how they communicate with each other? Through the third party. Do you know who the third party is? The dog.

He says to the dog, "If she can get ready in ten minutes, I will take her to the show."

She says, "Tell your father if he gives me five minutes more I will go."

And there was a time in their lives, when in 24 hours they couldn't tell all, about how they cared for each other, and now in five minutes they can tell all they care to talk about. Isn't it a pity?

I was born in Warsaw, Indiana. They have a large German population there. I suppose mine was the only Scots family for many, many miles around. They tell the story of this old German, who had rheumatism. He doesn't want to talk any more, but ma wants him to talk, and one night she said, "Aw, I wish I was dead and was in heaven."

He said, "Yah, then I go to the beer garden."

She said, "Yah, you dummkopf, you always save the best for yourself."

Now the convention will be over, you will go back to your desks, and why will you talk? One of the reasons you talk is to get a job done. And I dare say the Mayor in Chicago, the Mayor in your city, if he said, "Starting Monday, I want this city run and I want no words spoken under penalty of death—" and some burgomasters have had that power—well I presume the city would run after a fashion. We would make nonverbal signs, write communiques, but I doubt if it would run as smoothly as if we could talk.

We talk to give vent to our emotions, especially those emotions that are very pleasant or very unpleasant. I listened to the papal visit yesterday, the conversation that you could hear humming all over NATO and all over the world, a great event, and an historic event was taking place,

and people were talking about it.

Remember the Quaker who went to milk his cow. The cow kicked over the pail. He went to the other side and the cow kicked over the pail. He went to the front of the animal and he said, "Thou knowest I am a Quaker and cannot beat thee and I cannot curse thee, but I can sell thee to a Methodist who will knock the hell out of thee."

We talk because we live in a world of action and interaction. You say something to a client or to an prospect and you hope out of the words of conversation something will come for the benefit of yourself and your company. I am always interested in the problems of interaction. Call it "cause and effect" if you wish. I guess that is one of the reasons we go to see a play. Take a play like "Barefoot in the Park," that is running here. It is not very long after the curtain goes up that the leading character has himself or herself in difficulty and the rest of the play is spent in trying to solve the problem. Will they solve it or will they not, and how? They solve it, the climax, the curtain comes down and the play is over.

We have great international dramas going on all the time in this world. Viet Nam now. You remember the time when Mr. Khrushchev went to Paris to talk to President Eisenhower? Oh, how we hoped out of the conversation of these two men would come something our children had never known, namely a world at peace. And if you were born since 1914, you have never known a world of peace, either. But the conversation never did take place and the nations of the world were frightened because when big nations stop talking, they are very likely to start shooting.

The captain called in the soldier and he said, "Are you the soldier who fires the cannon on the parade ground every morning?"

He said, "Yes, sir, I am."

The captain said, "Well, you do a very timely job. Sometimes I wake up at five minutes to six, I watch those hands go round, 6 o'clock, boom, there goes that cannon. How do you keep time like that?"

He said, "Well, sir, every time I get some leave I always go down to the big city and I look in the big jewelry store and I always set my watch by the clock in the window."

The captain said, "You are doing

a good job, keep it up."

A few weeks later a man came in and he said, "Mr. Jeweler, this interests me. I have set my watch with your clock in the window and I have checked it with the time at Western Union and it is exactly the same. How do you keep the time so exact?"

The jeweler said, "Well let me tell you. Every morning when they fire that cannon on the parade ground—"

That is an interaction.

I think we talk to give our knowledge. But what price knowledge if you can't convey it? And if I come to you and tell you I have problems and you can't tell me the answers to these things, what price is your knowledge? If you are twice as smart as Einstein and you lock yourself up in a cave and out of that cave comes no written or spoken word of your brilliance, what price knowledge?

They say Rabbi Goldberg loved to play golf. It was a very nasty, rainy season. Comes the loveliest day of the year, but on the Jewish religious calendar it also happened to be one of the holiest days of the year, namely, Yom Kippur on which you meditate and pray. The rabbi said, "I think I will go out and stretch."

He goes out on the golf course and the Lord looked down and said to St. Peter, "Look who is playing golf on Yom Kippur, Rabbi Goldberg."

St. Peter said, "Never mind, I will fix him."

Well the rabbi addressed the ball, hit it 260 yards, had birdies, eagles, holes in one and it was the greatest game of golf he had ever played.

And the Lord said, "That is the way you fixed him?"

St. Peter said, "Who can he tell?"

Drive you mad, wouldn't it?

I think we talk to keep our mental balance. When they say the man next door has been home all week, and you hear him talk, talk, talking to himself, he must be going nutty, I don't think so. I think he is desperately trying to stay in the world of reality.

I spoke in Fort Worth for Convair and they showed me the plane that goes 1400 miles an hour—already old hat, 1400 miles an hour. Well, groups like Convair break the barriers of silence. As human beings, we have to break the barriers of sound. And that is why many a dog and many a cat and many a parakeet has formed the pattern of paling up, because it has something to which to communicate itself.

Would you buy this fact, this thought; so much of your success thus far has been due to your relationship with people, not with titles, but with people. And so much of that success has depended on what you have said to those people and how you have said it. That the greatest weapon we have to attract or repel depends on the words that come tumbling from our lips.

I want to tell you a couple of silly little stories and then I will tell you why I told them to you. I heard of a lady who had an illegitimate lover. Now you can't get those without some conversation. And her lover said to her one night, "I would like to give you a nice fur coat."

She said, "Wouldn't I like that. But how will we get it by my husband?"

He said, "I will tell you what I will do. I will take the coat down to the locker in the railroad station, give you the key to the locker."

She said, "Oh, there is the thought for the week." So when she went home that night she said, "Looky, looky, I found this in the railroad station, the key to a locker. Now in the morning when you go down to the office, use it."

He said, "It wouldn't be honest."

She said, "Finders keepers."

Well he opened the locker, and there was a very lovely mink coat. He took it to his office, he spread it out over his desk, he was admiring the luxurious pelts; his secretary came in and said, "Oh, you darling, after all these years."

Well, she looked so chic in it he didn't have the nerve to tell her to cease and desist. And when he came home that night, his wife said, "Well what did you find in the locker?"

He said, "This," and he gave her an umbrella he had bought in a second-hand store on the way home.

The next story you won't care for is the story of Pat who was dying. He said to his wife, "Come to my bedside, I want to get something off my conscience." He said, "I have got to admit the time I was down in New Orleans I bought a strange girl a diamond ring. And in Atlantic City I bought a strange girl a necklace. I just want to get it off my conscience."

His wife said, "I knew it all the time. That's why I poisoned you."

Why do I tell you these two silly, stupid little stories? I am always interested in the philosophy of the

Ying and the Yang. Ying and Yang represent the world's opposites, and everything is opposite, male and female, good and bad, young and old, war and peace, carried on ad infinitum. On one side of the conversational coin so much of our conversation is to worthwhile purposes. We talk to people we love. We are lucky, a few of us, to have those who love us talk to us in return. Oh, but on the other side of the coin, in these two stories, conversation was used for subterfuge and illegality.

I want to talk about two kinds of conversation this morning. Number one, chitchat. We are not trying to solve anything. Somebody comes into your office, a stranger, and you are trying to build a rapport between human beings and this was so well illustrated by the movie that it won an Oscar for its theme.

You remember the East Side hoodlums standing on the corner in Brooklyn one night, and one said, "What are you going to do tonight, Marty?"

He said, "I don't know, what are you going to do?"

"I don't know, what are you going to do?"

They want to live forever, but they don't know what to do with themselves on Thursday night. Conversation at its lowest ebb.

And sometimes I have sat down and I have overheard the brilliant, scintillating conversation of men and women and I have said to myself, "Wasn't I lucky to hear what those good people had to say at that particular time?"

When I think of chitchat, I always think of the two mama kangaroos who were talking and the one said to the other, "Don't you just hate these rainy days when the kids have to play inside?"

I find so many times many people can't even start simple chitchat. When I was in personnel, take the work of the foreman. The foreman would say, "Hello," the workman would say "Hello," and they didn't seem to know where to go from there on. Now much of time is spent in flying and you sit in a plane, and you don't like to sit there like a hunk of protoplasm. You have got to say something, especially when someone's eyes say, "Gee, I would like to talk to you, but I don't know where to start. You say something first."

Now I don't think we ever ought to start a conversation with a stranger by saying, "Do you take dope?" There has just got to be a better way



than that. Or, "How is your ugly wife these days?" Even if she is, that is not nice. Or, "What does a suit of clothes like that cost? Robert who?"

Now what would you do in a case like this. I am sitting in a plane. A man is sitting next to me. I say, "Good morning, my name of McFaul."

And he says, "Well mine isn't."

Now I learned a long time ago what you learned a long time ago, it is not only what people say, but what do they mean by what they say. I think what a man means is this: I have a grief, I have a problem, I have a heartache. Let a little silence come between us please. Then you pick up a book to see if you can pick up an idea.

Now I don't know much about the man who comes to my office or the one sitting next to me on the plane, but I know he is a human being and as a human being, there are certain things in which he has an interest. If I can't think of anything else, I start to talk about what every radio announcer you heard was talking about this morning, the weather. Oh, it is trite, it is ordinary, but it is a safe springboard for a dive into the conversational pool and many friends, many love affairs started over the simple conversation of the weather.

I know that the man sitting next to me is going to be interested in talking about his home. So much of our lives' happenings depend on what occurs within four plastered walls in a place called a house and which by some poetical magic we are trying to turn into a place called a home. I heard a definition of a home the other day. You may not like it. In all together too many cases it contains a thread of horrible truths. Home is the place where we mistreat most of the people who love us best. And if the truth were known, the people we love best, too. Proximity can be a dangerous thing if we don't watch out.

Many times I am sitting next to men on planes and we get to talking, and fathers in all, I find they can be roughly divided in to three kinds of fathers. There is the young father who always wonders what his first born would look like and the child comes into the world and he tells you about the utter mystery of birth. Then there is the middle father. He says, "Look, we have five at home. We are expecting another. Let's talk about something else, if you don't mind, please."

I am not saying he doesn't love his family, I am saying he is so mixed up with mortgage and light and heat he has just plumb forgotten the joy the good Lord has given him.

But you know, the most wonderful father of all, do you know who it is? Just as we call him down through the centuries, the French called him "grandpere" and the Germans "grossvater," and we call him "grandfather." I sat next to a delightful gentleman the other day. He said, "You know, I have been to visit my first grandchild and when they put that little bitty babe in my arms, I had the feeling that this was the greatest religious experience, and at long last, I knew there was a real reason for my being put on the face of the earth. But for me there never would have been this little baby."

Another man told me his wife had not seen their grandson until the boy was about 10 years of age and the boy couldn't get over it, he kept saying, "Look, you are my grandmama?"

And she said, "Yes, I am your grandmother on your father's side."

He said, "Well you won't be around here long before you will find that is the wrong side."

I think we can talk about politics if we keep it on a discussion level and refuse to argue. And if we do that, we could throw in nationality and religion, too. I think the person sitting next to me would like to talk about the recreative side of his life, his health, national or international events. He had better be interested in international events. What happens on a lonely mountain pass in Yugoslavia, or Albania—the only chairs empty in the whole United Nations were the Albanian Delegation—what happened in a mountain pass in Albania, what happened in the war between East and West Berlin, the line of demarcation between North and South Korea. What happens in the night may plunge the world in darkness in the morning. So we hang on a perpetual abyss. I think the person sitting next to me, in fact I know he would like to be complimented and we don't compliment people anywhere nearly enough. I was speaking in the East and a man came up to me said, "Mr. McFaul, so you remember me?"

I said, "Oh, gee, your smile is so familiar, your name? I do, I remember your good mother and father and your brother."

He said, "Do you remember something you told me over 30 years ago when I was a kid of 14?"

I said, "No, I have forgotten."

"You told me you thought I had leadership capacity and I never have forgotten it. In some dark moments it has helped me."

And do you know now he is one of the vice presidents of one of the large paper companies in America. And I was so glad as I stood in the street that day, 30 years before, I thought to compliment him with two simple words.

Too many of us are like the old New England farmer who said to his wife one morning, "Sary, when I think what you have meant to me all these 35 years, it is almost more than I can do to keep from telling you."

I think the man sitting next to me would like to be appreciated. We don't appreciate people enough, especially those close we take so for granted. I stood at the casket of a friend of mine some years ago and I said to his wife, "I know he was a loyal, loyal friend and I am sure he was a fine father and husband."

She said, "Yes, that he was, that he was. But I wish once in 20 years he had taken me in his arms and said, 'he loved me'."

I am sure that the look on my face said, "What did she mean?" Every check he got he gave to her; every vacation that he took, he took with the family. If that isn't love, what is love? Oh, sometimes it is nice to have the words come in through the ears to the brain and trickle to the heart and keep it warm for a long, long time.

This matter of being appreciated, they found out that the new minister liked sherry wine. One of the parishioners said, "Do you like sherry wine, Reverend. Well, I make it. I will give you a jug full providing you announce it from the pulpit Sunday night."

The minister said he would.

So he read the announcements and he said, "On this Sunday morning I want to thank one of the parishioners for the gift of fruit and the spirit in which it was given."

I think the man sitting next to me would like to talk about his hobby. I was going down to Virginia the other day, and sitting on the plane, a man had a pheasant embroidered in his tie. His cuff links had pictures of pheasants on them. I said, "Do you like pheasants?"

He said, "I raise them."

I said, "So do I. Not for their plumage, not for their beauty," and the miles flew by fast because we found we had an interest in each other's hobby.

And speaking of hobbies, I will never forget an advertisement I saw in the San Francisco Chronicle. The ad read: "Elderly man who smokes and drinks would like to meet elderly woman who smokes and drinks. Object, smoking and drinking."

Now those who have made a study of conversations say this, "If you want to be a good conversationalist, don't do all the talking. Two kinds of people never say anything, those who never say anything and those who talk all the time."

The other afternoon in Utica, N.Y., I was speaking to a noon club and the president was talking to the group and nobody was listening, yap, yap, yap, all over the place.

I said to the man sitting next to me, "For goodness sake, don't they even listen to their own president?"

He said, "No, he talks all the time."

On the periphery you will find the little gray people. They never say very much, largely for three reasons:

First of all they are afraid of the sound of their own voice out loud; second, they don't think what they have to say is important; and third, they might say something and a terrible thing would happen to them, somebody would laugh at what they said.

I think that sometimes asking them a question you draw them into the conversational circle, but that seems to embarrass them. Just looking at them friendly like once in a while lets them know that you know.

Secondly, never ask the second question until the first has been answered. You know, that is one of my conversational weaknesses. I want to know things so fast I ask lots of questions. You can only answer one at a time. I waste your time.

Avoid unnecessary details. I think that is one of the reasons why so many people find it difficult to tell a humorous story. They try to go from A to Z. They start, and then they pick flowers, they wander, and they lodge—remember this man who was telling the story that went on and on and on and on and on and on and finally he said, "Oh, I guess I am getting ahead of myself."

And his friend grabbed his arm and said, "For gosh sake, don't go back."

Do you know why you smiled at

that? Because you have had that for an experience.

I will tell you a story that cuts right to the bone. A lady said, "I would like to have my fortune told."

The man said, "That will be \$25." She gave him the money. He said, "You may now ask me two questions."

She said, "Isn't \$25 a lot of money for two questions?"

He said, "Yes, it is. Now what is your second question?"

Don't you wish you could do business like that?

Don't be the hero of your own story. Oh, you save the girl from drowning, you won the game for dear old Alma Mater in the last ten seconds of play. Tell it once and then shut up about it, or better yet, let somebody else tell it about you.

Right after the war there were a lot of G.I.'s in our university classes. Some professors didn't care for those kids. I loved them. I thought they brought a maturity to the college class that the high school senior could not possibly bring because the young person had not lived that long.

And in my speech class, I thought these boys had a right to talk about their brushes with life and death. I remember one fellow for the seventh time started his talk the same way, "When I was flying for the Navy—" And the class groaned and said, "Oh, no, not again."

But he must have caught the reaction this time, because he started out, "When I was half way through my cadet training, I remember as a child I was very much afraid of the sight of blood."

He said, "He went to his room one day, nicked his arm and squeezed out some blood, tasted it, rubbed some on his face, looked in the mirror, smeared some on his hands. Coming back from some-40 missions, a piece of flak flew through the plane, all but cut the co-pilot in two. In a few seconds the cockpit was dripping with his blood."

He said, "In that split second, I got a hold of myself, brought the plane down, all saved except the poor co-pilot, who died." And when the speaker sat down, there was a round of honest applause, because at long last he had not, at least directly, made himself the hero of his own story.

Now maybe this is the most important one of them all. If you are going to be a good conversationalist, for goodness sake, be a good listener and listen with three ears to what

they are saying, to what they are not saying—most important—to what they would like to say, but need your help in saying.

How many times I have talked to men in industry, like yourselves, and I say, "Do you have an open door policy? All things being equal, can your employes come in and talk to you any time they want?"

And they say, "Yes, sir, any time they want."

And then I talk to your employes and I say, "The boss just told me there is an open door policy. You can talk to him any time you want."

And they say, "Yes, you can talk to my boss any time you want. He won't listen, but you can talk to him any time you want."

I say, "How do you know he doesn't listen?"

And this is what they told me. "When they come into your office, you start doing this with your fingers on the desk, as much as to say, 'come on, let's get it over with.'"

Or when he is talking to you, you nod at someone in the outer office, you smile at someone, you wave at someone, and then you say to him, "Huh?" Is he listening?

Or when he comes in you say, "I have got to sign these papers now; what's your problem? Uh huh. Uh huh. That's good. Fair enough. Always come in. We are glad to give you undivided attention. Yes."

And he goes out hating the experience because you treated him as though he was a baby and you were his daddy and he didn't like it.

Or you keep interrupting him. You say, "Now by that you mean," until the poor guy doesn't know what he means. Or you sit behind the big, solid, mahogany desk, this fortress, with your arms folded and you stare at him as though you were disciplining a child in the third grade.

Now I know some of you are saying, "Now look, McFaul, if I listened to every man that came in the office, I would never get my job done. Don't I have any rights as a listener?"

Yes. To whom you listen, how long you listen and to what you listen. But I think when we are listening, we ought to do it with all our might and main. It is not easy to listen. Medical men and psychologists have put sensitive devices on individuals to test what happens when you are truly listening. Well, the blood pressure goes up, the heart beats faster. But I think when we really are listening—

did you ever have anybody come in, they are all anger, and they spit out all the venom about the company and their boss. Do you say, "Cut that down, stop that." You just listen, you listen. At the end of 20 minutes they shake your hand and say, "I want to thank you, boss, you have been a big help to me today."

You probably didn't say anything. What was it you did? You were the good psychologist, you allowed him to drain out his emotions and you truly listened.

And I say I think we should listen with three ears to what they are saying, what they are not saying, what they would like to say, but they need our help in saying it.

I think if we are going to be good conversationalists we ought to talk in harmony with our surroundings. Don't talk about your new car to the man who just lost his job. Don't talk about cremation to the man who is facing a serious operation in the morning.

Right over here at Passavant Hospital I had an operation for a detached retina. It is not a serious operation unless you go blind. It is painful and there are four or five layers of gauze over your eyes, and one of my breezy friends came up one afternoon and said, "Mac, what happened to you?"

I said, "Well, I had an operation for a detached retina."

He said, "I had a friend who had the same operation—went blind."

I said, "You must come frequently and cheer me up. You really must."

They say when Dr. Sun Yat-sen, the leader of the Chinese Intellectual Movement came to America, the industrialists of New York City gave a great dinner for him at the Waldorf Astoria. And sitting next to him was a man who knew a lot about making money but knew very little about human relations. And he probably had never seen a Chinaman outside of a Chinese laundry and he had no idea that a Chinaman could have a doctor's degree in political science and be one of the leading political philosophers of the world. He leaned over to Dr. Sun and he said, "You likee soupee?"

Well, Dr. Sun smiled and nodded and then after being introduced gave a brilliant talk in impeccable English. And when he was sitting down he said to the industrialist, "You likee talkee?"

I told you there were two kinds of conversations. Do you know what the

second one is? It is where you do sit down as you have had to do many, many times, with your neighbors, with your children, with your business partners, sit down for the express purpose of building a bridge of understanding between your mind and the mind of somebody else and you meant to hit a bull's eye. But I think if we are going to do that, one of the things we ought to do is get all of the facts. That is one of the reasons for a title to real estate. It puts down all of the facts, spells everything out. So when I buy it, I don't have to wonder, is this mine, even though I paid for it? Get all the facts.

So many times when I am called in as a third party and A says, "He didn't tell me that."

And B says, "I didn't understand that right away."

Oh, for goodness sake, if somebody would take a little more time to get all the facts, the time and the money wouldn't have to be spent for this. Get all the facts.

A friend of mine came back from New Mexico. He said, "Boy, are there a lot of Indians down there."

I said, "I know."

He said, "They all walk in single file."

I said, "They do?"

He said, "The one I saw was."

I think that is over hasty generalization.

I am just fresh from the experience of speaking to tens of thousands of high schools and college students in Northern Oklahoma and Kansas. Ah, what a wonderful generation of kids coming up, kids you won't find in the headlines of the newspapers. You will only find that small percentage who killed their mothers because they can't have the family car or smoke marijuana in the fourth grade. Ah, what wonderful kids. We are turning America over to a grand bunch. They are different than we are, to be sure, a different generation with different forces impinging on their personality, but they are wonderful.

I think if we are going to build a bridge of understanding, we must do the most difficult thing in all human relations. Do you know what it is? It is to say, "how does this look to the person on the other side of the table?" To somehow look through his eyes and see young in the year 1965. Difficult.

A few years ago my boy, Tom, said, "Can we go in the front room and sit down and talk?"

I knew it was going to be a summit meeting.

So he sat there and smiled and said, "Shall I come right out with it, or beat around the bush?"

I said, "No, come right out with it, Tom. What is your problem?"

He said, "Well here it is. May I—may I—may I have a car?"

Well, at 16, there are a lot of reasons why he shouldn't have a car. Is he emotionally ready to have a car? The insurance is \$250 or \$260 a year.

I said, "You know what I am going to say, Tom, why should you have a car?"

And as we talked, the years rolled back, and that was not Tom talking to me, but it was me talking to my father. I was giving the same reasons as Tom, only I wanted a horse. "I will take care of it. We can use one. We can afford one." And the clincher, "The other boys have one."

I said, "Well, Tom, I am thinking back to when I desperately wanted a horse at 16 and you want a car and I feel and I know some of the problems. We will see if we can get some kind of simple transportation. But I am going to make a prediction. Some day your son is going to be sitting here and he will be saying to you—" and that boy was born two years ago, October 12—"he will say to you, 'may I have a rocket? I don't want to go to Neptune or Mars. I just want to go to the Milky Way, because I heard the chicks on the Milky Way, boy, are they good. One big blue eye right in the middle of their foreheads, foot long eyelashes they fan you with, four sets of arms, three sets of lips. Oh, can they love?'"

I remember, as we were going out, he patted me on the back and said, "You know what I like about you, I can talk things out with you."

I said, "Thank you very much, Tom, it is kind of you."

But a few months later when he wanted to go to some silly safari to Alabama with a couple of kids I didn't care about, I listened for 15 minutes and then said, "Tom, the answer is absolutely, definitely, positively no."

He said, "I don't know what is the matter with us. We can't talk things out like we used to."

I knew then, talking out meant he won. You may remember there was a play in New York some time ago called, "The Tully Method." Dr. Tully had been going with Enid for about 18 months and he said, "Will you marry me?"

She said, "No."

He said, "My goodness, gracious, Enid, you are not going to let a little difference of opinion come between us, are you?"

She said, "Doctor, that is all that ever does come between people, is a difference of opinion."

That is all that ever comes between you and your family, between yourself and your parents, between ourselves and our children. A wide difference of opinion, I will admit. But I don't think they will ever kill any philosophy whether it be communism or democracy with bombs. You kill philosophies with philosophy and that is why the philosophy of Christianity largely killed the philosophy of paganism.

You remember there was a man who walked along dusty roads and talked to smelly fishermen, sat on the edge of the well and talked to the woman of unfavorable reputation. Never left any written words except the words he wrote with his finger in the sand and the winds blew those away. Yet, in three years of conversation, if you want to know his power, in three years of conversation, he laid the basis of one of the great faiths of the world.

I think if we are going to be good conversationalists, we should not charge head-on. Even if we are the boss and chairman of the board, and people fly in all directions and when we get home we say, "Well, I guess I told them." And you have won the battle. But you remember the Germans and the Japs won lots of battles, but they didn't win the campaign. You would be surprised how people can organize against you. Or maybe if you are John L. Lewis, and you have a million dollars in your kitty and many men in the palm of your hand, maybe you can say to the soft coal mine owners of White Springs, West Virginia, "You are all liars by the clock," and make it stick. Maybe if you are a great United States general and the Germans have you pocketed in a very dangerous place called "The Bulge," and you are losing hundreds of American lives and maiming them by the thousands and the Germans send you a communique, and maybe if you are General MacAuliffe, you can send back one word "nuts" and make it stick. But I doubt it.

I have never been in so powerful a position and if I were, I doubt if I

would use it except for two reasons, right now to save lives and to explain later, or when everything else had been exhausted.

I like what good Dr. Lieb of Northwestern University, the professor, used to say, "It is not that men disagree, but that they become so disagreeable." So many times we could win the fight without fighting if we were clever.

I can tell you this, all the studies, all the psychologists and social scientists have made of communications, all come out the same way. There can be no communication without trust.

You remember when the two women in Grosse Point ate a can of tuna fish and died. Shortly after, speaking to the wholesale grocers in Colorado, I asked, "What did this publicity do to the market of tuna fish?" It cut it 50%. Suddenly American housewives lost their faith in the product.

They sent a friend of mine down to Indianapolis some years ago to take charge of the office. They fired the office manager. He said, "Mac, I went down there and I taught those people by the week, but nothing happened." Why? Oh, they changed the personnel at the head of the table, but they had not changed the attitude of the personnel at the head of the table; and attitude is as important as aptitude.

The reason why so many people are fired, a thousand, for example, you will find about 34% because they didn't have the aptitude, they couldn't be trained, about 66% because they didn't have the right attitude.

I talk to you and say, "Was he a good worker?"

"Yes, he was, but—" And conjunctions are always significant,—“but, he turned up at work with liquor on his breath too frequently.”

"He was a good worker, but he was a gossip, had everyone at everyone else's throat."

"He was a good worker, but little things came up missing. I felt uneasy."

Now like many of you, I love San Francisco. I used to go to Chinatown, way back in the old spice shop of Lee Wong. Lee was a tall, old, wrinkled oriental with that inscrutable smile, with long tapered fingers and old country kimono with the little black bandbox hat on his head. I said, "You know, Lee Wong, all about oriental philosophy. What would you

tell an occidental person, the best way to keep his foot out of his mouth?"

And then in the slow, measured way of the oriental sage, he said, "Oh, how to keep foot out of mouth? Confucius say, 'For one word man often deemed to be wise. For one word man often deemed to be foolish. We should indeed be careful what we say.' Wong no say that. Confucius say that. Confucius smart man. Confucius teacher."

"For one word, man often deemed to be wise; for one word man often deemed to be foolish." We should indeed be careful what we say.

Now it's a wonderful opportunity to talk with you, wonderful and humbling. I had 25 talks in five days with the Ethyl Corporation, Baton Rouge, and I was speaking on the psychology of safety at 5:30 in the morning when 250 Negroes came off their shift, still wearing their khaki coveralls, their safety helmets, their safety goggles, their respirators around their necks.

And the leader of the group said to me, "Mr. McFaul, would you-all mind if we start our meeting with a prayer?"

I said, "No, I think that would be wonderful. Go right ahead."

Then he folded his long, black, dirty, powerful hands and he gave one of the shortest, most beautiful prayers I have ever heard. He said, "Dear Lord, help the speaker put something in our hearts that will come out in our lives; amen."

And suddenly, I felt about that tall.

I had an experience in Cincinnati one night I didn't exactly care for. After the meeting a man came up to me and said, "I am very deaf, and I am sitting way in the back I didn't hear much of what you said."

I said, "Well, I guess you didn't miss much."

He said, "Hey?"

I said, "I guess you didn't miss much."

He said, "That's what the boys told me."

Everything happens to me in Cincinnati. You know, just about the time you think you know something about this business of communication, something happens and your world falls in on you and you have to build it all up again. I was speaking for some tool and die company on the edge of Cincinnati at a motel called the Carousel and the meeting was

over fairly early and I found if I rushed across country I could get a plane back to Chicago. It was an \$8 trip which offended my Scotch blood a bit, but we got started and I got in the taxi cab, and the squawk box was on there, the women, the message-taker was saying, "Car No. 2, car No. 2, yak, yak, yak."

I said, "Is it possible to turn this off?"

He said, "No, we have got to leave it on."

And I said, "How would you like to be married to that?"

And he said, "I am."

I will end this in a daytime story. These three old ladies were in the insane asylum and one old lady said to the others, "I wish that young, handsome new doctor would come over and give me a great big kiss."

And the second old lady said to the third one, "I don't think Effie is going to be with us very long. She is beginning to talk sense."

I don't know if I talked sense, even though I tried to. But I am not going to be with you very long either, because I am through. Thank you very much.

## "THE LATEST WORD IN ABSTRACT SCHOOLS"

By FRANCES ELFSTRAND

*Vice President, McLean County Abstract Company, Bloomington, Illinois*

EDITOR'S NOTE: MISS ELFSTRAND SUMMARIZED THE WORK OF THE COMMITTEE ON ABSTRACT SCHOOLS; THEN CALLED UPON THE FOLLOWING COMMITTEE MEMBERS TO REPORT THE RESULTS OF SCHOOLS SPONSORED BY THE STATE ASSOCIATIONS IN MINNEAPOLIS AND KANSAS

W. S. ENGMAN

*President, The Consolidated Abstract Co., Duluth, Minnesota*

The 2nd Land Title Abstracter's Seminar was held on Friday and Saturday, February 12 and 13, 1965, in connection with the center for Continuation Study of the General Extension Division of the University of Minnesota, Minneapolis. We found the accommodations at the U to be excellent as there were provisions to stay at the Dormitory, parking facilities, food service and ample convention room facilities.

We held a pre-seminar meeting several months prior to the school and invited delegates from Iowa, North Dakota, and South Dakota to attend. They in turn reported to their own state organizations, and, as a result, many in attendance came from these neighboring states. We were able to "borrow" from Iowa some excellent speakers in our own field, such as Jesse Marshall, Gerald Cunningham from Iowa and H. G. Ruummele from North Dakota.

It was our feeling that our people would be more interested in courses

covering actual title work as presented by persons actually engaged in the title profession rather than professors from other fields. This we learned from our first seminar when we used professional engineers and professors from the university.

We had around 100 in attendance at our second seminar which was an increase over our first school, and from the various comments, we find that the seminars are well received and there is a need for them.

The University Extension Branch handled the luncheons and schedules for a flat registration fee of \$20.00 per person. This included two luncheons and all the facilities of the school. As we held it when the university had a holiday, it worked out very well. We held it on Lincoln's birthday and a Saturday, which allowed many offices to send their help to the sessions. Also we found that January or February are good months for us to hold our schools as business is quite slack then in our area.

In summation, I would state that there is a definite demand for schools such as we have had, but care should be used in picking well-qualified speakers who are well-versed in title work. Some find the courses too basic

and some too advanced, which is difficult to overcome unless your school is large enough to attempt classes for both beginners and executive personnel.

### ROY T. HELLER

*The Crawford County Abstract Company Inc. Pittsburg, Kansas*

I have been asked to tell you something about the history, the type of employee we reach, the curriculum and the instructors or lecturers Kansas has had at its various schools of Title Instruction.

It is my understanding that a number of years ago, Kansas had one or two schools. Several years went by with no school being held. In 1960, Kansas held its first annual school; since that date, a school has been held every year. The school has always been held during the month of June, and usually the first part of June, and is sponsored by Kansas Land Title Association and the University of Kansas Extension Center.

The Sixth Annual School was held the 11th and 12th of June, at the Allis Hotel, Wichita, Kansas. All schools have been held in Wichita because of its central location. Our school has continued to grow, and each year finds just a few more in attendance, the average attendance each year being about 115, the enrollment fee being \$16.00, which includes one luncheon and dinner.

The school is run strictly on an information and work shop basis, and not on a convention basis. The people who attend this school come for information, that they might become more efficient in their profession. The chairman of the school for the past several years has been the vice-president of our association. This is his big job, and it has become traditional that he put on a good school.

As to curriculum, the last three years the school has been divided into two sections, a basic seminar and an advanced seminar, the intent being that the basic seminar would include persons with five years experience or less. This does not mean that one is bound by this rule but is granted the privilege of attending the seminar of his choice. Evaluation sheets are filled out by those attending the school which help in preparing the curriculum for the next school. In 1965 the following questions were asked on the evaluation sheet.

1. What overall rating would you give the school based on instruction, content of material, meeting room facilities?

2. What topics would you like to have included in next year's program?

3. What suggestions do you have for improving the school?

I should like to give you an example of an answer to question three.

"Tape record the lectures and make the tape available on a "library-loan" basis to abstracters throughout the state so an abstracting company's entire staff can listen to the tapes together, digest and discuss them."

The only objection I would have to this would be that perhaps people would quit coming to the school and depend on the tape-recordings. If this should happen, they would miss out on new procedure and new legislation discussed at these schools. However, this answer shows that the people attending the school are thinking, and evidently think the schools are worth the time and effort spent in putting them on.

In Kansas, we have a licensing law, and in order to become a licensed abstractor one must pass an examination satisfactory to the examining board. In our curriculum we try to cover at least some topics that will help the individual desiring to become a licensed abstractor.

The faculty for 1965 as in the past included some from within and some outside the title profession. The faculty we select outside our profession are tops in their field, and are interested in our profession. An example of this: in 1964 we had an attorney serving as an instructor for our school who is now one of three attorneys being considered for an appointment to the Kansas Supreme Court. In 1965 we had a professor of Law from the University of Kansas, the dean of Washburn University School of Law, Topeka, and a commissioner of the Supreme Court, State of Kansas.

We try to choose the best individuals within our profession, for example: Clem Silvers, who is a past



president of ALTA, conducted a class on oil and gas abstracting. We think Clem knows as much about oil and gas abstracting as any attorney or ab-

stracter in Kansas. If you come from an oil and gas producing county, this one course would have been worth your \$16.00.

# TITLE INSURANCE SECTION

## REPORT OF SECTION CHAIRMAN

By GEORGE B. GARBER

*Senior Vice-President Title Insurance and Trust Company, Los Angeles, California*

For two years I have served as your Chairman of the Title Insurance Section. To me it has been a most rewarding experience with all the opportunities of making new acquaintances and gaining a new understanding of the scope of the title insurance operations throughout the country. It is a most broadening experience and one that makes me feel most humble in reporting to you today. In these two years I have had the opportunity and privilege of attending, as the representative of ALTA, eight state conventions and five regional conferences. The exposure experienced by these activities has given me a recognition of the seriousness with which our member companies undertake their responsibilities to the public in offering their various services. It also gives me a great depth of understanding of the problems of the industry and a sense of feeling as to the direction the industry is taking.

Later in my report I have a few general observations to make. But first let me express to the members of the Executive Committee of the TITLE Insurance Section my deep gratitude for their counsel, support, and advice. The members of the Executive Committee of the Title Insurance Section to whom I am indebted are: Stewart Morris, Vice Chairman, Robert Dix as Secretary and to Al Julin, Harwood Briley, Bill Conn and Bob Morton. The assistance and help of the members of the staff of ALTA have been invaluable; first to Joe Smith, until his departure, and later Bill McAuliffe, and particularly to Jim Robinson for his help and untiring efforts in develop-

ing a fine Section program, and, too, there is Frank Ebersole and the rest of the staff of ALTA for their excellent efforts in assisting the Chairman of the Section to carry out his responsibilities.

During my term as Chairman I noted three interesting trends and changes occurring in the title industry. The first is one that you will all recognize, and that is the intensification of competition. There is, of course, growth and expansion of the bar and lawyer sponsored title companies. Even during the last year two new state-wide bar sponsored title companies have emerged. But more than this is the expansion of the title insurers into new market areas, and the trend toward more nationalization of the large insurers. While this has occurred in the past to some degree, the pace accelerated in the last two years more than ever before.

The second trend is an accelerated use of the electronic and automated equipment in the industry. More of our companies are entering into research projects in this field. This, too, should result in the improvement of service as well as reduction of the cost or profit improvement.

Our industry has recently been shaken by the failure of two title insurers. One is a company in Arizona and one a company in Texas, both of whom had to close their doors and cease their operations. These failures can be traced to either shortage of funds, defalcation, or apparent misrepresentation as to condition of title. These occurrences have been more frequent of late and have involved em-

ployees, agents, escrow officers and title officers. We place great dependence on the skills and ability of our associates. We are inclined to assume complete honesty and resistance to temptation. I must urge upon you with complete earnestness the maintenance of sound and adequate controls and auditing procedures. It is highly probable that the recent events will lead to substantial increase in rates for fidelity bond coverage, and in some cases, cancellation of existing fidelity bonds. It has been proposed that the association undertake the study of the possibility of developing more adequate bond coverages through an appropriate committee, looking toward developing a standard form of coverage more applicable to the title insurance business.

There are many problems facing the industry today. These relate particularly to relations with our customers and with our competitors. We have our

problems with the Bar, not only in unauthorized practice but with the Bar sponsored title companies. We have our problems with FHA and VA in connection with closing costs. We have a problem in our public relations image. While there are other problems these three are giving us the most irritation and call for some solution. However, by virtue of diverse opinions by members of the association and the varying relations of our member companies with customer groups, the possibility of some uniform position by ALTA has been most elusive, to say the least. My observation is that the present situation calls for more concerted action by our association before the time is too late.

I would like to conclude my remarks by thanking the members of the Title Insurance Section for their interest, cooperation, and support during the two years I have served as your Chairman.

## “A GARDEN FOR PEOPLE TO GROW IN”

By JAMES W. ROUSE

*President, James W. Rouse & Company, Inc. Baltimore, Maryland*

Thank you, Mr. Garber. It's a great honor to be invited to address your convention, and I thank you for it. I am especially grateful to be here when Joe Knapp is your president. Joe is an old friend and a fine man, and a widely respected businessman in our community. He does an outstanding job of running a great company, and all of us in Baltimore are grateful to him for it.

This great company, the Title Guarantee Company, I look to as sort of a business father in a very unusual number of ways. Way back in 1936, that's 29 years ago, Guy Holiday was crazy enough to take me I had better tell my age so you won't think I am too old now—as a 22-year-old young man and bring me there to head up the mortgage department of the Title Guarantee Company. This was really the beginning of my business career.

Guy has served on the board of our company almost since it came into being, and then Charlie Buck has been a very special citizen statesman in our community. He was a very great

chairman of the Greater Baltimore Committee. He is a fellow, I suppose, more people look to in our community for wisdom and good will and outstanding performance in civic responsibilities than any one else in our town.

I have learned from him most of whatever I know about being a citizen in our community. You can see that my being a member of the Board of Title Guarantee Company is a very small expression of the importance of this company to me and my company. Joe and Guy and Charlie and the Title Company itself have been and continue to be a very rich source of power and inspiration to me and to all of us in our company in the work that we do.

I have been asked to report to you on what we are doing in our attempt to build a new city, Columbia. I suppose the most remarkable thing about Columbia is that it is remarkable at all, because no one knows better than you all do from the platform from which you work that we are building a

city every day in America, or many cities every year, but they are coming forth in the bits and pieces that are scarcely recognizable as a city. We sometimes call it "suburban sprawl." A farm is sold. A builder builds houses. He is successful. Another farm is sold nearby. He builds more houses. There is, all of a sudden, an increasing outcropping of urbanization.

Then we need schools. The school board rushes in to build an elementary school, eventually a junior high and later a high school. Congregations form in basements and gradually bring churches into being. No particular relationship between houses, schools, churches. Traffic builds up. Roads are widened. Become busy places for filling stations. McDonald hamburgers, Tasty-Freezes. Eventually the traffic becomes so heavy that we need an expressway, so we hack through the landscape with an expressway to move people. Create a cloverleaf where it crosses the old road. The cloverleaf becomes a hot spot for a regional shopping center. This makes a good place for offices, apartments.

This is the way we build a city. We know much better how to build a city. We know a lot more about the interaction of houses and apartments and stores and offices, but we seem to lack the process in America to put our best knowledge to work. We keep on producing foremost places without order or reason or beauty or respect either for man or for nature.

We squander the land at an appalling rate. A million acres a year. We are converting from agricultural to urban land in America, a million acres a year, every year.

We cut down the trees. We fill up the streams in valleys, close up the open spaces, level the hills, murder the land every day in the United States.

We produce noncommunities, narrowly stratified areas, narrowly stratified by income and social groups massively spread across the landscape like a thin coat of suburban paint with no true community centers, seldom true community centers in which there can be the richness of community life that was associated with the old downtown or with the downtown in a small city.

We think of a new freedom that derives from our easy way of moving about in the automobile, and yet how many kids in a suburb today are free to walk or ride a bike or a pony to a

stream to fish, to a library to read a book to school, to a concert, to a piano lesson, to a movie?

They are chained to a formless neighborhood hemmed in by an expressway and wholly dependent upon parents to move them about. Older people similarly chained and parents spending their time in automobiles moving older people and children about.

We know better, and yet this is the way we build our cities; and we are building them this way at an incredible pace never dreamed of in our history. Somehow, we approach each new step in the growth of a city as if it were a gigantic surprise. Even though we know the statistics, we are not prepared for them.

There is not one single metropolitan area in the United States that has a comprehensive plan for its development that is remotely in pace with what the people and the planning office and the government of the community know or can easily know is going to be the growth of that community over the next 20 years. Our growth is by surprise, by accident, by whim of the developer.

We are building 30 cities a year of 100,000 people each in America, and we will continue to do this for the next 20 years. We are going to add 60 million people to America in the next 20 years, all to the major cities of America, and by the next 20 years, I don't mean 20 years from now. I mean this year we will build in America the equivalent of 30 cities of 100,000 each, all by this accidental sprawling, massive, formless growth.

In 1940, 40% of the people in America lived in our urban centers. By 1980, 80% of the people of America will live in our urban centers. The heritage of America stems largely from the farm and the small town, but the future of America will be vested in the large city of our country. The shape and form and richness and values and standards of our civilization will depend upon the kinds of cities that we unfold.

At this moment we can't be very proud of what we are producing as representative of the best that we know how to do.

Closing in a little and making it more specific, coming to my home town of Baltimore, the surest gasp that I can get from a Baltimore audience in making a talk is to tell them what any census directory would tell them, that in the last 20 years Baltimore, our

sleepy, old eastern city, has added to itself a city larger than San Diego, Denver or Dallas. This is our increase in population in the last 20 years, and in the next 20 years, Baltimore will add a city bigger than Houston; and in that same year, Washington, 35 miles away, will be adding a city bigger than Baltimore. These are the facts of urban growth as we live in it.

The Baltimore-Washington corridor. Nowhere in America are there two cities so big, so close together, and the overspill of these two cities caused Maryland to grow at a rate faster than Texas which may surprise the Texans in the audience. For each of the last two decades the rate of growth of Maryland has followed only California and Florida among the major states in its rate of growth, because of the overspill from these two cities of Baltimore and Washington.

Well, from our platform of the mortgage banker and developer, we could see, as each of you could see from your business platforms, all of these facts, all of these disorganized, fractured bits and pieces of urban growth, and we began to ask ourselves some questions a half dozen years ago.

We began to ask: Shouldn't it be possible to bring these pieces together in an orderly development of a new community? Couldn't this new community, this new city, be built with genuine respect for nature, for the land and for man himself? Might not the interaction of these purposes being determined to build with respect for both nature and man—might not the interaction of these purposes actually strengthen each? And might not the doing of it result in a community that was a far better place to live, a far better place to do business, and if this is true, might it not be a more profitable community to build in? Might it not really be a better mousetrap? Might not there be a unique and precise compatibility between the public purpose involved in providing a better form for the growth of our metropolis and the private purpose of making a profit in the doing of it?

Prodded by our answers to our own questions, we began to do some looking and some testing of the hypothesis of building a city. We developed a hypothetical model of: What would a city consist of? What would you build?

We reached an arbitrary conclusion that it required a population of at least 100,000 people to be a complete

market. We might not have a big league ball club or a symphony orchestra, but with 100,000 people we could have fine department stores, a good library system, a hospital, college, housing of all types, employment of all types. Enough markets would be represented in a population of 100,000 to provide for most of the things that people do in the course of a month or a year or a lifetime. It could be a rich and complete community.

So from that premise we structured the number of primary jobs it took to support such a population and how many dependent jobs and store clerks and lawyers, title men, teachers, doctors, architects, mortgage bankers, etc., did it take to service this primary employment. And housing of what types would be distributed through such population? What income levels? What rents? What prices?

We actually made a profile of Racine, Wisconsin, and Charlotte, North Carolina, to determine the taking of it because they were two very different cities. Racine, midway between Chicago and Milwaukee, and therefore, under strong bi-polar influences of two major metropolitan areas, and Charlotte, because it had no big city nearby, and therefore, might have a very different inventory of uses and activities.

But we went through this process to determine every single thing that happened in those cities, everything from YMCA's to filling stations to lumber yards. What was the natural distillation by a hundred to two hundred thousand people living in an area? What was the natural distillation of their uses, their activities expressed in the functions that were performed in the community?

We also, of course, wanted to provide sensitively for the land, and therefore, we made some guesses as to how much land we would have to waste, how much land we would have to commit to open spaces, to green belts, to parks, to recreation areas.

We came to the conclusion that to build this city of 100,000 people, this hypothetical city would require 12,000 acres of land. We then went through the economic process of how much would the land cost, and what would the carrying charges be and the sewer and the water and the development expenses, and the pace at which it might be built. And what would happen economically in the building of a city?

And it seemed clear to us it could be

enormously profitable to do it, without giving any particular pluses to the increment, that we might attain from doing it very well, to assuming that we might create greater land values, but just taking the market test of land values, it came out as an economically doable venture.

We closed in on a target area midway between Baltimore and Washington. We took an area of some-30,000 acres within which we hoped we might be able to assemble 12. We did some preliminary testing. We assembled the 1000 acres of land in six different parcels, and we then made some projections—this had to be absolute crystal ball gazing, as to what it would take to assemble in that area 12,000 acres of land.

We made the guess that we could do it at \$1500 an acre. There was no sewer or water in the area. Sewer and water were each about 4 miles away. Therefore, although there was a tremendous outcropping of development all through the area, but little development from 15 to 300 houses, and typical of what you see all over the country, people had bought 2-acre to 10-acre lots along the roadways, exurbanites escaping from the city and its regular suburbs. But the lack of sewer and water prevented the really fierce pressure that reached in on Montgomery County and Baltimore County and Arundel County. This was in Howard County, Maryland, midway between Baltimore and Washington. So we believed it might be possible to assemble the 12,000 acres for the sum of 18 million dollars, and here we ran into the phenomena of American industry that is at the root of our problems of sprawl. And that is that although the business of city building is the biggest single industry in the United States, there is not one single big corporation engaged in it.

I think this is totally without parallel in American business, that there is no General Motors, no General Electric, no Xerox engaged in the business of building cities. Johns-Manville provides materials as does General Electric, but the end product production of the American city is left to a proliferation of little developers, entrepreneurs, little companies like my own, and therefore, the city is built by a boot strap. It is built by next month's interest payment and mortgage maturity, and no developer in America really can afford to take the long look at city building. No develop-

er in America could afford to go in and put 18 million dollars in the purchase of land out of his own resources.

So without any adequate process of planning and control in local government, and with no resources in business that are capable of acquiring land and assembling it and planning it on a large basis, sprawl is the result.

Armed with our economic model and with our conviction that there was this unique compatibility of public purpose and private profit, we went to see our old friends at Connecticut General Life Insurance Company whom we had represented in the mortgage business for a great many years, and we were able to see a very great man who retires from that company this year, Mr. Frazer Wilde, the chairman of the board, and we laid our story on the table just about as I have to you and said, "That there is no use in our attempting to kid you. There's absolutely no way this can be done unless Connecticut General will put up all the money to buy the land.

"We will manage this enterprise. We will provide the funds for its planning. We will invest one million dollars in it, but that is a lot of money for us. But this has got to be something that we approach with a longer look, and you as an insurance company, in order to bring this about, would have to look at it with us in terms that you can't possibly lose money if you invest in the purchase of 12,000 acres of land midway between Baltimore and Washington at an average price of \$1500 an acre."

And a miracle occurred in that Mr. Wilde agreed with us. This was, as John Muller who follows me and is the senior vice president of a very great life insurance company, would testify—this has not been the historic role of the insurance company of taking an early position in this kind of an entrepreneurial venture, but they did, and we formed a corporation called "Howard Research and Development Corporation," which we and Connecticut General own jointly. We each own 50% of the stock. We run and manage the company. We have provided the money for the plans. We have produced the plan. Our arrangement was that we proposed that we take the full risk of being able to produce a plan that would meet Connecticut General's approval both as a plan and as a development program and as a method of financing the future development of a venture. If we failed, we were out.

They had a right to take over, so we were gambling that we could produce such a plan and prove it. We have. The plan has been completed. It has been approved by Connecticut General, and the next step, financing, has been approved to carry the project forward. But I am a little bit ahead of my story.

Their commitment to us was in February of 1963. We originally projected it would take several years to acquire the land, and we quickly discovered that if this was true, we would not be able to do it at all, that if we didn't move swiftly, it would be too late. So we did move in very swiftly, and between September, 1963, and October, 1963, we assembled 160 separate farms and parcels of land, a total of 15,000—well, we now have 15,500 acres. We had about 14,000 of it by October, and our total investment in this land is twenty-three and a half million dollars. ,

Connecticut General increased their commitment as we went along. The average price worked out to \$1485 an acre which was a stroke of great good fortune.

But in October of 1963, we were able to go in the office of the County Commissioners of the Howard County and identify ourselves for the first time as the purchasers of 10% of the county. Until that time, no one had discovered who was involved in this land assembly program.

We then started planning in October 1963. We started planning with four goals.

These goals were vital to everything we had done. We have held to them tightly. Whatever magic or integrity or validity the plan of Columbia may prove to have derives from a continuing pursuit of these goals, and there is a tremendous interaction between them.

The first is that it was our genuine purpose to produce a true city, a completely balanced community, a place in which it now shapes up as some 10,000 primary jobs and 17,000 dependent jobs.

This means some-two million square feet of industrial space; a million and a half square feet of office space; two million square feet of retail space; provision for automobile sales rooms and service stations and lumber yards and all the run of secondary commercial and industrial activities as well as the primary industrial and retail activities. Thirty thousand dwelling units that range in rents and prices

from the lowest that we are able to reach in the Baltimore-Washington area which is very low. We can get down to a house in the \$12,000 to \$14,000 bracket in Baltimore. We can reach rents of \$80 to \$90 a month, and we can reach prices on FHA mortgages in the \$80 to \$90 a month bracket, but from the very lowest to the very highest the sites and developments appropriate for the corporate executive as well as the corporate janitor.

There would be the full run of functions. Seventy schools, 50 churches, college, hospital, the library system, fire stations, concert halls, auditorium, swimming pools, tennis courts. The whole range of activities that people perform have been provided for in the plan and provided for in the development program.

The second goal was that we genuinely respect the land. We made an elaborate system of overlays that began with a base map, topography of the land, in 2-foot contours. Located all the forest, all the stream valleys, all of the historic buildings. All of the significant vistas were identified. All the old tree line lanes that might be preserved. Everything about the land that ought to exert a pressure on the form of the community was allowed to express itself through a series of overlays, so that there emerged the areas best suited for development, and those that ought to be protected from development.

The amazing part of this process is that when we are all finished, this isn't a noble or sacrificial thing to do, to respect the land. It is a frugal and economically prudent thing to do.

By saving the three major stream valleys, by saving 3000 acres of the 4000 acres of forest, it means that we haven't had to put the bulldozers to work where it is most expensive to work. By concentrating the development in the areas best suited for development, the land element cost is less rather than more.

By concentrating the development, our utility runs are shorter. Our streets are less. In a plan that has enormous variety and far more beauty and efficiency, we have fewer front feet of roadway per dwelling unit than Bill Levitt has in Belair, a large development between Baltimore and Washington, but a fairly routine street and lot layout.

The third goal that we set, and the

one that has perhaps been the most productive for all of us, and that has attracted the most attention possibly in what we are doing, is that we wanted to see what would produce the best possible environment for the growth of people. It would seem elementary that the purpose of a city, the only purpose of a city, the only end purpose, the only test of one city against another, should be whether it grows better people or not.

This is our civilization. This is what we are about, and yet we develop our cities over and over again with no dialogue whatsoever between the people who know about people and the people who are developing cities. No conversation between doctor, minister, teacher, social scientists, psychiatrist, psychologist, any of the people over here who develop this enormous body of information in our times. No conversation between them and the architect, planner, developer, banker, who develops our community.

This isn't unique to America, surprisingly. Even in the more socialized countries such as England and Sweden there is no such dialogue. The new towns in Sweden and the new towns in England are the product—the arrogant product, you might say, of the architect, planner and developer with no input whatsoever from the people who have spent their lives dealing with and learning about the problems and opportunities among people living with people.

Well, we thought it would be worth while to see what there was to learn, and we put together a work group, as we called it, of 14 men and a woman.

We met every two weeks for two days and a night for six months, exploring the processes and institutions by which man lives. This work group included a professor of psychiatry in the school of public health, at Johns Hopkins; a professor of psychology from the University of Michigan who was an authority in the field of communications; a city manager of Oakland, California, who was the city manager of Wayne Thompson, who is now the vice president of Dayton Company in Minneapolis, I think a man who has more knowledge and imagination about local government than any other man in America. The Commissioner of Recreation of the City of Philadelphia. A sociologist from the University of Pennsylvania who had spent two years living in Leavittown, N. J., questioning clini-

cally what happened to people in this kind of suburban development, what was good, and what was bad, and what were the frictions and what were the troubles. An educator, a minister, a woman who had been on the White House staff of the White House Conference on Women.

This group of people from these varied backgrounds and disciplines met with our own staff, our own architects, planners, and our own people.

I was at every session from beginning to end, and we weren't trying to frame a Utopian society. We insisted there would never be a report, never be a recommendation, and we would never waste time trying to reach agreement. We weren't trying to ask these people to tell us what kind of a city to build. We said, "We will extract from these conversations what we think is a worth while influence in the process of planning and development, but what we want to do is learn more. We want to approach education from the standpoint of what would be the best possible school system that could be fashioned in a city of 125,000 people. Forget about feasibility. Let's just look at optimums. What would be the very best educational system that we could fashion in our society? And then let's see what feasibility does to it as we begin to compromise back. But let's at least start with the best. What would be the best possible health system? What would be the best possible communications system? What would be the best possible recreation system? What would be the best way of moving about?"

Let's look at all these things in terms of the very best we know how to do in our society, and then just see what results, just as the topography and the stream valleys and the forests exert a pressure on the community.

The fourth goal that we set was clearly the prime one, and that was to make a profit. This was not a suffocating discipline nor a grudging one. This was an invigorating and creative discipline in the planning process. For it is the clear look at a profit that causes us to be having the democratic process really working full time through the vehicle of the market place. It is a look at what people want enough to be willing to pay for that drags you down from the over-sophisticated or sentimental to the result that has true integrity, to the bone and muscle solution that makes sense rather than one that may be

extravagantly loose in the atmosphere.

This was respected in time by the whole group of people, and we all came to learn that each of these disciplines working together to create a balanced community, to respect the land, to genuinely try to produce an environment for the growth of people and to make a profit were each creative disciplines working on one another, and that in their interaction could come a plan that would make sense as a place for people to live and do business, and it would make dollars for the company engaged in doing it.

I can't and I won't attempt in the time we have here to point out the ways in which this process of involving these disciplines in the plan acted upon one another and produced the significant results. I am going to show you some slides of what we are doing. You will have to take my word for it that all of us at work on this are acutely conscious of the fact that this community as an evolving plan, has what we think is a prospect of high profit, and that it derives directly from the process that I have described to you.

[Slide] Columbia is located midway between Baltimore and Washington, as I have mentioned to you. It is the glob of land you see there, 9 miles across and 5 miles along U.S. 29. U.S. 29 is the old road connecting Baltimore and Washington. It is now two lanes through Columbia, but will be four lanes by 1969 and the right of way has been acquired for six lanes.

The pink dotted line along the southeast boundary is the new I-95, the new Maine to Florida road. It will be the main road from Baltimore to Washington. It will be an 8-lane limited access expressway between the two beltways by 1968. It will be the road that goes into the heart of Baltimore, crossing the Baltimore Harbor and eventually will go into downtown Washington, although there is continuing controversy about that part of the route.

The total land area is about half the land area of the City of Washington. It is a little bit bigger than Manhattan Island.

This is the land area closest to Baltimore. It has golf course that we acquired. You can see just beyond it on the right and left, either side of you, is 29 existing small developments of a kind that shows the creeping out of Baltimore towards this area.

[Slide] The land itself is heavily forested over more than a third of

the area, and where it is open, it is magnificent, green, rolling hillside—really beautiful country. There are many old country lanes of this kind.

[Slide] Quiet, lovely roads. Each of these, almost without exception we have been able to so build into the plan that they can be preserved and improved as quiet neighborhood roads with the main roads being built elsewhere away from them.

[Slide] This shows the beginnings of the sprawl process in the area. That is U.S. 29 going across the center of the picture. At the lower part of the picture there was one farm acquired and developed, and there just beyond it another. Across the road are two other developments. Further on in the background on the right-hand side you can see still another.

About 8000 people now live within the boundaries of Columbia in some 2000 dwelling units. Actually, about 3500 people work there. There is the Johns Hopkins Applied Physics Laboratory and a couple of other smaller industries.

[Slide] In a few years this beginning of sprawl in Columbia could begin to look like this. This is further developed sprawl on the edge of Washington beyond Silver Springs, and in a few more years it could hope to grow into full-scale sprawl like this, a scene which we see all over the United States.

[Slide] The road going out to Columbia from Baltimore was once built as a proud, new, 4-lane highway, and now has been pock-marked with commercial growth and reckless invasion and disorder of traffic, now is being replaced by a new interstate highway just north of it which will become the road to Columbia.

[Slide] The U.S. 29, coming out from Washington looks like this. There is nothing very surprising about it. We have become anesthetized to accepting this as being the way highways grow. We have acquired all the frontage along 29 for the five miles through Columbia. We will completely decommercialize it.

There will be a landscaped parkway through the city, and all the commercial development will be concentrated where it belongs. Again, this isn't noble sacrifice. This is good business. This isn't a good way to do business.

What you see here is inefficient. We are not sacrificing values by extinguishing the commercial uses on 29. We are transferring those values to concentrated business developments



that people can reach more efficiently, can do business better in relationship to one another, and where there can be greater economic prosperity and higher value in the land.

[Slide] The planning process that I described to you resulted really not on a city or in a different kind of a city. It is a city consisting of a group of villages. One of the most important lessons that kept coming over and over again to us was the importance of scale and the absence of really human scale in the massive growth of a city, that if we could produce communities in the scale of 10,000 to 15,000 people, that here was where a health system could work the most effectively. This is the way a library system could work the most effectively.

We made a decision to try to sell Howard County, and we have succeeded now in doing it, in abandoning in Columbia the consolidated high school and going to small high schools and small junior schools; 800 to 1000 students each, where there could be more team captains, more debaters, more members of the drama club, more winners, fewer losers in the community, and at the same time to be able to make the high school and the junior high school real centers of the village with a sense of proprietorship by the people and use by the people, so that each of these areas of communities of 10,000 to 15,000 people has a village center.

The village centers are connected by a bus system on its own right of way to the town center which is the big red blob along a lake which we built by damming up a small stream that runs adjacent to 29.

Twenty-nine, our new landscaped parkway, will go across the lake into downtown, and it is in downtown that there will be the department stores and office buildings and hotels and restaurants, the uses you would expect to find downtown.

We have often said that there is no real ingenuity or innovation in what we are doing. It really is just good craftsmanship. It is just a matter of putting together better the things that we are doing anyway.

There is one outstanding example of this in the transportation system. The dark areas that you see represent the high density housing, and the little red squares, the village centers. By concentrating the high density housing near the village centers, this means the town houses, garden apartments,

midrise and hi-rise apartments near the village centers, we bring this in the closest walking distance to the center of activity, stores, churches, schools and so forth, and by running a bus system on its own right of way, free of any other traffic, either pedestrian or automobile through all the village centers, through the heart of the high density housing areas, doing a figure eight through downtown and through the main employment centers, our traffic and transportation engineers confidently assure us that this bus system can run on a 5-minute headway. That means a stop every five minutes, 40% of the people living within a 2-minute walk of the bus stop, and on a fare of 10¢ for adults and a nickel for kids, it can be fully economical.

[Slide] The village itself consists of a set of neighborhoods. The heart of the neighborhood is the elementary school, and there 500 to 1000 dwelling units in the neighborhood. All kids will be able to walk to school, both elementary school, junior high and high school.

Howard County now with 10,000 children spends \$250,000 a year on a bus system. We will add 40,000 kids to the school system of Howard County in the next 15 years. At those rates it would mean another million dollars for a bus system.

There need be no bus system in Columbia. We will be able to save one million dollars out of the school budget just through better planning.

All of the town roads that connect the villages and run into the village centers will be little freeways. There will be no houses or stores or driveways entering them. They will be intercepted only by other roads, and there will be pedestrian underpasses under these major downtown roads.

This means that the automobile is able to run freely. It means that the side of the roads can be landscaped and it means that the neighborhood where the houses are have roads serving those neighborhoods that do nothing but serve the neighborhoods. There is no through traffic in them.

[Slide] In a neighborhood center we have attempted to concentrate those things that best occur at a neighborhood level—the elementary school, child care center, tot lot. A small meeting room, swimming pool, tennis courts, and a small neighborhood store. The old corner drugstore fed back into the neighborhood. By creating a busy neighborhood place, it is a

place that more people are likely to want to and use. It also means we get free of some of the problems of monitoring that occur.

There is not as much opportunity for vandalism where there is real activity as when there is just a swimming pool or a tennis court off in a lonely place.

This is a sketch of what a neighborhood center might look like with the elementary school and the meeting rooms and the little store and the swimming pool. [Slide]

[Slide] Here is a more romantic view of what a neighborhood center might look like.

[Slide] Through each neighborhood there will run a park, open space, kind of a spine of the neighborhood on which the lots back.

This will carry a system of walkways and informal playing fields.

This is Rattner, N. J., one of the early, most celebrated pieces of town planning in America showing a similar neighborhood park.

[Slide] There will be a system of pedestrian paths, bike paths, paths for mother pushing a baby carriage. These will connect the houses to the neighborhood centers and the village centers.

[Slide] That path was from a new town, Valenby, outside of Stockholm.

This is a similar path in Bradburn, and that shows the kind of great separation. There are 14 of those great separations that were required in Columbia, a city of 125,000 people at a total estimated cost of \$300,000, to make it possible for a kid to ride his bike anywhere in the city without ever crossing a major traffic lane.

[Slide] This is a model, and probably the scale is a little difficult to read, but on the right you can see a kind of a horseshoe that is a typical neighborhood. The neighborhood center is at the heart of it with a little park down the middle. Then comes a stream valley that separates the neighborhood on the right from the one in the center.

You can see the green at the bottom is a natural stream valley that flows into the lake. We are damming up that stream, and this will be the first lake. This is where we will start development this fall. We will break ground on this lake in the next few weeks.

This is our first village in the model.

[Slide] At the heart of the village we have pulled together those things,

all of which occur now in suburban development. We have simply pulled them together in one place. The junior high school, high school, auditorium, library, theatre, stores, churches, medical building, parking service stations all around the village green making a busy, lively village center to which kids can walk, adults can walk, people can drive, and not having to move around all over the place in order to achieve the purposes of daily living.

[Slide] This is a model of the first village center. The red buildings are the schools—the junior high on one side, the high school on the other. And also combining with them a village auditorium and library and theatre and swimming pool. We have been able to make all of these things do duty, both for the schools and for the community as a whole.

You see the stores going down the far side of the village green, the churches, the medical building off to the left. The bus system—the light colored trees on the model are the bus system. The dark trees, wherever you see them, is the path system.

[Slide] The bus comes into the village center, much as you see here, getting off the bus, walking down past the stores towards the schools and library.

[Slide] Here is the kind of spirit and atmosphere we would hope to create at the heart of the villages. This happens to be a new town outside of Stockholm called Farsta. This is the village center there.

[Slide] A plan of part of the first village showing the two neighborhoods, and down at the bottom the village center with its playing fields. You can see the main loop road coming in from U.S.-29 along the southern part of the plan, the lake. The high density housing concentrated along the bus lines which go to the village center.

[Slide] This is the open space system. There are 3200 acres of 23% of the land area in the first Columbia plan as it has been presented to the county commissioners includes only that land which is completely contiguous, and this is 13,700 acres of land.

The open space system is 3200 acres of that or 23%.

The large green areas are the three major stream valleys. Then you can see by following all of the minor streams and by just wooded areas in some places the green space interlaces the

whole city. There are 26 miles of bridal paths, for instance, going through the city. Three golf courses, five lakes, almost 1000 acres of lakes in the final city.

[Slide] Some of the open space will be held in stream valleys, as you can see. Some will be [slide] brought to more informal use for walking, bird watching, picnicking, camping.

[Slide] Some will be more formally developed as little ponds and lakes and driveways.

[Slide] Some of it will be developed for recreation.

[Slide] Some will be in small lakes.

[Slide] And then there will be one larger lake of about 500 acres that goes along a winding river much as this picture.

[Slide] This shows the town road system, how we are able to create these little parkways by keeping all interfering driveways off them.

I participated as a panelist in the White House Conference on natural beauty and created some irritation, I am afraid, when I made the point that beauty wasn't something you had to be self-conscious about, that beauty was free if there was good planning. Not only was it free, but it really was profitable, that I never really could remember our talking about beauty at any time in the planning process in Columbia. But by trying genuinely to respect nature and genuinely provide efficiently for the things that people want to do, you wind up with a more beautiful city. Hereby separating the cars from people and providing appropriately for both of them, you wind up with the more beautiful roadway system.

[Slide] This is the Washington Minnie bus, the kind of bus we plan to use. It carries about 18 passengers. It is very light, economical to run, and this bus will run on its own 22-foot right of way. Nothing else being with it. It can wind through a lot of places that as a regular roadway you wouldn't want to take.

[Slide] Downtown is where the action is in the city. Here there will be, the plans calls for, five major department stores by 1980. Two million square feet of retail space in the town center. Inevitably because of the concentration, we think that the town center will wind up serving a much larger market than just Columbia itself.

The offices will be here, the hotels. The major conference center. The college, hospital. We have provided for

what we keep calling our Tivoli Gardens. We do it not by way of imitation so much as by holding high the image of Tivoli Gardens in Copenhagen as the kind of an entertainment, recreation, cultural place we would like to create along this lake right at the heart of downtown.

[Slide] We look across this lake into downtown much in the manner of this artist's rendering.

[Slide] A model of downtown shows it about like this. U.S. 29 goes across on a bias from the right-hand corner to the middle left part of the picture. You can see the bridge going across the lake that connects the two parts of the town to downtown.

Then the town square at the end of the bridge, the main retail center, and offices at the end of the bridge. There is a 50-acre magnificent oak forest that we have retained as a town center forest park on that green square and just beyond that the college.

[Slide] Flying into Columbia in a low flight, it would look like about this, and in the foreground is an interesting example of what can be accomplished.

This is a wooded hillside at this point. Bare on top and by concentrating the housing at the top with a neighborhood center, we are able to preserve the hillside and the forest.

There is the same quantity of housing in that area as there would be if we developed it in quarter-acre lots, but instead of wrecking the whole place with quarter-acre lots, we are able to create a community at the top of the hill and preserve it.

You see the lake in the distance and the town across the lake.

[Slide] Coming in a little closer, you can see the bridge coming into the town square. That glass topped building is the enclosed air-conditioned mall, and then to the right where the half egg is, is a band shell, carousel, restaurants. This is the Tivoli Gardens area.

[Slide] Coming in a little closer, to the town square, this is the shot from Tivoli, and this is the same at night.

[Slide] The kind of liveliness that would be fun to create in a new city.

[Slide] Coming into the city from the east, there are two knolls, and we propose high-rise buildings on each side making a gateway as you come in to downtown from the eastern half of the city. Here we are in the gateway looking into downtown. Arriving is a bus at the town square on the

right with the retail mall beyond. Coming a little closer to the mall, the bus will actually go through the heated and air-conditioned mall with air curtains to each side so it can pick up and let off passengers right in the heart of the retail center.

[Slide] This is to show that this is not just pipe-dreaming. This is a center we built at Cherry Hill, N. J. Here is a mall with some-15,000 growing tropical plants in it now in its fourth year. These trees grow and have to be pruned. They leaf. They go through their seasonal change.

We have managed by selection of plant life and by handling the watering and light to develop a completely natural growing condition indoors.

This is another view of the mall at Cherry Hill.

[Slide] And another view.

[Slide] Here, just about the things we are talking about in Columbia are represented in this picture. This is the suburban and downtown Silver Springs just outside of Washington.

Here you see it. Inefficient, disorder, ugly, terrifically valuable land in Silver Springs. Depending upon the use, downtown it will sell from \$5 to \$15 a square foot.

Everything represented in that Silver Springs photograph is accounted for in this downtown. More efficiency, more beautiful, more peaceful, better relationship between businesses and ought to be more profitable.

I keep saying this over and over again because I think it is really so important. The doing of this is not a matter of economic sacrifice. It is a matter of generating economic values by doing it well, instead of by sprawl and by accident.

[Slide] This is Columbia as it might look coming from Baltimore.

[Slide] And here it is as we go to Washington.

The last two slides make a point that [slide] it is always difficult to make, but somehow in the field of design and in development we seem to feel that we have the right to design and develop what we want. The architect too often regards himself as an artist. An artist is free to make his piece of sculpture, and if he likes it, that is enough. But the architect doesn't have that freedom, and the developer doesn't have that freedom. We are not just designing and producing for ourselves.

[Slide] The developer and the architect has the responsibility to people to produce a civilization in which this

kind of a child can look forward to the maximum growth that our civilization can produce.

Our responsibility is best represented by this kind of a picture.

That is the end of the slides. We will start building Columbia this fall, and it is scheduled for completion by 1980. We are already caught up in events that illustrate very clearly to us the enormous opportunities that derive from just taking hold of this thing as a complete task rather than grabbing it in pieces. One remarkable illustration to us is what happened in our zoning.

You all know, you have seen your customer go out and buy a piece of land and then want to do a big development which they thought was great, and be knocked over the head by the community because they didn't want development.

This is the story. Zoning fights are the battle of suburban growth today.

In 1962 the Democratic County Commissioners of Howard County were defeated for the first time in 40 years by three very conservative commissioners, and the only issue in the campaign was zoning. The Republicans guaranteed to protect Howard County against development by maintaining half-acre lots, and here we came along in 1963 saying that we are going to build a city. Well, you can imagine this wasn't greeted with universal applause in the county. The principal support or one of the principal sources of support for the Republicans in their run for office was the Howard County Citizens' Association which was formed largely out of the neighborhood improvement associations in our area, and 15 of them together with others, but the main leadership came from people living inside of the boundary that we now call Columbia.

When we announced our purchase, we said, "You don't have to worry about us. You have all the cards. We can't get zoning without your approval, and we will present to you what we are doing." And we did as we went along.

When we presented our plan to the county commissioners, they declared that our request for zoning was unlawful and unconstitutional. All my friends in Baltimore came up to me from time to time saying, "You have got a terrible zoning battle, haven't you?" Because the county commissioners tossed it all out. Then the people of Howard County began to insist that this zoning be granted, and it was

the people in the county who produced the pressure on the country commissioners. The local newspaper began running a poll, and the headlines week by week would read: "Seventy per cent want Columbia. Eighty per cent want Columbia." Eighty-five per cent was their poll by the time we went into our hearing, and when we held our hearing, on our zoning in a county of 47,000 people that had been torn apart by emotional zoning battles, not one person or one organization opposed that request for zoning. This was really an incredible experience, and it demonstrates something of great importance to us, and that is the people really wanted the city. They wanted a city in this form. They wouldn't have taken its pieces. They wouldn't have approved high-rise apartments, midrise apartments, town houses, shopping center, industry, office buildings in pieces. But taken as a whole and in this form, the people who lived there wanted it, and they are our greatest supporters today.

As we have gone forward with this, the potential in the field of education, the response of the state superintendent of schools and the county school board, the federal office of education has been tremendous because we will be building a school system every year in Columbia. Every year beginning with our fifth year, we will build a high school, a junior high school, and five elementary schools every year.

So here is a chance in education to develop a school system, produce it, test it, correct it, and go on to the next one, but that happens everywhere. It just happens in such bits and pieces that you don't get hold of it as a school system.

I said at the beginning of this talk that I have had it because I have said it so much that the one thing we knew we wouldn't have is a big league ball

club and a symphony orchestra.

The first deal I think we will make in Columbia because we have about made it, is with a great symphony orchestra to come to Columbia for summer music festivals three nights a week, and they have come because of the environment it creates and because of their opportunity in that 50-acre town center forest park. The first piece of construction in downtown is a tent to hold 3000 people for the summer music festival.

A great hospital has come to us and said it is interested in setting up a whole health system because here is a community and they can get hold of; a community instead of having to deal with pieces. And what could happen if we could set up a health system that really started with home nursing care and carried through group practices and hospitalization and care of the aged?

So the main lesson, the important lesson to us about Columbia, it is a lesson we all need to take home in all kinds of ways, and that is if in looking at the problems of a city we will become intolerant with dealing with the pieces and insist upon taking hold of the whole problems of the city, old city and new city, and look at the old city in terms of what would make it work, not how are we going to move traffic. How are we going to cross out this bit of slums? How are we going to rehabilitate this block? But what would make the city the best possible place for the growth of people, and if we ask ourselves that question, seriously ask it, and examine it, and this is the question and the solution our civilization demands we ask and find the answer to, then we begin to produce old cities and new cities that really were in scale with the kind of civilization that we seek, and we have a right to demand. Thank you.

## "URBAN RENEWAL IN A BIG CITY"

By JOHN H. MULLER

*Senior Vice President, The Equitable Life Assurance Society of the U. S.,  
New York, New York*

I feel truly honored to receive this generous introduction from your Chairman. You know they say flattery is something nice they say about you that you wish were true. It is like smoking: it doesn't hurt you if

you don't inhale it.

It is a great privilege to appear before you this morning with so many familiar faces in the audience. Also, it is interesting and appropriate that I follow my old friend Jim

Rouse on your program to talk on one of my favorite subjects "Urban Renewal". Former President of "Action," Jim Rouse, by long experience and deep knowledge, is a very great authority in the field of his discussion.

What Jim described for us is a most unusual undertaking. Bold and venturesome, his "new city" project is fascinating beyond words. With all the problems that exist in any of our cities—physical, governmental, sociological and economic—just imagine starting from scratch to build an entirely new city with planned facilities for residence and for work, connected with appropriate public transportation, streets and highways built to eliminate traffic jams; public parking where you need it; clean air and water unpolluted and in ample supply. This is like a twentieth century Garden of Eden.

But how many Jim Rouse's are there in America and how many such "new cities" can there be? And what about the already established cities where you and I live and work with all of their existing facilities, good and bad. Our Garden is fully grown and badly needs some weeding. While wishing Jim good luck with his endeavors we must turn to our own congested and obsolete cities and make them as much like his as we can.

Those of us in mortgage lending and title insurance can be expected to have a substantial interest in urban renewal in a big city just from the practical viewpoint of the business potential that is involved. Whatever else urban renewal may mean to you, it does imply new buildings for old, originally in the field of housing. Commercial and business buildings have a quality of self liquidation when economic usefulness has been outlived but housing seems to deteriorate without end successively providing shelter for people of constantly diminishing means. It is the extent to which governmental subsidy became necessary to replace this worn out housing that caused urban renewal to fall in disfavor with many outstanding citizens.

But I should like to suggest a broader concept of urban renewal this morning: One which deals not only with housing, but with downtown and transportation and sociological changes, the whole of the city. For it is hardly possible to live

or at least work in any of America's cities, as most Americans now do, without being reminded almost daily of the tremendous interrelated problems that beset the urban way of life. And these problems, although many do not realize it, are becoming larger and more numerous. Many who do realize it accept the trend as inevitable without much concern for the end result. But some, like us, can and should do something about it, not only as good citizens but as forward looking business people who want to preserve the quality, value and usefulness of our cities and their buildings.

In order for us to appreciate what is happening to our contemporary metropolitan areas, it may be appropriate to recall how they got where they are. The key to the matter is the force of technological change. It is this ever-advancing technology, impersonally and relentlessly pursued and utilized by an ever expanding population, that is changing so much of our world and particularly our cities.

Rather recent technological progress is responsible for the internal combustion engine and the subsequent mass production of hard surfaced roads with thousands of cars stalled in traffic jams. It is responsible for elevators and air conditioned high rise dwellings and the migration from rural areas to the cities where three out of four Americans now live as compared with one out of four in 1900. It is responsible for improved communications—telephone, radio and television—all of which have acted to make the city, with its glamour and its varied jobs, a place ideal for almost everyone.

And finally, technological advances in medicine have been responsible for a burgeoning population with a bulge of elderly, many not retired and still working, while at the same time it is responsible for automation eliminating more and more job opportunities. Employment goes down while the gross national product goes up.

All these are fundamental factors that have contributed to the character of the modern American metropolis and are traceable, not to politics or ideology or economics or even sheer happenstance, but rather to the disruptive effects of applied science—to technological change that we have learned how to use but not how to live with.

We have developed atomic power and rockets to the moon but not the self discipline that is required to eliminate crime or juvenile delinquency. Or as one cynic put it—we are spending billions to get two men to the moon while millions of Americans worry about getting to work as commuter railroads fold up and go out of business.

Modern technology has made today's large cities possible, but we ourselves have failed to anticipate its impact and to plan for it. The remaining problems are both physical and sociological. On the physical side they include obsolete buildings to live and work in; inadequate public transportation; the needs and effects of the automobile—streets, parking facilities and air-pollution . . . and now even water shortage.

On the social side they include evils caused by extreme class and ethnic imbalance, ghetto-ism and its malign effects on education and delinquency. They include the results of poverty and unemployment. Paradoxically the need for skilled workers grows greater than the schools or the capabilities of the students can accommodate.

One of the confounding aspects of community action is that its problems are so numerous and so complex that we are easily discouraged from doing anything. The complete and perfect solution is not possible and yet we must do what we can, here and there wherever we can do it. There are those who would criticize anything that is so done as imperfect regardless of how much better it is than what it replaced—the people who look at the hole rather than the doughnut.

The desperate need in urban renewal today is for bold delineation of what is feasible and for cooperative concentration upon it by the forces of Government, labor and private business. Obstacles there are to community action for the public good, often involving private sacrifice or loss. The power of Government needs private participation and understanding just as private endeavor often needs governmental assistance.

As introduced to you this morning, it would appear that although bare-headed, I figuratively am wearing two hats. One as Senior Vice-president of Equitable and one as President of "Action." Started some 10 years ago, "Action" is the national, private, public-service organization dedicated to

fostering and supporting, on both local and national levels, organized citizen effort to create and maintain the best possible environment in our Nation's cities. "Action" does not undertake to do what it does for profit or public rewards. It is organized by men and women of significant experience in management and the professions, in civic and public positions, who lend their time and energy because "Action" is a civic work of the highest order.

In addition and significant for many of you, "Action" is represented throughout the country by more than 70 affiliated local citizens organizations made up in nearly all cases by a preponderance of businessmen. This is a relatively new phenomenon. Until just a few years ago, businessmen were content to "sit it out" and let others worry about the city. But today many thousands of business leaders have become aware that the problems of the cities are problems that need their help. In all too many cases they have come perilously close to being problems of survival.

I emphasize private participation at this juncture because cities developed originally from the active presence of private citizens who encouraged creative achievements, provided a market for new talents, guarded the accomplishment of the past, established museums, libraries and, in short, gave life to cities. Their later departure for the suburbs and withdrawal from urban affairs has left these functions in the hands of new urban groups not yet clearly identified or established and without the same power for accomplishment.

And now, if I may don my other hat it would be to say that we in the Equitable had dramatic evidence in Pittsburgh of the value of such private participation. Pittsburgh immediately after World War II was a grimy, smoky, blighted city with one industry after another either leaving or threatening to leave. Fortunately, there were forward-looking business leaders in positions of power and decision who formed the unique 100 man Allegheny Conference on Community Development to map strategy for rebuilding and revitalizing the city. It became the initiator and catalyst of the City's redevelopment program and the recognized authority which top leadership was willing to follow. Each member represented only himself and not his employer and the community

program became honestly non-partisan. The Conference succeeded in enlisting the enthusiastic cooperation of the elected public officials of the various political sub-divisions through which public action alone could come.

An Urban Redevelopment Authority was created upon recommendation of the Allegheny Conference and with the support of the Mayor and the City Council. This agency undertook to rebuild the oldest part of the city, the apex of the golden triangle, the place of Pittsburgh's beginning which had become a commercial slum. The area involved consists of 59 acres which now has been divided into a beautiful 36-acre state park and a 23-acre business and commercial district which the Equitable agreed to develop as Gateway Center.

Today the center has seven office buildings, a hotel, an apartment building and extensive underground parking facilities for a daytime population of 20,000 and represents a good investment before depreciation of almost \$100,000,000 of policyholder funds. It park-like appearance is one of the Center's most impressive qualities. Wide-open space covering approximately seventy percent of the land is devoted to beautiful lawns, stately trees, colorful flower beds and sparkling fountains.

In the Pittsburgh example the initiative came from the business leaders who took their ideas to the public officials. I believe that every city should have an organization like the Allegheny Conference—an organization of business leaders at the very highest level of personal influence and corporate authority—playing the role of catalyst and initiator of projects like Gateway Center and others for the good of the community. Philadelphia, Baltimore and St. Louis and many other cities are cases in point where businessmen have done much to bring about substantial plans for urban renewal. *I suggest to you that if such an organization does not now exist in your city, it would be worth your while to see what could be done to start one.*

Those of you who are Chicagoans perhaps are familiar with the study and report of July 1965 entitled "A Pattern for Greater Greater Chicago" by the Committee on Urban Progress. A total of about 75 influential citizens—top corporate executives—divided themselves into 9 subcommittees and spent a year and a half on its prepa-

ration. Its far reaching investigation and major recommendations could very well serve as a handbook for most any American city. Its only weakness in my opinion is the Chairman's statement in the report that the Committee "will now disband as an entity since there are other established committees, agencies and commissions carrying on this effort." The strength and impartiality of its membership, the broad scope of its study, the logic of its conclusions make it important that this group remain intact at least to serve as a moral force to insure that its recommendations are not overlooked.

In conclusion I should like to offer a composite of these Chicago and other similar recommendations which would seem to have general application for complete urban renewal in any of the big cities of America.

1. The establishment of an urban area metropolitan form of government, or, at least, metropolitan control and jurisdiction over services that cross municipal, county and state lines. Essential services—police, fire, water, sewer, education and above all transportation—would thus be combined and made more efficient and the cost thereof distributed more equitably among urban and suburban members of the metropolitan area.
2. The creation of a master transit plan and appropriate financing to provide mass transit facilities, either rail or highway, to transport people between residence and place of work at fares that adequately pay their share of the expenses of such service and thereby curtail the travel of single passengers in private automobiles as well as the related traffic and parking problems.
3. The rearrangement of needed municipal tax revenues so that some portion of them is derived from income earned within the city regardless of residence, instead of solely from real estate. It goes without saying that economies should be effected in the spending of this money.
4. The elimination of residential slums and the extension of public housing in low and moderate income levels to the maximum extent possible using all available state and federal funds as well as those from an increasing num-



ber of private community development foundations.

5. The encouragement in every way possible, using some form of tax abatement where necessary, to rebuild downtown business property, modernized and diversified by types on a re-zoned basis with broader streets and sidewalks, more air, light and parking.
6. The overhaul of educational systems from kindergarten to graduate school with adequate facilities, capable faculties and systems of scholarships and student loans to insure that no one who could qualify would be denied an education.
7. The establishment of equal rights for all people regardless of race, color or creed to vote, to earn

a living, to attend integrated schools, and to own and enjoy use of property anywhere within the city.

8. The elimination of air pollution and the safeguard of water supply for present and anticipated population.

These then, ladies and gentlemen, are the essential ingredients of urban renewal in a big city, as I see it. They present a wonderful challenge to you and to me. We must not merely look upon them as a bland characterization of what is involved. Rather, these essential ingredients of urban renewal in a big city are compelling necessities that cry out for the help that only you can give. I hope you hear that cry.

Thank you.

# REPORT OF THE CHAIRMAN, STANDARD TITLE INSURANCE FORMS COMMITTEE

By RICHARD H. HOWLETT

*Senior Vice-President, Title Insurance and Trust Company,  
Los Angeles, California*

The Committee, during the past year, has held three meetings considering the many questions that were presented to us by members of the Association and by the National Office. However, our work has been primarily directed in two fields. Yesterday, the Subcommittee on Commitments presented to you, as a Panel, a proposed Commitment that we recommend to you for your consideration. It would serve no purpose to review that proposal at this time. The Committee does ask that you submit your ideas so that the form can be finalized by the Mid-Winter meeting.

In summary, the Committee recommends to you a Commitment to Insure, limiting liability to damages sustained by specific persons acting in reliance on that Commitment, and within set dollar amounts. It is our opinion that the recommended form solves many of the problems arising under the preliminary title evidences—letter reports and binders—now being used in many areas of the country.

The Committee has considered many

questions affecting the policies we have in use today, but one question is of sufficient urgency that it should be discussed with you at this convention.

As you are aware, Congress has created a new executive department designated the Department of Housing and Urban Development. Unless the President, by executive order, sets an earlier date, the Act becomes effective November 9, 1965. That Act transfers to the Secretary of the Department of Housing and Urban Development all of the functions, powers and duties of the Federal Housing Administration, together with all properties held by the Federal Housing Commissioner. The Act further provides that the Secretary is authorized to delegate any of his functions, powers and duties to such officers of his department as he may designate.

The Committee has been informed that by appropriate administrative procedures the Secretary proposes to delegate to the Assistant Secretary-Federal Housing Commissioner com-

plete authority to administer the provisions of the National Housing Act which were formerly administered by the Federal Housing Commissioner, and there will be transferred, by that order of delegation, all assets and property which had been administered by the Federal Housing Commissioner together with such assets, liabilities, contracts, property and funds which may be hereafter acquired in the administration of such functions.

It is the opinion of the Committee that if the delegation and transfer are accomplished as now planned, the provisions of the loan policies defining "insured" and relating to the continuation of the insurance after foreclosure or deed in lieu need not be changed.

It is the opinion of the Committee that the proposed delegation and transfer by Administrative Order are

sufficient for title insurance purposes to pass conveyances to and by the Assistant Secretary-Federal Housing Commissioner after the effective date of the Act, and is also sufficient where title was acquired by the Federal Housing Commissioner by deed dated prior to such effective date and recorded thereafter.

The Committee is continuing the work on Standard Write-ups for exceptions in Schedule B. This is a most difficult task, requiring the recognition of the various practices of the many areas of the country. The work is ably guided by John Turner of Kansas City Title Insurance Company. We hope to present several proposals to you prior to the next Convention.

On behalf of the Committee, we thank you for the opportunity we have to be working for and with you.

## WORKSHOP SESSIONS

### "AUTOMATION -- TO DATE"

*Moderator:*

**LAURENCE J. PTAK**

*Vice President, Lawyers Title Insurance Corporation Cleveland, Ohio*

*Panelists:*

**HAROLD D. NELSON, JR.,**

*Vice President, Title Insurance & Trust Company, Los Angeles, California*

**H. JAMES SHEETZ**

*Treasurer, Commonwealth Land Title Insurance Company, Philadelphia, Pennsylvania*

**JOHN WADDELL,**

*Vice President, Chicago Title Insurance Company, Chicago, Illinois*

#### **STATEMENT BY MR. PTAK:**

Until relatively recently, the typewriter and the telephone were the only important mechanical and electronic devices of significant value to the title and abstract business.

Within the last few years, however, there have been many notable developments in the field of automation and it will be the purpose of this

panel to attempt to bring you up-to-date on the equipment which is presently available and the value and application of such equipment to our industry.

It seems politic to give the opening spot on the program to a hometown boy and so we will first hear from John Waddell, Vice President of Chicago Title, whose presentation will include a discussion of the latest in

typing equipment, duplicating machinery, microfilm, optical scanning, and kindred devices.

Computers have excited our imaginations in recent years. We have divided discussion of them into two parts. First, their application to non-plant functions and, secondly, as they may be used for plant operations. Harold Nelson, Vice President of TI, from that burgeoning little borough of Los Angeles will handle the first.

We now go back East to Philadelphia to call on James Sheetz, Treasurer of Commonwealth Land Title to give us his thinking about computers for plant purposes.

My portion of this workshop is devoted to a discussion of that newest of electronic devices—Videofile.

Videofile is the copyrighted name of Ampex Corporation of Redwood City, California, for a flexible system of recording images of documents on magnetic tape and attaching to such images the indexing data necessary for their rapid and automatic retrieval.

This system is a development of the equipment which Ampex has been furnishing to the television industry for some years for the recording, editing and animation of TV programs.

Briefly, the recording medium is videotape consisting of a 2" wide film of Mylar, a DuPont plastic, which is coated with an iron-compound, minute portions of which are capable of being magnetized or not.

The upper  $\frac{1}{4}$ " of this tape is, for television purposes, devoted to the audio or sound track as in a home tape recorder, and the lower  $1\frac{3}{4}$ ", called the video track, is used to record images which, when projected by TV at the rate of 30 images per second, gives the illusion of motion in a similar way to that of movie film.

For Videofile purposes, however, the sound track is used to record the indexing data applicable to the image directly below it on the video track of the tape.

The images and their indexes can be quickly recorded and can be selectively transferred from tape to tape, can be erased, and can be sorted.

Here is how it can work in the geographical part of a title plant in which each instrument by conventional methods would be posted to the lot and subdivision, section or arbitrary number. Videofile does not appear to

be efficiently applicable to an alphabetic index.

A microfilm of each day's recordings having been made, each successive instrument is viewed in a microfilm reader and the geographic data, for example, Lot 8 in Joe Dokes Subdivision, is entered on a conventional punch card. Also punched is the fact that this particular instrument consists of two slides and other incidental data.

At day's end, the punch cards and microfilm are synchronously fed into the Videofile where the indexing data from the card and the instrument image from the microfilm are automatically recorded one above the other on a lineal  $2/3$ " of the videotape. This tape will hereafter be referred to as the "daily" tape.

A separate series of master tapes will be established, each one of which will be devoted to a certain group of subdivisions, sections, arbitraries, etc.

After the daily tape has been completed, it will automatically be compared with each of the master tapes in succession and any instrument found on the daily tape which affects a lot within a subdivision, section, etc., carried within the particular master tape will have its image and indexing data transferred to that master tape.

We have then, at this point, a series of master tapes, updated daily, each of which has recorded all of the instruments affecting its particular group of subdivisions, sections, or arbitraries, all in chronological order. The group of master tapes provides, in the aggregate, a place for all indexing localities for the entire county.

For retrieval, a punch card is prepared for the locality to be searched and the card is inserted in one piece of the equipment called the "Videofile Recorder." Also placed in the recorder is the particular reel of master tape to which has been assigned the specific subdivision, section, or group or arbitraries within which the subject parcel lies.

The search button having been pressed, the recorder passes the videotape under its scanning head which then seeks any reference to the parcel being searched. Having found an instrument indexed to the parcel being searched, the image of that instrument is automatically transferred to a temporary storage device called a "buffer." The recorder meanwhile continues its search through the balance of the master tape until its en-

tire length has been scanned and all relevant images transferred to the buffer. The images from the buffer can be individually viewed on a monitor similar to a television screen or can be printed out to hard copy at the operator's option.

Some of the timing factors involved are these:

1. Preparation of input punch cards at 500 to 1,000 per operator per day.
2. Transfer of indexing data from punch card and images from microfilm to daily tape at three images per second or 1,000 two-sided instruments in 12 minutes.
3. Transfer from daily tape to each of 20 master reels for 1,000 instruments per day requires two hours.
4. Search time based on 100 daily retrievals of 10 instruments each to hard copy from two recorders requires six hours.

In summary, then, the input operation consists of the following successive steps:

1. Microfilming the daily filings in the Recorder's or Register's Office and processing the film.
2. Viewing the microfilm, determining the locality of each instrument to be indexed and punching and verifying the index card.
3. Recording the data from the punch card and the image of the instrument from the microfilm on the daily Videotape.
4. Transferring the indexing data and instrument images from the daily Videotape to the respective master tapes.

It seems probable that the sort and transfer from the daily tape to the master tapes would be undertaken as a second-shift operation since it requires only one person and the recorders would thereby be available for searching during all of the normal working hours.

Searching, for retrieval, consists of the following:

1. Preparation of a punch card identifying the parcel to be searched.
2. Inserting in the Videofile Recorder the punch card and the appropriate reel of master tape.
3. Viewing on the monitor, or printing hard copies, of the instruments retrieved for the particu-

lar chain of title.

The theoretical plant operation described above would record all of the instruments filed at the rate of 1,000 per day on 20 reels of master tape which would accommodate this volume of entries for five years.

We could thus store 1,250,000 instruments consisting of 2½" million images together with an index to all of them in a space 15" square and about 4 feet long. Think of that in comparison with your present plant space requirements.

When the first master tape has been filled, a reordering of all of the master tapes would be undertaken. This would involve an automatic process by which half of the subdivisions in old Master Reel # 1 would be included in new Master Reel # 1, the other half in new Master Reel # 2; half of the subdivisions in old Master Reel # 2 would go into new Master Reel # 3 and the other half in # 4 and so on for another five years.

This further division of master reels, of course, would slow up the daily input operation to the extent of the time necessary (about one minute each) to insert the 40 master reels in the recorder rather than the previous 20.

Searching time, however, would not be materially increased since the master reel being scanned would still contain all of the references to the particular subdivision of which the subject parcel is a part.

Security copies of the videotapes are easily and automatically made by passing a daily or master reel against an unexposed reel and new images generated on the security tape at the rate of three per second.

As compared with any kind of manual plant into which hard copies of instruments are filed, whether they be typewritten, photostats, or electrostatic, there is no possibility of misfiling or losing a take-off. Once recorded, the image stays in its place and its use consists simply of viewing it on a screen, or making a dry, hard copy of it at a cost of approximately one cent each. Similarly, in comparison with microfilm, a smaller number of larger reels are used which minimizes the possibility of loss or misplacement.

Conversely, however, if desired, images may be individually erased and substitutes inserted, or, the indexing may be such as will permit groups of images to be automatically erased on a

prearranged basis.

For obvious reasons, the controls for erasure are kept under lock and key so that they can only be operated by qualified personnel.

Some interesting problems and solutions have arisen with respect to the use of Videofile for plant purposes.

Assume, if you will, a subdivision having been developed consisting of 100 building sites. The developer conveys to a builder Lots 1 to 20. The builder mortgages Lots 1 to 10. He completes the houses on Lots 1 to 5 and has them released from the mortgage. The builder sells Lot 3, with its house, to a resident buyer who finances his purchase with a Savings and Loan Association. If the deed from the developer to the builder were indexed 20 separate times in Videofile for each of the 20 lots, which is one method, the mortgage entered 10 times for each of its 10 lots, and the discharge entered 5 times for its 5 lots, a cumbersome input operation would confront us which, however, would be little different than the multiple entries which would be made in a typical tract book. However, if you are called upon to insure the 10-Lot mortgage, your search under Videofile would produce 10 copies of the deed to the builder, an obvious waste. The indexing system, however, evolved for Videofile avoids not only the multiple entries for multiple lots on input, but the multiple retrievals at the searching stage. This is done by indexing and copying the 20-lot deed from the developer to the builder only once under Lots 1 to 20 as a group. Entries are likewise made as to Lots 1 to 10 for the mortgage and Lots 1 to 5 for the discharge. Searching for Lots 1 to 10, the Videofile scans each instrument on the master tape and when it comes to the 20-lot deed from the developer, it electronically asks itself, "Are Lots 1 to 10 equal to or greater than 1?" and the answer is "Yes"; "Are Lots 1 to 10 equal to or less than 20?" and the answer is "Yes." Having received two affirmative replies, the Videofile transfers the instrument to the buffer and thence to the monitor or hard copy.

Similarly, in the search of Lot 3 alone, 3 being equal to or greater than 1, and equal to or less than 5, the two affirmative answers cause the production of the discharge instrument and so on back through the chain of title.

While all this takes a long time to

describe and you are probably as confused as I was when I heard it for the first time, please bear in mind that all of these questions and answers are taken care of within the Videofile electronically and they travel back and forth at the speed of light which is 186,000 miles per second.

I would like to make a few general observations with respect to the study of any electronic and much mechanical equipment for title plant purposes:

1. That the whole present process within your plant must be thoroughly studied, one minute detail or step after the other, to insure that the equipment will parallel, or at least produce an end result equivalent to, your present process. This study, however, even if you never install any electronic equipment, I will guarantee, will be worthwhile as revealing from your then critical viewpoint, steps in your plant operation that are either unnecessary or can be improved upon.
2. That despite all the rubbish that has been spoken and written about the thinking capabilities of electronic devices, they actually involve only dumb little pieces of electricity that fly around helter-skelter and at random unless you most carefully predetermine the course that they shall follow.
3. That lacking the judgment induced by what the human eye sees or the ear hears, the input into any electronic plant must be done with a greater degree of care and preclusion of error than we have heretofore thought necessary for manual posting.

Let me give you an example. Your poster or indexer is inserting in Videofile a mortgage covering Lot 8 in Joe Dokes Mt. Pleasant Heights Subdivision No. 3, the plat of which has been recorded in Volume 50 Page 10 of your Recorder's map record. Legally and practically, Map Volume 50 Page 10 is a perfectly good identification of this subdivision and consists simply of two pairs of digits separated by a space. Were we to identify the subdivision alphabetically, Joe Dokes Mt. Pleasant Heights Subdivision No. 3 requires 39 characters and 7 spaces for a total of 46 positions. We would, therefore, obviously use the numeric designation of Map Volume and Page. Our poster, however, has inadvertently punched Map

Volume 50 Page 100 rather than Page 10 and the instrument is thus indexed in Videofile to 8 for the Lot Number, 50 for the Map Volume, and 100 for the Page. That mortgage, in Videofile, is probably lost forever unless there is, in fact, another subdivision containing a Lot 8 whose map is recorded in Volume 50 Page 100 in which case we might happen to search on the latter lot which search would then disclose the interloping reference.

A similar situation could arise if the person who drafted the mortgage originally, or the stenographer who typed it, made a similar error. In the latter case, you might have an out because the description is actually in error and you might not have been called upon to take notice of it.

Comparing the above with what would likely happen under manual posting, our poster not having found Joe Dokes Subdivision at Map Volume 50 Page 100 would search until she found the correct reference to Page 10 and would post the instrument there. But, Videofile, or a computer, has no such intelligence and would simply perpetuate the error.

The electronic people have a word which aptly describes such circumstances. The word is GIGO, G-I-G-O, which stands for "Garbage In, Garbage Out" and too little care at the input point can certainly produce some pretty smelly and unhygienic results.

It is therefore most necessary that all of the input operations be done with extreme care—probably no less than a complete duplication by two separate operators such as is accomplished by the key verification of punch cards, plus additional checking of the input as actually recorded.

The whole electronic process requires a rather complete change in the philosophy of plant operations. The electronic devices do their work extremely well and with amazing rapidity, but they are, at best, only mindless Zombies—they can only do what human intelligence tells them to do—they cannot correct human errors.

This necessity, however, should not frighten us; it should rather be the occasion of our realizing that the need for such extreme accuracy will have the effect of upgrading our plant processes and our plant people thus bringing our final product to a higher degree of perfection.

I had occasion recently to visit the

Navy Yard at Charleston, South Carolina, and was much impressed with the signs which appeared on the walls of the various buildings, "Zero Error—Zero Error." That's a pretty good motto for us in approaching electronic devices for title plant purposes.

## STATEMENT BY MR. NELSON:

The application of computer technology, or electronic data processing as it is also called, to man's problems is a relatively new phenomenon. This is true even if one considers only that short period of time that has elapsed since the end of World War II. This period has seen the birth of what is loosely called the "Age of Automation" and each of us is keenly interested in determining just what automation can do and how it will effect his particular business.

For many, automation is synonymous with the concept of computers doing something for someone in a magical sort of way. Early computer systems were primarily designed to solve scientific or engineering problems and were utilized by businessmen to process relatively straight-forward applications such as payrolls and sales statistics. However, in the last ten years or so, computer systems have become much more sophisticated and the variety of usage or application has increased. All of us are aware, for example, that many of our space age achievements have been made possible by the development of computer hardware. Not quite so well known, though, is the growing contribution of computers to complex business operating problems beyond payroll and sales statistics functions. It is one of these more sophisticated applications that I would like to discuss with you today.

Before discussing this illustration of a specific application of electronic data processing to a title insurance industry problem, I would like to describe the evolving philosophy for the use of computer technology at Title Insurance and Trust Company. The expression "evolving philosophy" should be noted particularly as each year the various computer manufacturers offer newer, faster hardware with improved features and capabilities. It is advisable, therefore, to plan your data processing program carefully in order to maintain a flexible and more adaptable operation.

Basically, at TI, we are developing systems that will operate "on line,"

employing the most flexible computer language and which are built upon a modular concept of hardware. Let me break this into its parts and discuss each separately.

An "on line" system is one in which the input stations are connected directly to the computer so that data can be acted upon immediately after being introduced into the system. This differs from an "off line" system where data is collected, converted into machine readable form, such as punched cards, and fed into the computer for processing at a later time. For example, air line reservation requests and space assignments are often handled by "on line" systems, while a payroll application is typically an "off line" operation. Some of the advantages to the "on line" approach are faster and more economical service for the customer, better computer usage which means reduced cost, elimination of repetitive clerical operations, error avoidance, and uniformity of quality of the output or end product. One should remember that customer can mean departments within your own company as well as users of title insurance.

The computer programming language we have chosen to use is called COBOL. This is a coined expression made up from the words Common Business Oriented Language. COBOL is a language designed primarily for commercial data processing applications and is quite similar to English. Generally, programs written in COBOL for one make of computer are readily adaptable to another manufacturer's product if a COBOL processor is available. A COBOL processor is simply a program which translates the COBOL into the language used internally by the computer.

What advantages do we see in using COBOL? First, is the compatibility between various makes of computers which gives us flexibility in choosing hardware. Our programmers don't have to learn a new language for each machine and faster, more economic machines can be substituted without extensive re-coding. Second, this is a much easier language to learn and, therefore, less time and expense are involved in training programmers. Third, the language is used in a more efficient manner by the computer which means more machine time for actual systems processing. Fourth, documentation and maintenance of

programs is much easier and, fifth, the amount of time required to get ready for a new equipment installation is appreciably reduced.

A computer, as you know, is a piece of equipment that has the ability to receive, store, and rapidly process large volumes of information. When we speak, then, of a modular concept of hardware, we mean that we select that type of equipment to which we can add or subtract from this ability as the need requires. This gives us the advantage, once again, of a flexible operation so that we are neither committed to a specific geographic site for a computer installation nor are we restricted to servicing customers in a fixed area.

With this background in mind, let us to the specific application I mentioned earlier.

In this "on line" example, the means of entering the data to be processed directly into the computer is a typewriter-like piece of equipment called a terminal. The computer utilized in the application possesses all of the necessary capabilities for random accessibility is used by our Title Department in producing Reports and Policies. The primary objective of this Report and Policy system is to eliminate the hours of repetitive typing generally involved in the preparation of preliminary reports and title insurance policies. Additional objectives are: increased accuracy, faster production and delivery of the report or policy to the customer, reduced personnel costs, and a better control of the work flow in the title processing unit.

The obvious solution to the repetitive typing problem was to devise a method where the preliminary report information could be changed, with minimal effort, to produce a title policy. This was accomplished by capturing the preliminary report information at the time of creation and storing it in a computer system. In addition to this, a technique was devised to reduce the amount of report information typing by separating certain standard sentences and phrases, sometimes referred to as standard write-ups, from that information which continually changes; the variable data.

By storing these standard phrases in the computer and giving each a code, it is possible to access or "call out" the appropriate write-up and merge it with the associated variable information. During the systems de-

sign phase of the project, it was discovered that much of the variable data involved repetitious words or phrases, and that these could be reduced to standard abbreviations for input to the system. The expansion of such abbreviations to the full text was made a function of the computer program.

As you know, the production of a title policy is a two-phase operation. In our computerized project, the first phase, that of the creation of the preliminary report, involves the entry of report data, in coded format, from the terminal connected directly to the computer. The computer analyzes the input, immediately checks it for error, accesses the appropriate standard phrase, merges the input with the required write-up, and produces a preliminary report. The report data is then stored in the computer for subsequent use in the title policy phase.

The second part of the operation involves the entry of data to either revise the report, or to create a policy using the report data stored in the computer. Only change data and additional information need be introduced by the terminal operator in this phase. The computer again analyzes the input, accesses the stored report making the appropriate changes, additions, or deletions as dictated by the input message. Having updated the report, the computer then produces a title policy.

The data from which this Computer produced title policy was generated can then be maintained on magnetic tape for use as a starter should it be deemed necessary to subsequent system expansion.

A two-phase project was instituted to implement this "Computer-Aided Report and Policy System." The first part of the project was a clerical phase. The second part was devoted to the computer implementation program.

In the clerical phase it was discovered that much reorientation would be necessary in the title examining units. These were reorganized; title officer secretary functions were changed and a terminal operator job was established. The typing pool was eliminated and the job of Secretary Assistant was created. A typical title processing staff within a title examining unit now consists of six persons: two title examiners, a title officer secretary, a terminal operator, a reviewer and a secretary assistant. Tighter control on

each title order was made possible by this reorganization.

The clerical phase promoted the concept of the "Title Unit Control Group." Certain job functions were consolidated and new assignments were made. A team of four girls, the unit messenger, the pay desk typist, the press copy clerk, and an assembly clerk were combined in an area where all would share in the processing of the paper work.

As a part of the implementation phase, the analysts and programmers created a system which adapted a previously developed set of programmed library routines to Title Operations requirements. For example, a verification program was added through which the input data is screened. Versatile programs capable of future changes have been provided for in the planning of this project. The physical installation of the input terminals was phased to coincide with the orientation, training and delivery schedules.

At present, TI is in the process of installing this report and policy preparation system. The objectives, as previously outlined, are being met in such a way as to demonstrate the ability of a system such as this to improve performance while reducing operating costs.

In summary, then, in attempting to evaluate the ability of computers to assist us in title operations, it is necessary to try to determine what will be the end result. If this result represents an improvement in service through increasing accuracy or accelerating production, computerized operations should be considered. Also, it is sometimes feasible when developing a computer-oriented system to consider furnishing additional services which are not, in manually-oriented systems, readily obtainable. Usually these service improvements and additional features can be achieved without diluting original cost reduction objectives.

Our approach is and will continue to be to develop systems of the nature illustrated in a way that they can be expanded upon without substantial rework to include either additional volume or additional geographic areas. By the same token, we can take advantage of advanced technology in computer hardware without substantial re-programming. In this way the system maintains the required flexibility to satisfy the needs of a busi-



ness as dynamic as ours.

## STATEMENT BY MR. SHEETZ:

This afternoon I am going to talk about the use of a computer in title plant operations. You have heard in the prior discussions how some other equipment is applicable to title plant systems.

Much has been said and written about the computer. Much of it, I think, possibly is good, some of it is bad and we must separate the good from the bad in order to come to logical decisions.

It might be well first of all to decide, if we can, just what a computer is and what computer concepts might be applied to the title industry. I believe that most of us think when we hear the word "computer" of some monster that somehow or other can take many figures and add, subtract, multiply, change them around and do all sorts of things with them at fantastic speeds. Somehow or other, in my opinion and judgment, this is not the application that a computer has in a title plant, since, basically, a title plant is a mass of records all pertaining to real property. Now, then, I don't want to try here this afternoon to define a title plant or say what I think a title plant is or to compare a good plant with a poor plant. I know that the persons here representing plant companies have their own ideas and I am willing to wager that in each case the plants themselves are different in design. So, as a common ground, let's say that a title plant is a source of getting information concerning real property that has proved adequate for each company represented here.

Now, then, how does a computer fit into this? First of all, I think we must talk about a computer and think about it in the title plant application as a storage medium; a medium wherein much data is stored that can be accessed and retrieved easily. Let me make it clear that I am not talking about any particular type or make of computer, but rather I intend to speak generally and try not to favor any particular manufacturer, or type of equipment.

A computer is a very powerful tool that fits into the title plant operation by making it possible for personnel to index and to retrieve information that normally would take a long time and would be tedious and subject to

human error. It might be well at this point for me to say that in my opinion human guidance of a computer is the most necessary part of any successful computer systems application. All statements about computers eliminating the need for good people, I think, have no merit. Perhaps it might be well to mention here that the computer in the title plant, of course, will be tied into all other phases of the business. The accounting aspects, sales, new business solicitation and all the other phases will be computer oriented. This is popularly known as the "Total Systems" approach. But for purposes here today, we will limit our discussions entirely to the title plant situation.

For a moment, let's take a look at some of the general information that may be found in a title plant. There is a property file, which is in some form of hard copy; perhaps microfilm may enter into the present system. With a computer, this property file will be entirely housed on some sort of storage device such as disk or tape, or magnetic strips such as are now in the process of being developed. This property file will contain a location and description of the property and such other information relating to mortgages, liens, deeds, and anything else that would be pertinent to the particular property. Through the use of a computer, all of the information that is in this file can be updated daily or whenever convenient in a routine manner. Of course, the method of entry will be different from that used in a conventional plant and there will still be people needed to process the information; but once entered, the information is subject to quick retrieval at any time and cannot easily be changed through clerical error.

Also, there is a name file where there is housed information pertaining to judgments, wills, corporate taxes, bankruptcies and perhaps other information depending on the locality. Again, this information will be mechanically handled by placing it in some sort of storage medium. This information can be updated and retrieved and, again, in all cases, will remain just as it was put in the files unless by following some regular systems routine the information is changed or removed from the file.

Under some systems there will be auxiliary files or information, but again these will be taken care of in

much the same manner as the property and name files. All of these mechanical files will be tied together so that at any time any bit of information or all of the information pertaining to a particular piece of property will be available upon request, either in hard copy or on a visual terminal. Again, let me emphasize that when I talk about retrieving information from the file, it is necessary that competent title people review what has been taken from the file in order to interpret the results so that the information can be used in whatever way necessary to fit the particular request.

Let us examine for a moment what happens when an order is placed for title insurance. The order is received in the usual manner, processed much as it is probably handled today and finally finds its way to the computerized title plant where a record is kept showing the entry into the plant of the particular order to be processed. Now, then, the mechanical system is all tied together and this order now starts through so that all of the necessary items and information can be gathered and placed together in a title report in the shortest possible time. The information, all of which had been previously reviewed for accuracy, carefully stored and therefore known to be correct when it entered the system, is accessed and printed out in the desired form. Information not in the system presently will then be sought; meanwhile, all of the information is gathered within the system awaiting further processing of the order. Imagine if you will that all the information concerning this order is set aside in a little separate compartment within the equipment, showing all of the facts that are pertinent as of the date the request is received. Now then, it will stay there until such time as something happens. In the interim, between the date of the original placing of the order and the time the title report is finally written, any additional information coming into the system pertaining to this particular order will be recorded and the original information will be updated to show this additional information. As required, the title report will be printed out in the desired form.

After the issuance of the title report, generally a closing or settlement is made using the title report as the basis for such activity. At this

point, additional information may be received by the plant about this particular piece of property as a result of a closing or other action. This information is then fed back into the computer so that the same basic information from which the title report was prepared is adjusted by information subsequent to the report. This consolidated information, including bringdown search results, is put together so that the title policy can then be written mechanically by the computer. Such items needing follow-up, for example, satisfaction of liens and collection of fees, or any other follow-up that is needed, can be done mechanically. When the order is completely processed, the information that was used for this particular order then goes back into the regular information stored within the system awaiting further request for it.

I can hear some of you saying, "well, gee, this sounds like what we do in our present operations; why all the excitement about a computer in the title business?" Frankly, I think this is a very fair question and let's look at it for just a moment. There is only one reason for using a computer or any electronic equipment in business. The one reason points in the same direction, and that is to cut costs or to boost profits by other means. All the other reasons you'll hear really add up to the same thing. Computers, in my opinion, make it possible for businesses to do all kinds of things never possible or practical before, and this certainly I think applies to the title business. This may apply directly to our business by reducing certain labor requirements. It may also apply to our business by providing capacity for growth without additional staff. I think today in the title business, as in many other businesses, growth is a factor to be dealt with, and more and more we realize that finding and keeping capable and competent personnel is a real problem. Therefore, it seems to me fair to say that perhaps we should look at a computer as a management tool that can be used to stabilize personnel requirements and, at the same time, permit management personnel to have more time to manage. Let me emphasize right here that successful computer results do not happen automatically or easily. Successful computer operation calls for careful, systematic planning by competent personnel.

At this point I think it is only fair again to say that a computer or any kind of mechanical equipment should never be considered simply as a status symbol, a way of keeping up with the XYZ Company, because, after all, "If they have it, we certainly need one too." If that's the best justification you have for getting a computer or using any kind of automated equipment, forget it! But, if you are in fact concerned about rising costs, the increased problems of personnel and ever increasing work-loads falling on plant personnel, then I think these are real sound reasons for considering automation.

These reasons, in my opinion, apply to a title plant because there are few areas of any business in which there is more detail, more plain, hard digging to keep records in logical sequence, knowing that if information is not kept properly, the company is likely to suffer a loss. Therefore, while I seemed to get into the general title company area for a moment, I really believe that all the things I said can apply to a title plant equally as well as to all other title company operations.

Perhaps, just a word is in order about how one starts getting into a computer operation in the title plant. In my opinion, it is no different from the application of a computer to another business. First of all, you must think in terms of systems and systems design. This would include such thoughts as, "what would we like to have? What are we doing now? What would we like to do that perhaps we have been unable to do, but always think someday we will?" and all of the other necessary thoughts that go into making a good system. This usually leads to what is commonly known as a feasibility study. I realize that in this sophisticated day, a feasibility study is sometimes considered to be outmoded. I still think, however, that such a study, under whatever name, is quite up-to-date. In this study the requirements are reviewed, the possibility of meeting the requirements at an economical cost figure are reviewed, and one of the most important items, the cost of conversion of data to computer language is also examined. All of the benefits and expenses are carefully weighed against all factors so that a determination is made that somewhere in the reasonable future there is a so-called pay-off date. After the study

has been made there are only two decisions left to the company—one, yes, we will go with the computer, or, secondly, no, we are going to stay as we are. It is each company's responsibility to decide which way they go. Certainly, today, it is not my intention to suggest that all plants should be computerized or that none should be. It is, in my opinion, each company's decision to make.

If I may, I would like to throw out a few random thoughts that in my opinion should be considered in automating a plant. From a personnel point of view I feel there will be advantages gained through the use of trained personnel only on jobs that make full use of their training. I believe that matching of employees with jobs will become easier. Again, not to emphasize personnel reduction or personnel savings, but I certainly feel that in certain areas there will be a reduction in the need for personnel to do repetitive routine jobs. A computer once programmed will give out the same information in the same fashion time after time, not subject to the whims, changes of design, or methods that an employee may possibly insert into a system. I feel that with a computer, service will very definitely be speeded up so that better service to customers will be possible in the future. I believe that, strange as it seems a computer will make it possible for a large title company to compete successfully with a smaller title company on the basis of quick order response. This may sound contradictory, but I think it is true that large title companies by their very size are at a disadvantage, in some areas, compared with smaller competitors. I suspect that a computer will increase the accuracy of files, since once entered into a computer there must be an effort made to remove the information from a computer.

It seems to me that there is a real security advantage in having plant information stored on tape, reels or other storage method. Computer operation calls for regular updating of files, and the storage of so-called "grandfather tapes" which are always available often at a remote location. I feel that the system will make it possible for companies to provide new services; possibly to financial institutions and individuals. Somehow it seems to me that plant expansion and building should somehow be made a little more simple because a program

can be prepared for a plant in a certain area and, with modifications, this same program can perhaps be expanded and applied in a new area. Perhaps building a title plant may not be the burdensome and costly problem that it is today.

It should also be remembered that perhaps a number of plants can be operated by a single company through a single centrally located computer. Through remote inquiry stations it is not inconceivable that separate locations can use the facilities of a centrally located title plant. It should also be remembered that the newly talked about time sharing plan may in the future develop into an entirely new concept for title plants. This, however, I think is too new to be seriously considered at the present time.

There seems to be a definite plan that municipalities will go with some sort of automated equipment and therefore it seems necessary that title companies will follow and, in cases where practical, make their equipment compatible with the local municipal authorities and perhaps even work together with them in designing compatible systems for future use.

All in all, it seems to me that a computer in the plant certainly will ease the burden of constantly rising costs, increased space requirements and increasing personnel needs, just to maintain the type of service that we are used to giving.

You will notice that I have not at all discussed types of equipment and I have tried not to use technical terms. We could spend quite a long afternoon here discussing such things as COBOL, tapes, tape drivers, software, remote terminals, random access, total systems and all the rest of it. This I don't feel is a part of our discussion here, but I think it would only be fair to say that as we get into a computer for the plant or for any other phase of the title business, we need specialists, we need imagination and we need all of the other things that make a computer run properly. I hope there are none of us here who have had the experience of having a computer backfire because either the planning had been insufficient or there was not the technical know-how available to use a computer properly. These are pit-falls that must be avoided at all costs.

Perhaps a few comments now generally about the planning and installation of a computer. Surveys have

been made attempting to find the differences between a computer installation that is successful and one that is either only mediocre in its results, or a total failure as far as the company is concerned. On the basis of analysis that have been made, I believe it is a general conclusion that computer systems success is more heavily dependent on executive leadership than any other factor. Where it has been determined that corporate management, in effect, has abdicated its responsibilities as far as the computer program is concerned, the results of a computer installation are seldom outstanding. In the successful companies, adequate resources have been put together to do the job properly. Good personnel have been chosen and it is top management's responsibility that progress reports and general information concerning the status of the progress of the program is available to at least one of the top executives at regular intervals. In this line, I think a start should be that in the computerization of a plant, persons responsible for the operation of the title plant should be taken into full confidence and that they should be taken into discussions concerning any changes or proposed systems to be installed in the title plant. Their opinions as to future service, what they would like to have done, but have never been able to do, should be considered in designing the system. And, incidentally, a preliminary system design should be prepared prior to the decision to order a computer and not after one has been ordered and perhaps even brought on the premises.

A computer should take in the title plant in depth. It should not do only superficial operations. If you can only do one or two routine operations, this is somewhat like the company that decides "well, we'll have a payroll and inventory job put on now and then sometime later we'll really do the difficult problems." This isn't the answer—the answer is that the difficult problems should be outlined as to how they will be handled. You should always keep in mind the needs of top management for additional information. All of these things in my opinion should be considered in the preliminary stages before the equipment is ordered.

Finally, it is my feeling that all of us represented here today should somewhere along the line seriously consider the possibility of using a

computer in the plant area. Perhaps the study that you do will make you feel that, "no, we should not go ahead with this at this time." I must confess that personally I feel that a computer of some type definitely has a future in the plant as it does in the other areas of the title industry. I am sure some of you have noticed that within the past year many of the equipment manufacturers have suddenly found the title industry. This was not true several years ago when you could talk to the equipment representatives about storage requirements and you would find that the storage capacities were not available. Now I believe they are and I think it's up to all of us individually to look into these areas, come up with ideas and discuss it with the proper people in our companies. Remember, active participation of the top officials of a company is one of the most necessary ingredients of a successful computer program.

I feel that the title industry has come a long way through the use of conventional methods. It seems to me that the intelligent use of the computer as a management tool may perhaps be the means of continuing the advance made by the industry. Again, I emphasize it is a decision for each company to make—whether or not a computer is tried in the plant area.

Finally, after avoiding so-called technical jargon for most of this talk, I hope you will permit me to use a term that is commonly used by computer personnel, namely, "GIGO". The common interpretation of this term is simply "GARBAGE IN-GARBAGE OUT". Recently, during a discussion of "Management and Engineering Information Systems," Dr. Oettinger, of the Computation Laboratory of Harvard University, stated that computer users will be in big trouble if, because of lack of logical studies, the interpretation of "GIGO" becomes "GARBAGE IN-GOSPEL OUT". I hope none of us becomes a victim of this type of thinking in any of our title plant operations.

Thank you all very much.

### **STATEMENT By MR. WADDELL:**

There's a brilliant columnist who writes for the Chicago Daily News. He calls his Thursday column "Purely Personal Prejudices." That's what I offer you today—purely personal

prejudices about typing equipment, duplicating machinery and microfilm. As to optical scanning—well that's the esoteric part of my remarks. I'm still quite objective but I'll leave that to the last.

### **Typing Equipment**

As to typewriters, I'm prejudiced in favor of electric typewriters. If electric power is available, I favor the electric over the manual regardless of the volume of use, the number of copies or the nature of the job. You can find plenty of textbook support for manual typewriters. They are supposed to be best for low volume occasional use work. But, as I see it, typists are now coming out of school expecting to operate electrics. These enable anyone who can hit the right keys to turn out work of acceptable quality. The added capital cost of the electric typewriter and the extra cost of maintenance are admitted. But any savings a manual offers will be dribbled away while your typist learns to hit the keys evenly.

As to makes and models, I'm biased in favor of the IBM Selectric. But, I would not think of installing these or any other electric machine if I could not get prompt repair service.

We have a fairly large installation of dual typewriters. These are IBM Standard Electrics connected in a master-slave arrangement made by American Automatic Typewriter Company of Chicago. This is here in Chicago; if anyone is interested in the details, I'll be glad to discuss it here or to show it whenever it is convenient.

We have used the Auto-Typist which permits the operator to select 30 paragraphs to type from letters and any similar work which uses repetitive language with occasional fill in. This operates from a roll of paper like the old-fashioned player piano. It permits one skilled operator to turn out fantastic volume.

There is a newer family of typewriters which produce or read punched paper tape. Best known is the Flexowriter. At least three others are on the market: Dura, SCM and American Automatic. I think the manufacturers designed these as devices to write your own form letters. Meanwhile, the electronic computer arrived as a business machine—compared to its origin as a mathematician's dream boat—so anyone who had a large alphabetic computer input adopted paper tape typewriters. These ma-

chines may be fully satisfactory for people who write form letters but they are far from being as reliable or foolproof as a keypunch. Newer models are being introduced with parity checks and assorted automatic features designed to tell you when they aren't operating properly. My personal prejudice is that I hope someone makes a better paper tape punch soon.

The last word in complicated typewriters is IBM's Magnetic Tape-Selectric Typewriter. This permits the operator to write on paper and magnetic tape. The tape can be edited or corrected—a feature which is quite difficult with paper tape. You can erase a single letter or a work or sentence from the magnetic tape. When the draft of the letter or document is on tape, the operator plays it back to write the final product. All sorts of systems applications are possible with this machine. It can't be used for computer input. It rents for \$170.00/233.00 per month. If you have to draft and redraft lengthy communications where every redraft must be a perfect typing job ready to go in case it is approved, this is the machine for you.

### Duplicating Machines

As to Duplicating Machinery, Xerox is now running a big advertising campaign which hits hard at the color a girl can get on her hands and face if she messes around with purple dye. Their Model #2400 injects a new type of duplicating machine into the field which used to consist of spirit duplicators, mimeograph and offset machines.

I remember when xerography was a process for making offset master plates. The offset people must have loved them because the whole market strategy of xerography involved promoting the use of offset equipment. This clearly did not help the stencil or spirit duplicator sales. But now the Xerox slogan is "goodbye to masters." Just lay in the original and grind out 40 copies a minute.

My personal observation is that Xerox has made it too easy for unskilled, cost unconscious employees to make more copies than are needed. For some people, these machines should be coin-operated to drive home the idea that making unnecessary copies is like throwing postage stamps in the waste basket.

There is no prejudice in my views on duplicating machines. There is

literally a machine for everyone and every application. Mimeograph stencils are not out of date. You can type directly on them if the typist is accurate and used to the process. But if she isn't, you can let her type on ordinary paper and with the aid of a little electronic scanner, made by A. B. Dick or any of six others you can push a button to get a perfect stencil. These scanners let you paste up an original using half tone photographs or other illustrative material. The mimeograph operator can run it—there are no chemicals.

Spirit duplicators are still very appropriate for various jobs. We use them every day to duplicate sets of searches. They do not have to use purple ink and making the master is a simple direct typing operation which fits well into systems work.

Offset equipment can be used in low volume applications. I have seen offset systems where only six copies were made. I don't know of any in-plant machine to beat offset for large volume forms production. A good operator is essential. I don't think it's practical to expect stenographers and clerks to run an offset press on the walk up and use it basis that is common practice with other duplicators. Somebody has to be the operator even if it's not full time work.

At this point, let me plead guilty to a strong bias in favor of office machine operators. Most office people, that is the sort of people who like to handle paper and write on it with pens or typewriters are, in my experience, just naturally stupid about machines. They will watch a part vibrate loose and fall off without giving it a thought. They need help to put a roll of tape on an adding machine. They will leave things running that should be shut off and will shut off devices that should be kept running. When you get someone who will make a pet out of any of the complex office machines you need to run an office today—I favor encouraging him (or her). These rare office people who actually follow the maintenance instructions are not often appreciated by the supervisor who says that he can't change a light bulb himself. Be good to people who are kind to machines and you won't need to wait for your reward in heaven.

### Copiers

When we talk of duplicating machines, some people distinguish them from copiers. Let's not stand on tech-

nicalities. The September issue of "Modern Office Procedures" lists 37 makes and 169 models of copiers. The prices range from \$99.00 to \$29,500. With two exceptions, all these make contact prints or the equivalent. That is, you feed in or lay on the original and you get one or more copies the same size.

The Xerox 813 reduces the copy to 94% of original size and someday I want to try what will happen if you keep copying copies of copies long enough. Will the original text shrink to a spot in the middle of the page?

There are said to be six basic processes by which copies are made. But in my own personal unscientific way, I only recognize three:

1. The machines that use chemicals.
2. The machines that use heat.
3. The electrostatic machines.

Any of us who have been in business for 20 years or more can easily recall that there was a time when there was only one practical way to get a copy of a letter or a deed. You made a photostat. This involved chemicals, water and a method of drying the print. Today, my personal prejudice is that it would need to be a very special situation before I would install such equipment in a title plant.

For general office copying, a number of diffusion transfer and dye transfer machines like Eastman's Verifax are available. They involve an intermediate negative sheet (we call them "peelers") and are not for high production. They will copy colors and two-sided documents. The operator has to know how to work them otherwise, she will get poor copies or spoil a lot of paper. Some of them have a flat bed; your original document is safe on these. The conveyor belt types have a nasty habit of chewing up the original—particularly if it's irreplaceable. For a single copy, some makers claim you can do it for 8 cents. Others admit 15 cents.

If you have no other copier and need to spend less than \$25.00 per month on supplies for a "peeler" it may be just what you need. Before I would buy a new one, I would consider an electrostatic machine.

When the Bruning people introduced their white print machine which was one of the moist diazo type, I was an enthusiastic customer. These machines make copies at lower cost than any of the others. They fit in beautifully to systems applications where

you control or make the original. For example, we prepare trust income tax returns on translucent originals. Although these machines are widely used, I don't know of any application in a title plant where the diazo machines are clearly the best.

The copiers that work by heat, that is by infrared lamp instead of visible light illustrate the fast tempo of modern times. Within a few months after its introduction, "Thermofax" became part of the English language. Doctors and lawyers and business people would say "send me a Thermofax" and everyone understood. Actually there have been improvements in the paper, but my personal prejudice here is strong: As copiers they are obsolete.

The electrostatic process fuses a powder into paper to make a copy. Heat is often used as part of the process and if you don't think much of my categorizing copiers into Chemical, Heat and Electrostatic types, you probably know that some materials are photo sensitive when charged with electricity. The Xerox 914 will make copies of black on white originals which are so good you have to check which is which. I stopped signing authorization letters in black ink after one bank returned a genuine original for my personal signature.

Like other copiers the Electrostatics have limitations—they can't copy large areas of solid black or dark colors. A white on black photostat, for example, turns out pretty fuzzy and by no means is equivalent to the original. Except for this, these machines are the most satisfactory all purpose copiers I know of.

### Microfilm

We like microfilm as a medium and have used it for various purposes for nearly 30 years. We use more film now for more purposes than we even did. We use it for take off; we use it to save space on permanent record storage; we use it as the means by which we can restore many of our basic records in event of fire or other disaster.

We have even used film in the process of converting our name indexes to a computer. If any of you have been faced with a massive conversion of an active record, you will recognize that it's a serious problem for operators to copy it on paper tape or punch card machines while other people want to use the same record. If these other people keep on adding new entries and striking out old ones

in normal maintenance, proofreading is impossible. We made a microfilm, in hours, of records which it took weeks to convert and proofread. The paper tape typists worked from enlargements of the microfilm. We started maintaining the new magnetic tape record as though it had been converted as of the date the old one was filmed.

If you have ever visited a well stocked camera store, you have observed the almost infinite variety of cameras, lenses and assorted gadgets available to the amateur photographer. This illustrates the situation in microfilm equipment, except that you will find no \$10 cameras for microfilm.

Instead of trying to express my personal prejudices about microfilm equipment, let me suggest an unusual book. This is not a how-to-do-it-book—it's called "Guide to Microreproduction Equipment" 3rd Edition 1965 published by the National Microfilm Association, Box 386, Annapolis, Md. This is a 550 page hard cover book; it is well organized and properly indexed. It contains nothing but pictures and complete specifications of microreproduction devices currently available. For example, microfilm cameras made by 21 different firms appear in the first 78 pages. There are 132 pages of readers before you get to the reader-printers.

When you realize that it takes a monumental volume like this to show what equipment was for sale in 1965, you begin to appreciate how rapidly the technology is changing—and we hope improving. Ten years ago, if there was one good reader-printer we couldn't find it. Today, six manufacturers offer 30 models.

There has been some recent concern about the permanence of microfilm. Some users have found that microscopic spots have appeared on previously perfect film. These seem to grow larger as time passes. Larry Ptak has summarized the situation in a recent bulletin. All I can add is that, so far, it doesn't seem to be a serious problem to those who use film as we do. We have thousands of reels on file in remote storage and in the office. We chose a random sample of 500 reels from this hoard of film. Some of it close to 30 years old. We sent it to Recordak for checking. The report indicates the old film has spots but is still as useable as the current series. We have decided not to do anything about it yet. Even to remove the

rubber bands which are on every reel stored prior to 1965 would be a major operation.

### Optical Scanning

Optical scanning equipment has been used extensively in gasoline credit card systems since 1960. These scanners read numbers and special marks successfully provided all the numbers are one type font, designed for the scanner. Machines of this type are unlikely to have any direct use in the Title Industry.

Meanwhile, a number of manufacturers have been developing optical character recognition machines to read typewriting. This means the machine can read capital letters, numerals and some punctuation in one special type font. Some of these special type fonts are so special that they are difficult for a human reader. Others, put a tail on the numeral one and other little changes which are not too hard on human readers.

The purpose of these machines is to meet the requirements of selected high volume users. For example, a magazine publisher needs to change addresses and enter subscriptions. A typist types on a roll of adding machine tape in a strictly controlled format. She can proofread what she typed and correction routines are simple. The tape is then fed into an optical scanner which reads the typewriting and converts what it reads into computer input on magnetic tape. This is a high volume machine but obviously has so many technical restrictions on what it can read that it has no general appeal in the Title Industry.

A firm in Dallas, Texas filed a prospectus with the S. E. C. last summer, incident to an offering of its stock. The prospectus showed that they had delivered one system in July 1964 equipped to read capital letters, numerals and certain symbols in four different type fonts. As of last July, this scanner was still being tested. The people working with it were enthusiastic about the potential for handling large volume computer input.

Another scanning system by the same firm is installed in the Computer Room of the Chicago Board of Education here on La Salle Street. In this installation, the machine is designed to read letter size sheets. All the data is on one type font. The data on the sheets will come from any of the 750 IBM Selectric typewriters located in



the schools throughout the city. In some cases, the sheets will have been written by a computer printer, equipped with a type chain which simulates the IBM typewriter. The computer people at the Board of Education are planning a tremendous information system based on the scanner. They expect to operate it 24 hours per day. The information it will read and pass on to the computer system is said to be the equivalent of what 250 keypunch operators could do in the same time.

As I see it, optical character recognition machines are inevitable. Computers need input data in vast quantities and unless machines can be developed to convert what people can read into computer language, we will face a situation where the entire female population of the country will be required to operate keypunches. This isn't going to happen. The telephone companies developed dial phones and automatic switchboards to cope with the ever increasing demand for telephone operators. There are going to be scanners which can read whatever needs reading in large quantities. The outstanding need is probably in the post offices which need to read addresses to sort mail. Scanners are on order now which propose to do this.

When does this affect the Title Industry? Well, at this stage, it

seems to me the manufacturers of scanners have concentrated on ability to handle large volumes of uniform paper. But, some day they are going to notice there are all sorts of businesses that have 5 or 10 people doing jobs like keypunching, or running paper tape typewriters. These people don't work all day on one simple task like copying names and addresses. The volume probably varies from day to day and their employer has a tough time maintaining a staff.

The scanner that can fit into this picture will be versatile in ability to read. A skewed line of typing or a mixture of long and short lines of type will give it no trouble. It may operate at only twice the speed of a human operator. It will tolerate more than one type font and will read upper and lower case. The cost for the overall function performed by people plus the scanner may exceed average present costs but it will cope with volume and accuracy problems well enough, to be worth it.

Nothing like this is available today. But remember, around 1950 the Univac people thought the total market for their computer was six. That is, only six firms in the country were large enough to afford one. In 1965, I'm predicting quite a market for optical scanners. I doubt it will take 15 years to find out how wrong I am.

## ERRORS AND OMISSIONS LIABILITY INSURANCE COVERAGE

*Moderator:*

GEORGE E. HARBERT, *President, Rock Island Abstract & Title Guaranty, Rock Island, Illinois*

*Panelists:*

CLEM H. SILVERS, *Immediate Past President, ALTA; Owner, F. S. Allen Abstract Company, El Dorado, Kansas*

ARTHUR L. REPERT, *President, Clay County Abstract Company, Liberty, Missouri*

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

### STATEMENT MR. HARBERT:

Chairman Al, thank you for those kind words, especially since my wife is here. I am sure she took it all in.

Now, we thought it would be more profitable to you to bring out the facts as we talked about them in the form of a committee meeting. At our meeting we did have discussion and

did bring out some very interesting facts. Therefore, we hope you will find that this committee has functioned fairly well.

When this job was given to us by Al Robin last April, it looked like it was a long time until October and so we accepted it. We assumed there wasn't much work to do. As chairman, I felt that I was supplied with such a splendid committee that all I had to do was to divide the work in such a fashion that I would not have any to do myself. It worked out just about in that way. All I did was add up some figures. I would like to give you the advantage of these figures before we get into the discussion of the policy questions themselves.

Thanks to your folks, who are really the members of our panel, 600 replies came in to our questionnaire. Some of the answers were a bit surprising—some of them were expected.

In the first place, 93.7 per cent of those who answered were carrying liability. The other six-plus per cent were either setting up reserves or, as one abstractor wrote at length, "there is no use having a policy, there is no use setting up reserves, we do not make mistakes." Therefore, I am thoroughly convinced of those who answered (and this bears out his contention) that over fifteen per cent sustained no loss—at least would admit no loss. Further, sixteen per cent estimated their losses over the last ten years to total less than \$200 and an additional 22.3 per cent had losses less than five dollars. Another sixteen per cent had losses between \$500 and \$6,000, while only thirty-one-plus per cent calculated their losses in excess of \$1,000. To me this was one of the surprising things about our questionnaire, which was really a gratifying response.

In trying to find out the kind of policies that were held by our abstractors, as you will remember, we asked how many of you represent the title insurance companies. Disregarding Iowa, where such representation is illegal, less than five per cent of the abstractors did not represent a title company and an additional ten per cent only responded by saying that they merely forwarded abstracts to the company. Therefore, about eighty-five per cent of those responding actually examined the abstracts or provided for examination.

Most of them pass objections or provide for passing locally and most of them, of course, write their poli-

cies.

The next question on the questionnaire had to do with the amount of the deductible clause. Forty-five per cent had no deduction; twenty-two per cent had one hundred; eighteen per cent over one hundred; and ten per cent over five hundred, including a thousand dollar deductible. Only one company reported a deduction of more than one thousand dollars.

The amount insured likewise was an interesting subject. I tried to divide this by states, thinking that perhaps in the states where they had the largest buildings, largest possible valued property, there might be some evidence of a swing. I hope, Art that this is true because percentage-wise, Missouri had more companies with protection in excess of \$51,000 than any other state. The state where you might expect the larger losses because of the tremendous size of some of the properties involved, carried less liability than did the others.

I suspect that Colorado, for instance, as well as some of the other western states, might have some difficulty here because, to me, a mining claim is such a mystery that I thought the abstractor might well get into trouble with it. However, they were just ordinary there but then, in Idaho, New Mexico and in Minnesota, there was a company who carried a policy of \$100,000. New Mexico had one company that carried coverage in excess of \$250,000. The largest percentage was in the bracket of \$25,000, \$40,000 and \$50,000. In these brackets alone, seventy-seven-plus per cent of those responding reported.

The largest single bracket was between \$21,000 and \$25,000, which is twenty-two per cent of the members responding.

I am sure it was no news to the companies involved that Lloyds of London and St. Paul Insurance Companies carried the largest amount of the coverage. As near as we could ascertain, sixty-eight per cent were insured by St. Paul and twenty-seven-plus per cent were insured by Lloyds. Also, in the great State of Texas we found several reporting that were insured by the United States Fire Insurance Company. Our efforts to pin this down were not successful. We believe that this was a bond rather than a policy but then I cannot answer that at this time because we have no figures on it.

Last but not least, I want to com-

ment upon the larger losses in the areas in which large losses were reported. There were two items which I am sure were the most prominent.

First of these was tax omissions and, secondly, omissions of miscellaneous liens of judgments.

I was curious about this, as I had anticipated that the larger losses might arise out of omitted easements, delineation of improper boundaries in captions and omitted mortgages. Yet, not one of these three figured to any great extent in the tabulation of average loss.

As I expected, many abstracters paid losses on business expedience and were not compensated by the insurance company for the losses. This checks with our experience and is one of the reasons for carrying a five-hundred-dollar deductible in our policy.

In the same vein, one answer was very pleasing—over six hundred abstracters who answered the questionnaire indicated that only ten had dissatisfaction with their insurers. Now, since the questionnaires were anonymous, I am sure that the insurers must feel a pride of accomplishment in such a low percentage.

Three of those responding reported that their coverage had been canceled by one company but that they were able to insure in another company. Since they were anonymous, it would be interesting to find out, if we could, more of the reasons behind this. I don't know whether it was one single loss or whether it was a series of losses. I don't expect any of you to feel that you have to be a martyr to this cause and get up and tell why they canceled it, but it would be interesting if you wanted to do so. I don't even care how you do that. In fact, it could be the fellow in the other state and that type of thing.

Two things were investigated which will bring out discussion, I believe, during our question and answer period. It seems to me (and I am sure the underwriters have these figures and they are not accessible to us) that there ought to be a differentiation between the rates paid by non-members. The reason for that is that most states do as we do—we have rather strict control of the quality of the plant and some control of the ability of the abstracter.

It would seem to me that membership in the association would indicate that the abstracter, at least, wanted to do a good job. I think any committee

which carries on the future program of this association should explore that and the only way you can get it is to see if the underwriting companies have built up such figures.

We would also like to explore the possibility of large blanket policies with a possible \$25,000 to \$50,000 deductible, on the theory that it would be a good advertising gadget to be able to tell your customers that you are insured against loss for a million dollars, possibly using two types of policies—a base policy and another policy.

Now, with that summary of the results of the questionnaire, I will now talk of the various problems that we discussed in our committee and, further, since you are all participants in this, please feel free to interrupt us.

I will guarantee you only one thing—that we will be polite—but that we will not guarantee to answer your questions.

### STATEMENT BY MR. REPPERT:

Thank you, George. George asked me to do this. He said that I had a Xerox machine and so I could record some questionnaires on state requirements.

As you know, we do not have an association in every state in the Union, in each of the fifty states. We do, however, have an association in thirty-six of the states. I sent out letters to the secretaries of these thirty-six state associations and felt, as George did, that I received a very fine response. I received responses from thirty-one of the states.

I inadvertently, in sending my questionnaire out, made no provision for the person to sign it or tell me what state he was from. I sent a self-addressed envelope, with my cancellation mark on it, but I was very fortunate, because only one state sent in a return of its questionnaire with no signature on it and the postmaster in the other town did not put his postmark on it. Therefore, we do have one state that is incognito. I don't know where to classify it except we can say that it does have a bond or requirement for a bond.

It was interesting to me to find out because I, like some other members of the committee discovered last night, thought there were more states requiring some form of bond and/or bond and errors and omissions insurance. However, I did find that one state

out of the twenty-nine I was able to classify required no bonds whatsoever, required no insurance of any kind. Six states required a bond only, they being Colorado, Idaho, Oklahoma, Montana, Utah and Kansas. These are the states that I have had returns from.

If you are here from other states and know your state does require a bond, let me know.

The states that required a bond or an errors and omissions policy were five in number—Minnesota, Arkansas, Wyoming, South and North Dakota.

The bonds seemed to be very small, generally speaking. Most of them ran between five and ten thousand dollars. A couple of the states went up to twenty-five thousand dollars but, by and large, the bonds were very small.

I was also greatly surprised that the states of Illinois, Missouri, Ohio, Wisconsin, Washington, Indiana, Texas, Florida, Maryland, Iowa, Arizona, Oregon, New York, Pennsylvania, New Jersey and the District of Columbia required no bond.

Also, with regard to their response, California sent me a copy of their law. Theirs, inasmuch as most of theirs in the title insurance, is more of a set proposition. In other words, you have to have capital and assets in your corporation above a certain amount, such as that primarily written by the title insurers, to protect them against the losses they had in abstracting or preferring statements for information in connection with title insurance policies.

#### **STATEMENT BY MR. SILVERS:**

I did not contact any of the states that required a bond. I am from Kansas, a state which does require a bond. Our Kansas statutes set out the conditions of that bond. Rather than read from the Kansas statute, I would prefer to read from the bond that I have and it follows, word for word, the conditions set up in the statute. This is that of the Hartford Accident and Indemnity Company.

(Whereupon, the provisions of the above-mentioned bond were read.)

In other words, you can see that the bond required in Kansas, and I rather suspect the same form required in other states, has two provisions—first of all, to protect the county against injury, damage or mutilation of the county records and, secondly, to protect our customers.

What protection does it offer you as an abstractor? The answer is

“none.” Of course, some of you may disagree with me on that but in my thinking it is merely a surety bond. I am holding myself out to respond in damages to, we will say, the county if I mutilate the records, or to the customer who relies on my abstract or on a continuation of my abstract. That again is limited. It says in the bond “relying on the abstract or a continuation of the abstract”—it said nothing about memoranda, notes, judgments, searches, etc. However, the abstractor is the one primarily liable under the bond. The surety on the bond merely guarantees the abstractor's liability and in the event of a loss, I am satisfied that the surety of the bond can provide against the abstractor. However, insofar as actual protection to the abstractor is concerned, a bond offers none.

If you are in a state which offers no bond, you are, frankly, just as well off. That is about all I have to say about bonds. I think we can just toss them out of the window as far as this discussion of liability insurance is concerned.

#### **STATEMENT BY MR. HICKMAN:**

On the rates, we have two companies that we were able to ascertain the rates from and, as near as we can determine, there is a national rate. In other words, the same rates would be applicable in all areas of the United States.

The charge is based, first, on whether there is no deductible, whether you have a policy for a \$100 deductible, \$500 deductible or \$1,000 deductible. You may secure the policy from \$5,000 to whatever upper limit you may choose.

As near as I can determine, Lloyds of London does not quote a rate less than \$20,000. The first policies they issue start at \$20,000.

We have made a chart here showing the rates for both St. Paul and for Lloyds of London relative to figures of \$20,000, \$25,000, \$50,000, \$75,000 and up to \$100,000, mainly to compare the rate between these two companies. It would appear that they are very, very comparable in all instances in relation to their charges. You have a charge based upon your overall coverage, which is the basic premium.

For example, in connection with a policy for \$20,000, your basic premium, if it is \$100 deductible with St.

Paul, would be \$50. Then, over and above the basic premium charge, you have to pay, in addition, for each employee that you have engaged in the abstracting business, as well as owners or management. This is, of course, a matter that in some instances is hard to define. Certainly the janitorial help, runners or those types would be ruled out.

In the small companies you face the uncomfortable situation where some of the employees do part of one job and part of another and, therefore, it is going to be up to you and your insurance agent to come to a determination as to whether this is an employee that you have to pay your risk upon. The premiums that we have

quoted by this chart here are on a one-year basis. If you secure a policy for a three-year basis, then there is a corresponding reduction in premium based upon a percentage, generally speaking.

In other words, a three-year policy would be for two and a-half times the premium that you pay but both companies have a different pricing structure on this. I think this is just for the abstracters errors and omissions insurance. I am sure that a little later on we will be discussing the title insurance agents errors and omissions, which is added coverage and would be over and above the cost that is shown on this chart that you have.

## “BINDERS AND COMMITMENTS TO INSURE”

### *Moderator:*

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

### *Panelists:*

JOHN P. TURNER, *Executive Vice President and Counsel, Kansas City Title Insurance Company, Kansas City, Missouri*

WILLIAM H. BAKER, JR., *Senior Vice President and General Counsel, Lawyers Title Insurance Corporation, Richmond, Virginia*

JOHN R. MILLS, *Assistant Vice President, Title Insurance & Trust Company Los Angeles, California*

C. J. McCONVILLE, *Senior Vice President, Title Insurance Co. of Minnesota, Minneapolis, Minnesota*

JOHN E. WEATHERFORD, *Senior Vice President, American Title Insurance Company, Miami, Florida*

Introduction by Richard H. Howlett, Senior Vice President, Secretary, and General Counsel, Title Insurance and Trust Company, Los Angeles, California. Mr. Howlett thanked the membership for its suggestion concerning the ALTA proposed Commitment to Insure received by the Standard Forms Committee in response to an inquiry mailed by association headquarters in July. He advised the audience that a “clean” copy of the form, as revised in Committee the Saturday before, would be mailed to the membership soon, and requested prompt comment in order that action on its

adoption could be taken at the Mid-Winter meeting.

He was followed by John R. Mills, Assistant Vice President, Title Insurance and Trust Company, Los Angeles, who asked the audience to make an addition on the first page of Exhibit B of the material just distributed to them. This consisted of inserting “and after the mortgage has been recorded” to paragraph 2 of the EXAMPLE so that the first sentence would read:

“After receipt of the commitment, the proposed insured (without actual knowledge of a, b, or c)

and after the mortgage has been recorded pays \$5,000 of the purchase price to the person named in the commitment as owner of the land."

Mr. Mills then briefly explained the other Exhibits and introduced John P. Turner, Executive Vice President and Counsel, Kansas City Title Insurance Company, Kansas City, Missouri, who said:

It may be helpful to your thinking this afternoon if you are aware of some of the assumptions and conclusions which were made by the subcommittee.

First we assumed that the form under consideration, which we have designated a commitment, would be used in the great, great majority of cases, either for the benefit of someone who intended to acquire the fee simple ownership of a specific parcel of land, or for the benefit of someone who intended to make a mortgage loan on the fee simple ownership of a specific parcel of land. The fundamental purpose of the commitment, in turn, should be to inform such persons as to (1) what was necessary to be done in order to procure the issuance of an owner's title insurance policy, a mortgage title insurance policy, or both, and (2) what exceptions from liability would appear in such policy or policies.

By the same token, we felt that if the person did the acts required, and if he was willing to accept the same subject to the exceptions specified in the commitment, then he should be entitled to receive his policy. So the commitment also should constitute and represent an obligation on the part of the proposed insurer to issue a policy if the holder of the commitment had complied with its terms.

Now certainly there will be circumstances where the proposed insurer having assumed the obligation will not issue the policy. Suppose, for example, a commitment is issued to P, a purchaser, who proposes to acquire title from A, the apparent record owner. After the commitment is issued but before P obtains his deed from A, it is discovered that the deed under which A claims title is forged. Surely no useful purpose would be served for P to pay his money to A, get a deed, record it, procure a title policy and then sue the insurer on the policy because he had no title. On the contrary, the proposed insurer should notify P that the policy will not be issued and that P

should take no further action in reliance upon the commitment.

The subcommittee believed, therefore, that the commitment should specify the circumstances under which damages could be recovered for breach of the agreement to issue a policy, and give some guides by which the nature and amount of such damages should be measured. As will appear from the material given you and from the examples which will be discussed, these conditions are that the damage must occur from a change of position occurring after the issuance of the commitment, in reliance thereon, by a person entitled to rely thereon, in an effort to comply with the requirements of the commitment.

It, therefore, became apparent to the subcommittee that we were concerned with an agreement to insure, rather than a present contract of insurance. If the holder of the commitment were to have a cause of action against the proposed insurer, it should be for damages arising from breach of the contract to issue the policy, rather than for damage resulting from conditions affecting the title as of the date of the issuance of the commitment. Until the proposed insured has changed his position in the manner specified in the commitment and in reliance upon the commitment, he should have no right of action for breach of the commitment. Since this change of position does not automatically occur with the issuance of the commitment and, in fact, may never occur with the result that the liability under the commitment, if it arises at all, would arise at some uncertain time in the future, it certainly would be a misnomer to attempt to categorize or classify the commitment as a present contract of insurance.

Mr. McConville will now discuss some of the additional considerations involved in deciding upon a commitment to insure, rather than a present contract of insurance, and some of the practical considerations affecting the use of the same.

C. J. McConville, Senior Vice President, Title Insurance Co. of Minnesota, Minneapolis, Minnesota, who followed Mr. Turner, said:

The subcommittee recognized, and still does, that there is no one type of preliminary title evidence used nationwide. Some areas prefer a preliminary policy of title insurance, others use the binder, some the commitment to insure and a large segment of the industry uses letter reports or pre-

liminary reports.

I would like to give you insight into the sub-committee's thinking on why it selected the commitment to insure as the best format and some of the practical and production advantages in using the form devised.

We did not use the format of the preliminary policy of title insurance because this might be construed as a present contract of insurance. We thought that the term "binder" might be susceptible of the same interpretation because of its use in other fields of insurance, although in the title industry a binder has always been considered as only a commitment for future insurance.

We stayed away from the preliminary report or letter report because these forms generally do not incorporate the terms, conditions and stipulations on the final policy. We thought it important that these be included and also that the commitment have its own conditions and stipulations concerning losses arising under the commitment. Perhaps most important, many forms of preliminary or letter reports do not recite a specific dollar liability. Some of us take comfort from that fact. In fact reports in some areas contain the statement that no liability is assumed by the underwriter but that the report is an accommodation. Recent cases have indicated that this recital cannot be relied upon with much confidence. In fact, many of us fear that the tort liability we incur may be more hazardous than our contract liability.

So we arrived at the Commitment to Insure. Even if this form is not adopted nationally, we suggest that you consider using the format of a commitment to insure and adopting some of the items and conveniences we have included in this commitment form.

First, we prepared the commitment in such a way that on a simultaneous transaction both the owners and the mortgage commitment can be typed together. Customarily the mortgagee gets the original and the purchaser receives a carbon copy. Our company has used this simultaneous form of commitment in several areas of the country for many years and we have encountered no problems of acceptability. There are two obvious advantages—it cuts down on production time, both typing and proofing. It also eliminates the need of printing and storing two separate forms of commitment—one for the owner and one

for the mortgagee.

The limitation on simultaneous typing is that the owners and mortgage policies must be on the same estate. That is the mortgage policy could not be on the fee title and the owner's policy be on the leasehold.

Second, the form provides that the commitment is not effective unless the proposed insured and the amount of liability is filled in. In this way the underwriter knows the type of transaction involved, in what amount and to whom he is committing. This last item may be very material in the event the title company discovers an error or defect after the commitment is delivered and wants to notify the proposed insured of the defect before he relies on the commitment.

Third, the form provides for an expiration date. The actual number of days or months is optional dependent on the custom in the area. There is some question of how effective such a termination date is where the parties have relied on the commitment prior to the expiration date even when no final policy is ever called for, but John Weatherford will comment on that point.

John Ely Weatherford, Senior Vice President, American Title Insurance Company, Miami, Florida, was the last panelist. He said:

When your Standard Title Insurance Forms Committee undertook the assignment to prepare a title insurance commitment form, we were guided in our deliberations by several recent decisions which were concerned with binders and which indicated that there were certain deficiencies in the then existing forms of binders which enlarged the scope of liability of the title insurer.

We think it will be of interest to you to tell you about some of these cases.

The first two involve American Title Insurance Company, which your speaker is privileged to serve as senior vice president, and are, as follows:

*Livingston vs American Title Insurance Company 133 So(2nd)483, a Florida Case.*

*American Title Insurance Company, et al vs Byrd 384 SW (2nd) 683, a Texas case.*

The Livingston case arose in connection with a binder issued preliminary to the purchase of certain real estate in Duval County, Florida. Prior

to the issuance of the binder, the plaintiff, our insured-to-be, bargained for the purchase of said parcel of land and made a partial payment. After the issuance of the binder, and before the consummation of the purchase, plaintiff's attorney discovered that the immediate grantor of the seller had been adjudged incompetent prior to the execution of the deed to such seller. Plaintiff's attorney immediately communicated this information to American Title and we advised him that we would not issue a policy under the terms of the binder and further denied any liability to Plaintiff. The Court held that our interim title insurance binder constituted a binding agreement and then went on to say

"If not actually a policy of temporary insurance the binder is at least a firm and irrevocable undertaking on the part of the defendant to insure the title of Cecil Lightsey (the seller) or his grantee (presumably plaintiff) to the land described in Schedule 'A' subject only to the 'exceptions and requirements' of Schedule 'B' and 'C'."

The court further found that nowhere in Schedules "B" nor "C" was there any exception which could even remotely be construed as a reservation of a right to refuse to issue the policy based upon defective execution of any deed of record or mental capacity of any party in the chain of title. Damaging to our position and defense was the court's comment that it was immaterial whether the investment made by plaintiff was before or after the issuance of the binder and then went on to say that the question is

"Did plaintiff suffer loss by reason of a defect in title against which the defendant had contracted to insure him?"

The court found that a contract to insure is just as binding as a contract of insurance and held that the actual loss sustained by the plaintiff was the investment made before the discovery of a defect in title. The lower court's judgment in our favor was reversed with direction to grant plaintiff's motion for leave to file an amended complaint. After deliberation and conferences within our own office, we determined that the wisest course

would be to settle the case rather than to go through another series of trials. Therefore, we did effect a settlement.

The Byrd case likewise involved an owner's title policy commitment issued by our company in connection with a contemplated purchase. The commitment failed to disclose the existence of two undivided mineral interests which were outstanding in third parties. In the course of issuing the policy following the closing of the transaction, the mineral interests were found of record and were listed as exceptions in the title policy. Subsequently, our insured brought an action for damages under Article 4004, Revised Civil Statutes of Texas, which Article permits the bringing of an action for actionable fraud "with regard to transactions in real estate." You will see, then, that this is an action based not on the binder, but based on a Statute covering situations outside the scope of the binder and the amount of damages sought had no relation to the dollar liability of the title insurer as defined in the binder. The trial court and the court of civil appeals both held that the suit was maintainable under Article 4004. Our company then carried an appeal to the Supreme Court of Texas and we were joined by other underwriters in Texas who filed briefs as *amicus curiae*. The sole question on appeal was whether a title insurance company is subject to an action for fraud, within the provisions of Article 4004. To our satisfaction, the Supreme Court of Texas held that said Statute has no application to a title insurance transaction, since the transaction between the insured and the title company was not a transaction in real estate, it was a transaction in title insurance which was incidental to the transaction in real estate. Since the decision on appeal related solely to the propriety of the action under Article 4004, the Supreme Court reversed the judgments of the civil court of appeals and the trial court but remanded the case to the trial court for another trial. Here, again, we were fearful of adverse rulings if we submitted to another trial and, therefore, worked out a settlement of the case.

Another case of interest is *Preferred Homes Acceptance Corporation vs Louisville Title Insurance Company*. Civil Action No. 3928 in the United States District Court for the Eastern District of Tennessee, Southern Division. The basis for the cause of ac-



tion in this case was three interim title insurance binders issued by Louisville Title for a proposed mortgage transaction and erroneously set forth the title as being vested in a corporation instead of in an individual as trustee. Subsequently, mechanics liens were filed against the lots covered by the binders and the beneficiary of the binder brought this action for damages. The court in making reference to the binder said:

“. . . it is a certificate of title, together with an agreement to issue title insurance. . . .”

The court commented that the word “binder” is well understood in the insurance business to be a memorandum setting up insurance and then went on to say:

“The issuance of a binder is most always for short duration as it issues to temporarily protect an insured until arrangements are made for the execution of the regular policy.”

The duration of the binders involved was the crucial question since the binders stated that they would become null and void unless the policy was issued within 120 days from the date of the binder. The mechanics' liens in question were filed after the 120 days had elapsed. The court considered the customs and usage in the vicinity of extending binders until completion of construction but held that a general custom and usage would have no bearing on changing written instruments if the provisions thereof are unambiguous and further pointed out that there was no custom and usage between the parties litigant. The plaintiff also endeavored to show that the termination date had been waived but the court found that the local agent of the title company had no contract authority to make such a waiver, and

even if he did, such conversations were prior to the execution of the binder and that the written contract was controlling as to its terms. The final decision of the court was that each binder became null and void at the end of 120 days and the plaintiff could no longer rely upon it. Therefore, no recovery was had against Louisville.

These cases indicate some of the pitfalls that lie before us if we do not carefully draft our binders in an attempt to define clearly the scope and extent of our liability and the basis for any action which might be brought based on such commitments. We believe the title insurance commitment which we are submitting to you for consideration is a step forward in holding our liability to reasonable areas while at the same time not diminishing the usual coverage to be afforded to our insured.

In response to questions by panelist Mills, Mr. Turner affirmed his opinion that the form gave the issuing company the right to *effectively* notify the proposed Insured of additionally discovered defects, etc., if it did so prior to such Insureds having taken action in reliance on the commitment. Mr. McConville affirmed his view that the form was clearly a commitment to insure and not a present contract of insurance. Mr. Weatherford stated his satisfaction that the language in the Conditions and Stipulations should prevent the vices which existed in the Livingston case and was contended for in the Byrd case. The talk was concluded by Mr. Turner's discussion of Exhibit B followed by questions from the audience and answers by the panelists.

Regretably, panelist William H. Baker, Jr., Senior Vice President and General Counsel, Lawyers Title Insurance Corporation, Richmond, Virginia, also a member of the subcommittee which worked on the form, was unable to attend because of illness.

**WATCH FOR ANNOUNCEMENT**  
**Management Seminar for ALTA Members**  
**PLAN TO ATTEND**

# “PROFIT SHARING AND RETIREMENT PLANS AND OTHER FRINGE BENEFITS FOR EMPLOYEES OF SMALL COMPANIES”

*Moderator:*

WILLIAM F. JOHNSON, *President, Albright Title & Trust Company, Newkirk, Oklahoma*

*Panelists:*

WILLIAM F. GALVIN, *Vice President, Guarantee Abstract Company, St. Petersburg, Florida*

MILTON J. SCHNEBELEN, *President, The St. Francois County Abstract Company, Farmington, Missouri*

## STATEMENT BY MR. JOHNSON

There are several types of employee deferred compensation plans, but the most common are the pension and profit sharing payment methods. Bill will speak to you on the pension plans and I will speak to you on the profit sharing plans.

If the plans are Government approved and qualify under sections 401-405 of the Internal Revenue Code, contributions or payments made by the employer to the fund, or trust, which holds such moneys or securities for the benefit of the employees, allows the employer to take a tax deduction for the payment, but does not cause the employee to receive taxable income at that time. The employee pays income tax on his share when he receives the money from the fund, or the trust, which can be at capital gains rates. Meanwhile, income earned by the trust, or the fund, is tax exempt.

There are limitations on the tax deductible amount which a company can contribute to profit sharing plans. The amount must not exceed 15% of the compensation paid or accrued during the taxable year to all employees under the trust. Where the amount payable under a profit sharing plan exceeds the 15% limit, the excess may be carried forward to succeeding taxable years to apply when the amount payable is less than 15%. Similarly,

where the 15% limit exceeds the amount actually contributed, there is a credit carried over that may be used in succeeding years.

The basic difference between pension and profit sharing plans lies in the fact that, in a pension plan, contributions are not dependent upon profits, where, in the profit sharing plan benefits are keyed to the company profits.

There are many prerequisites for qualifying a profit sharing plan for the Government approval. In the time allotted me it will not be possible to go into detail on all of these, but I will briefly hit some high points. The plan must be established for the exclusive benefit of the employees. It must be in writing. There must be a definite predetermined formula for contributions and disbursements. The plan must be permanent. Trust funds must not be diverted. The plan must cover 70% of the employees. The plan must not discriminate, and many other regulations which may be pointed out by the attorney which you will have to obtain to draw up such an agreement.

Albright's Profit Sharing Plan is, briefly, as follows. It originated July 1st, 1952. 40% of the net earnings after deducting taxes, etc., shall be deposited in a Trust by the corporation for the allocation of the corpora-

tion's employees. The Trustee is charged with the management, however, we do have a profit sharing committee, appointed by the corporation, from among its directors, officers and employees, whose duty it is to approve, or disapprove investments.

An employee must have completed two years of employment before July 1st before he becomes eligible to participate in the plan. There is no employee contribution required, however, an employee may, at his option, contribute amounts in multiples of 1% of his monthly salary, with a maximum of 10% of the first \$300 of monthly salary and 5% on that portion of monthly salary in excess of \$300 per month. Employee contributions are at all times vested absolutely in the employee and may be totally, or partially, withdrawn on a designated date each year. Such contributions are invested and managed by the Trustee, with the income on the investments being credited to the contributors' accounts annually, on a formula provided by the Trust Agreement.

As stated before, the employer contributes and places funds into the trust each year. It is then divided by assigning units to the employee—one unit for each \$100 of salary received during the fiscal year, excluding overtime, directors' fees, bonuses and amounts less than \$100, plus one unit for each year of service.

The corporation's deposit is vested in the participating employees on the basis of the number of complete and full years of employment with the corporation with employees who have two years of employment with the corporation having a 20% vested interest in the amounts apportioned to their accounts; three years of employment having 30% vested interest, etc., until with ten years of employment the employee has 100% vested interest in any amount theretofore or thereafter apportioned from the corporate deposit to his account.

Our profit sharing trust, as I stated, has been in operation since 1952. We have about 43 people in the firm today, with about 33 of these people being eligible to participate and as of June 30th, we had \$202,506 in our Profit Sharing Trust. I am sure I could have brought testimonials from many, especially my older employees, stating that they would not work where there was no such plan.

**STATEMENT BY MR. GALVIN:**

According to the income tax regulations, a pension plan is defined as a plan that provides "definitely determinable" benefits to retired employees, regardless of the amount of the company's profits. The real stumbling block to the installing of pension plans in many medium-sized and smaller companies is the idea of a "fixed contribution", partially because no one knows today for certain what the future may hold, but there is a way that you may have many of the advantages of a fixed contribution plan without the necessity of a fixed contribution.

The plan, which I wish to discuss, has the better features of a Pension Plan and a Profit Sharing Plan. It includes the advantages of the regular life insurance annuity plan in that you may have contracts that guarantee payments for ten years certain and continuous incomes and other life annuity and settlement option benefits. In addition, it retains the flexibility and advantages of the self-funding plan.

If you decide that a pension plan is desirable, and this of course, is your first decision, it will then be necessary to determine how much the company can contribute or how much it is worth to your company to provide a plan that will not only provide pensions for your employees upon retirement, varying according to the total years service to the company, but also provides support for their dependents in event death occurs prior to their receiving the accumulated credits set aside for them.

Now, what should this plan provide? First, you must determine the retirement benefits which you hope to provide for your employees who continue employment to age 65. This benefit is usually based on a percentage of average annual compensation from date of eligibility to retirement date. This will average somewhere between 20 to 50 percent of the employees average annual salary, or as is now more popular, a percentage of the average salary for the five years *preceding retirement*. This will provide a somewhat larger pension and also compensate in part for any inflation over the years of employment. Our company plan, for example provides 25% of the average salary for the 5 years preceding retirement, for 10 to 19 years of service; 30% for 20 to 24 years with a maximum of 50% with 40 or more years of service.

Then it will be necessary to determine who should participate in the plan so some eligibility requirement will be necessary. It is customary to require a period of from one to five years employment for new employees and a past service provision for your present older employees of from 5 to 15 years. Provision must also be made for the vesting of an employee's credits in the pension fund and their disposition in case of discontinued employment, disability or death.

For the smaller company, the self-funding plan has many advantages. *First*, it has flexibility of corporate funding to fit normal, subnormal and abnormal earning periods. *Secondly*, it has economy of management and operation with flexibility of benefits for your employees and their families and maximum overall benefits for each dollar appropriated.

This type of plan is usually managed and directed by a pension board consisting of a management representative and three employees. These employees are usually nominated by an employee committee and may serve a rotating term so that only one member of the three is selected each year. The company representative serves at the pleasure of the management. Usually the trust agreement provides that a trustee be appointed by the pension board, subject to the approval of management, whose discretionary acts

are regulated and directed by the board. The Trustee receives the funds appropriated by the company, and invests and disburses funds as directed by the pension board.

The plan should provide, that while it is the intention of management to contribute annually to the pension plan, adverse contingencies affecting the company's net earnings, such as increased taxes for Social Security or other State or Federal purposes, economic disturbances, etc., may prevent such contributions in whole or in part, and that management, therefore, does not assume any guaranty to make further contributions to the pension plan, in the event of adverse contingencies that would curtail the company's earnings or materially divert its earnings for taxes or other purposes.

In order that the plan may continue, the Pension Board may have the authority, with the approval of management, to require employee contributions in order to make possible the necessary accumulation of funds to provide the full benefits contemplated.

Any plan presented to you for consideration by your pension advisors will be tailor-made to fit the particular requirements of your company and your employees. If it is your desire to add to the fringe benefits of your company, the advantages of a pension plan are well worth *your further* investigation.

## “CLAIMS—RECENT DEVELOPMENTS”

*Moderator:*

ROBERT KRATOVIL, *General Counsel, Chicago Title Insurance Company, Chicago, Illinois*

*Panelists:*

C. J. McCONVILLE, *Senior Vice President, Title Insurance Co. of Minnesota, Minneapolis, Minnesota*

WILLIAM H. BAKER, JR., *Senior Vice President and General Counsel, Lawyers Title Insurance Corporation, Richmond, Virginia*

JOHN J. EAGAN, *Vice President and Senior Title Officer, Title Insurance and Trust Company, Los Angeles, California*

JOHN S. OSBORN, JR., *Senior Vice President, General Counsel & Title Officer, Louisville Title Insurance Company, Louisville, Kentucky*

### STATEMENT BY MR. BAKER

This afternoon I would like to devote my time to a discussion of current claim experience. Of necessity it must reflect my own company's ex-

perience but from rumors I hear emanating from different quarters I believe our experience this year, from the standpoint of cause of claim, is not too different from that of a number of other companies.

I am not going to talk about taxes or assessments, overlooked liens or survey errors, reversionary clauses or outstanding interests, or, in fact, any of the customary things that go to the quantity and quality of the title to land. They are always with us and no noticeable trend appears from the number of any one of such types of claim at this time—unless it be a tendency towards increasing carelessness, which is something we should always be alert to and guarding against.

I want to talk about the types of claim that either have no relation to or should have no relation to quantity or quality of title but which are very real, ever present, and extremely costly protections afforded by our policies. They are the mechanics' lien exposure and those claims that result from the dishonesty of our fellow man.

From January 1, 1965, through September 30, we have experienced a 10% increase over the same period of last year in the number of claims filed. This is acceptable and to be expected on a rising volume of business. However, when we talk about dollars it is an entirely different story. Dollar-wise our losses are running at a rate of 4.3 times the amount incurred at the same time in 1964, an increase percentage-wise of 330%. Of this increase only 10 to 15% is attributable to the increased volume of ordinary claims. The balance of 315 to 320% or in dollars \$930,000.00, can be attributed directly to dishonesty—forgeries and defalcations, two areas of exposure which are always with us but which have not contributed significantly to our losses for several years.

I want to mention first the subject of mechanics' liens for it is one on which I feel very strongly and while I recognize the impact on sales of the assumption of this risk, I think it was a decision of dubious wisdom when the title insurers decided to accept the mortgagee's business risk of mechanics' liens during construction and in effect said that they would guarantee that the particular builder is a man of experience who knows his trade, a man of honesty, financial ability and business acumen, and we will protect you against any mechanics' liens resulting from any lack of experience, lack of knowledge of his trade, lack of financial ability, lack of business acumen or from his dishonesty. Having made the decision to

accept the risk all of us have competed with one another for the premium dollar so strongly that we seem to be travelling toward an end-goal of no safeguards—only a flip of the coin.

Through August of this year there has been a 50% increase in the number of our mechanics' lien claims over the same period of last year. This represents an increase of only a few percentage points in the relation of the number of mechanics' and materialmen's claims to the total number of claims. Two things, however, are indicated. One is that there appears to be an increasing number of relatively small mechanics' lien claims. I don't know that that contains any particular lesson for us unless it is that an increasing number of speculative building ventures are closer to the ragged edge. The other and more serious indication from our experience is that an especially dangerous area of exposure today lies with the office builder, the apartment builder and the motel chain builder when the risk of mechanics' and materialmen's liens during construction is taken in reliance upon indemnity—no matter how apparently well supported by financial statements, credit reports and even bank reports. When priority of mortgage lien as a matter of law is lacking and the title insurer can only pay in dollars we are all too prone to accept the mortgagee's construction loan business risk based upon competition among ourselves for the customer's business. The title insurer seldom obtains for itself the protection that the mortgagee would insist upon for himself if the title insurer was not in the picture. The insurer may fail to review financial statements with a jaundiced eye and the realization that for the most part they are made up of inflated equities. It may fail to remember that most credit reports reflect only what the investigator was told by the party being investigated. It may fail to determine how factual and current the banks' report might be. Too often the title insurer permits the mortgagee to disburse its own funds in these cases direct to the owner or the builder and does not insist upon assuming that control itself. The title insurers invite trouble for themselves in this area of exposure. We have three cases pending now involving three heretofore apparently successful project builders who, however, had over-extended themselves and who were building apartments or

office buildings in already over-built areas. The potential exposure in these cases could exceed the entire anticipated premium income from the areas involved for some time to come. It's time that all of us gave more thought to the extent of the dollars we are risking in this area of mechanics' lien exposure and to commence to think less in terms of the free flowing dollars of the Great Society and more in terms of how hard it was to come by the dollars that are now being risked in this particular field.

Remembering the instance of mechanics' lien losses occasioned by false affidavits and occasional forged waivers brings me to the subject of forgeries and defalcations.

I don't know that there are many things we can do to protect ourselves against forgeries—at least when the forgery has occurred prior to the present transaction. In the pending transaction an alert closer, whether he be company employee or Approved Attorney, can decline to accept without verification unrecorded deeds from the vendors when tendered by the vendee or unrecorded releases of prior liens when presented by the mortgagor. We have had several cases, one for a substantial amount, where loss would have been avoided if the closer had gone into the next room and by a simple telephone call to the prior mortgagee verified that the loan had in fact been paid.

These checks were not available to us in two forgeries discovered this year and involving in the aggregate \$570,000.00. In Georgia a complete loss was sustained under an owner's policy in a case in which the Insured's vendor, a lady of adventurous spirit who needed funds to finance her adventures, forged to herself a deed from record owners and thereafter sold the property so acquired. In perpetrating this forgery she carefully selected vendors then residing in West Germany on duty with the Army.

The second case is the bonanza. It arose just a few weeks ago in Houston, Texas and many of you have heard of it. I understand that an aggregate of \$3,000,000 was involved and that all but possibly two title companies operating in Houston were caught in varying degrees. I wish we had been one of the fortunate two but we were caught with five cases that have required payouts of \$545,000.00. We hope that is all. As the plot unfolds it appears that we are con-

fronted with a scheme that commenced some six or seven years ago with alleged forgeries of deeds conveying apartment properties from parents to son. Along the way a few properties were legitimately acquired. In two of our five we have no problem about derivation of title but in the other three we are faced with the allegation of forged deeds from the parents. In our cases, and I believe they were fairly typical, a loan would be negotiated from Mortgage Company X. During the next two or three months the forger would busy himself procuring printed release forms used by X, having a company seal duplicated, and practicing the signature of the officers. Then a release would be manufactured that was perfect in appearance. This would be taken to the recorder's office to be recorded with instructions to return to the mortgagor. After another wait of two or three months application was made to Mortgage Company Y for a loan on unencumbered property. In the meantime, payments were being kept up on Company X's loan. This little game could and did go on for quite a while. On one of our properties our "first" lien of \$160,000.00 turned out to be a fourth lien and there are three more behind us. There had to be a day of reckoning of course. The money generated by new loans couldn't keep pace with the increasing number of amortization payments coupled with unsuccessful trips to Las Vegas. Salvage in cases of this kind is, for the most part, a vain hope. We have had high hopes of substantial salvage in two cases only to have those hopes dashed just this past week by current appraisals that took into account repairs required current occupancy and future prospects, and that had some of the water wrung out. The value of one property dropped from an appraisal of \$325,000.00 to \$225,000.00 in 12 months time. This man's talents were not exercised on Houston lenders alone. In one of our cases we are primed by mortgage held by a life insurance company in Ohio whose release was forged. In another the record discloses the forged assignment of loan held by a Washington, D.C. life company. And there are other similar instances.

Both of these cases illustrate a type of loss that is almost impossible to detect in advance and that can happen to any property owner or investor at any time. The wonder is that it

doesn't happen more often.

If anything in our experience this year is evidence of a trend it is in the area of defalcations. Times must not be as good as they seem to be and from the number coming to light how many more are hiding in the bushes?

So far this year we have had six such instances, each involving a multiple number of cases and costing in the aggregate \$365,000.00. Some have been compounded by stupidity.

A case in South Carolina involved three prior mortgages not discharged by the Approved Attorney at the time of closing. Here I think there was more stupidity than intent and I am hopeful of complete recovery. In this instance the law office consisted of one man and one secretary and one bank account. This one bank account served his household account, his office account, his clients' funds, loan funds, building funds for a small office building being constructed by the attorney and a coventurer, etc.

In Georgia, the Approved Attorney did not himself misappropriate the loan funds but they were certainly misapplied. Here the builder-developer sold the property to the parties negotiating the new loan. On receipt of the loan funds the attorney recorded the deed to the borrower, paid over the entire proceeds to the builder and gave the builder a form of release instrument with instructions to go pay off the construction lender, procure execution of the release and return the executed document. Well you can imagine what happened. When we finished paying off the prior construction trusts the costs aggregated \$60,000.00.

In New York we had an agent who made an unsuccessful but expensive race for public office last fall. Early this year it developed that while he did not close loans he had been accepting, without our knowledge, sums of money to be held for our protection pending clearance of title defects. When the depositors produced evidence of performance and requested return of deposits the cupboard was bare. In short, we financed a \$30,000.00 political campaign, and do you know, when we cancelled his contract he sued us for \$400,000.00 damages for breach of contract.

In Texas, an attorney who was engaged in speculative building ventures, was also the owner of an abstract company agency. When funds for these speculative ventures became

short, escrow funds entrusted to the Company but belonging to other people took a corresponding drop and many prior liens escaped satisfaction. This involved three of our cases for \$36,000.00, another company for a lesser amount and a third company for a very much greater amount. Fortunately this agent represented us only on matters that we referred to him in serving our national customers.

In North Carolina, just two weeks ago, it developed that an approved attorney who had been "favoring" us with all of his business and with clean certificates of title had failed to pay off prior liens in a number of cases aggregating \$50,000.00. He is very contrite but the expectation of salvage is non-existent. He was a principal in a speculative building venture that is now hopelessly insolvent.

In Maryland, we to the extent of \$160,000.00 and another company to the tune of about \$115,000.00 were victimized by an attorney who was using escrow funds to buy at a bargain price a hotel in Detroit, Michigan, which turned out to be a third or fourth rate establishment, poorly located, and with a long and checkered financial career. When escrow funds were no longer available to make good operating deficits the property returned to the purchase money mortgagee and we began hearing from numerous local mortgagees about the possibility of unreleased prior liens.

Losing the \$160,000.00 was bad enough but the truly alarming development was the very serious assertion this man made to our counsel that he did nothing that some of the other attorneys in the area were not also doing—that is, using escrow funds regularly for private investment. He was just unlucky. His investment just didn't pan out.

These cases and others which are not related here evidence two things in particular to me:

- (1) As an industry, we can not exercise too much care when considering the financial stability of prospective agents and approved attorneys. In addition, careful scrutiny and some pointed questioning should be directed to ascertaining outside extracurricular business ventures.
- (2) Because these six cases which I have related have occurred within the span of nine months and

because of all of these involve defalcation by members of the legal profession, I find it difficult to equate this experience with the ethical standards which allegedly are the basis for the attacks that segments of the organized bar are making against the title industry. I find it exceedingly difficult when I recall how members of the bar in one particular state who are engaged in the business of title insurance, have fought state regulation as unnecessary for them on the basis that they are already governed by a Code of Ethics and by the courts. Such a plea by this particular bar group and others does not foursquare with the facts as we in the title industry know them.

These experiences suggest a number of inquiries and among them are these: Are the law schools doing the job they should do in instilling into young lawyers a proper appreciation of their trust? Is the bar doing the job it should in policing itself? Are we as title insurers insisting on doing our part to bring about disbarment when the situation demands it? Is the bar so overly concerned with economics that it is willing to interpret its Code of Ethics to permit representation of two masters and winking at rebates? Are we too concerned with premium income and, thus, being too quick to accept representation by agents and attorneys who are not measuring up to the standards we want to achieve for our respective companies and our industry?

*Mr. Kratovil:*

I would like John Eagan to give us an idea of what his company's experience is with categories of claims. John, have you been hit hard by forgeries and fraud losses?

*Mr. Eagan:*

We have had a minimum of forgery and fraud losses recently. Probably our largest area of pending claims is in the mechanic's lien area, but losses actually paid in this category through August of this year are under \$100,000.

*Mr. Kratovil:*

Our next panelist is John S. Osborn, Jr., who is Senior Vice President, General Counsel and Title Officer of Louisville Title Insurance Company. We all have used to advantage the

fine text in Real Property Law authored by Mr. Powell. The recently completed section of this text on title insurance law is the work of Mr. Osborn, who will now discuss some title claims that found their way into the reported cases. Mr. Osborn:

## STATEMENT BY MR. OSBORN

Historically, a large proportion of the reported decisions concern land title litigation. Of course, we find only a relatively few reported cases which clearly involve title insurance policies. To laymen this helps perpetuate the myth that we have few losses. However, those of us who are in the industry know that the Title Insurance Companies provide for the defense of thousands of cases each year, in which our names never appear. However, as the use of title insurance spreads, we will find more and more cases directly against Title Insurance Companies or by Title Insurance Companies against others.

Since we have relatively few reported cases involving title insurance, the tendency among some of us has been to rely upon our knowledge of the ordinary rules or real estate law in construing coverage of title policies, the liability of title companies, and the meaning of exceptions place in the policies.

Unfortunately the courts have ignored the rules and presumptions ordinarily used in construing deeds and wills and have not examined the four corners of the policy seeking to determine its intention, but have instead followed the rules ordinarily used in construing other forms of insurance. (*DeCarli v. O'Brien*, 150 Ore. 35, 41 P. 2d 411, 97 A.L.R. 693.) Accordingly, the courts have held that the language in title policies is construed with the common understanding of the words used. (*Marandino v. Lawyers Title Insurance Corporation*, 156 Va. 696, 159 S.E. 181.)

Furthermore, the policies must be liberally construed in favor of the insured, and any ambiguity must be strictly construed against the insurance company. (*Feldman v. Urban Commercial, Inc.*, 78 N. J. Super. 520, 189 At. 2d 467; *Hansen v. Western Title Insurance Company*, 220 California Appeal 2d 531; 33 Cal. Reprtr, 668, 98 A.L.R. 2d 520.)

These general rules are followed throughout the policy and govern construction of the exceptions as well as the other provisions. (*Coast Mutual Building Loan Assn. v. Security Title*



Insurance and Guaranty Company, 14 Cal. Appeal 2d 225; 57 P. 2d 1392.)

Following these rules the courts have come forth with some interesting decisions concerning the interpretation of exceptions contained in Schedule B of title policies. *Feldman v. Urban Commercial, Inc.*, 189 At. 2d 467 is a case illustrating the failure of the title insurer to write the exception in broad enough language. In that case, the Title Insurance Company issued a mortgagee title policy and in Schedule B took exception to "restrictions in the deed to *Urban Developers, Inc.*" The issue in the part of the case that concerns us was whether the provisions in said deed that re-development had to be completed within 32 months were "a restriction." The court held that this provision concerning redevelopment was a "condition" and more than a mere covenant. It went on to say that the word "restriction" is not synonymous with the word "condition"; the judge commenting that the word "restrictions" as used by the Title Insurance Company was ambiguous, and that, therefore, the title policy did not effectively take exception to the condition. Fortunately for the title insurer, there were other issues raised by it on which it prevailed. However, this case illustrated the necessity for carefully chosen words being placed in the exceptions.

On the other side of the coin are cases which illustrate the danger of saying too much in the exceptions. One of the most prominent of these cases is *J. H. Trisdale, Inc. v. Shasta County Title Company*, 304 P. 2d 832. In this case a policy issued in California took exception in Schedule B to:

Easement recorded in Book 217 of official records at page 105, belonging to *Pacific Telephone and Telegraph Company*.

In fact, the easement recorded in Book 217, Page 105, was an easement belonging to Pacific Gas and Electric Company and not to Pacific Telephone and Telegraph Company. However, it was the only easement recorded in Book 217 at page 105. The insured conceded that if the policy had merely excepted an easement recorded in Book 217 of official records at page 105, without undertaking to name the owner of the easement, there would have been no breach of the title policy, but the insured argued that when the title company went further and voluntarily undertook to name the owner of the easement, it took upon itself

the burden of naming the owner of the easement correctly.

The title company, on the other hand, contended that the insured was barred by his contributory negligence in failing to look at the book and page excepted. This case involved many other points in addition to the one raised above, but on this particular point the court held that the insured was not barred as a matter of law by his failure to look at the book and page and see who the owner of the easement was. The court recited that there could be quite a difference between the extent of the use between a telephone line of low voltage and a power line of high voltage and that the insured might be willing to have one on his property but not the other.

Leaving these cases, I would like to discuss two Texas cases which concern the meaning of the exception in Schedule B of "Rights of parties in possession." This is a common type of exception which is sometimes expanded, but in many instances an identical exception is placed in the title policy. Therefore, I think these cases are a matter of interest to everyone. The first case, styled "*Shaver v. National Title and Abstract Company*," 361 S. W. 2d 867, 98 A. L. R. 2d 531, was decided in 1962. The insureds brought a suit against the title company alleging that they received a title insurance policy and some nine years thereafter discovered that the Lone Star Gas Company was the owner of a recorded easement for installation and maintenance of a 16 inch high pressure gas line under the property. They alleged that the gas line was buried about 4 feet under the surface and that it prevented their title from being a good and indefeasible title as insured. The title company pleaded the Statute of Limitations and the provision in Schedule B that it was subject to "Rights of parties in possession." The company said that the Lone Star Gas Company's pipe was in existence at the time the policy was issued and that therefore it was in possession at such time. The plaintiffs contended that the Lone Star Gas Company pipe line was not such possession of the premises as would put them on notice of its existence and therefore the gas company was not a party in possession within the meaning of the title insurance policy.

The Texas Supreme Court sustained this argument and said that possession, in order to constitute notice, must be actual possession, consisting of acts

of occupancy which are open, visible, and unequivocal, and in nature sufficient upon the observation of a subsequent purchaser to put him on inquiry as to the rights of the possessor. The court said that the existence of an underground pipe was not sufficient to give notice of the easements, since it was not visible, and therefore the exception to "Rights of parties in possession" did not relieve the title company from liability.

More recently, the Texas Court of Appeals has been called upon to decide another case involving the identical exception to "Rights of Parties in possession." In this new case of Halvorson v. National Title and Abstract Company, reported in 391 S. W. 2d 112, and decided on May 27, of this year, the Title Insurance Company failed to include in Schedule B an exception to a recorded easement to Texas Power & Light Company 100 feet wide, which extended 50 feet into the insured premises. The Texas Power & Light Company also had been granted a 15 foot wide easement which had a center line coincident with the center line of the 100 foot easement, and the policy did include an exception to this 15 foot easement. The insured went upon the property prior to closing and saw the light poles extending along the property line. While none of the poles were actually on the property, the power lines hung over the property line and were clearly visible. After the insured purchased the property, the Power Company constructed a new power line along the same center line but its cross bar extended over the 15 foot easement and into the insured premises. It also carried lines bearing twice as much voltage as the old lines. The insureds sued the Title Company, claiming that the title policy did not take exception to the recorded 100 foot easement and that their property was damaged by reason of its being exposed to a dangerous current of electricity. The Title Company defended on the sole ground that the title policy contained an exception to "Rights of Parties in Possession." The insured contended the Texas Insurance Commission, "Basic Manuals of Rules, Rates, & Forms," had not been followed by the Company. The manual permits title insurers to place in the title policies an exception to "Rights of Parties in Possession." However, this manual goes on to say:

"4. Provision for Exception in

Owners Policy of Parties in possession.' In an Owner's policy, where insured waives inspection, and is satisfied to accept the policy subject to the rights of parties in possession, the issuing company shall have the right to make general exception as to "Rights of Parties in Possession." In all such cases, however, company must obtain written waiver from insured, which waiver must be retained and preserved by the issuing Company."

The insured contended that the Title Company had not obtained a written waiver from the insured. The court overruled this contention and said this is necessary only where the "insured owner" waives inspection of the property, and that in this case the insured himself had made an inspection.

The court, relying on its construction of Shaver v. National Title, further held the power line in existence was visible and sufficient to put the insured upon notice of rights claimed by Texas Power & Light Co., and that, therefore, the exception to "Rights of Parties in Possession" relieved the Title Insurance Company from liability. This case was not appealed to the Texas Supreme Court.

These cases illustrate a few of the various contentions that may be made concerning simple language placed in a title policy. It behooves all of us to continue our effort to broaden the use of standard policy forms and standard exceptions wherever possible.

Another interesting case, styled Viotti v. Gioni, 41 Cal. Rptr. 345, was decided last November in California. It is of particular interest to abstractors and underwritten title companies, and I will report only the parts of the case that I think would interest you most. In 1941 the Viottis purchased property in San Francisco for \$12,500.00. In 1946 they filed and recorded a declaration of homestead on this property, valuing it at \$5000. In January, 1955, Gioni obtained a \$9000 judgment against the Viottis. The Viottis having failed to pay the judgment, Gioni's attorney decided to obtain writs of execution against the real property. Before doing so, he contacted the Title Company by telephone and ordered a litigation report at a charge of \$25. He explained that he was preparing to levy execution and wanted to determine whether there were any liens or encumbrances affecting the title. The title report was

made and indicated the property was subject only to current taxes and the Giomi judgment. Giomi's attorney though this was unusual and again contacted the title company and asked whether it was possible that a mistake had been made. He was again informed that there was not anything that was not shown on the report. Accordingly, Giomi's attorney, relying on the title report, had a writ of execution levied, the property was sold, and Giomi bought it in. Thereafter the Viottis filed suit to quiet title, alleging the sale was defective, in view of their recorded declaration of homestead and the failure of Giomi to have the property appraised within 60 days after levy of the execution, as provided by California Statute. This Statute apparently exempts homestead property from execution sale unless the property is appraised and found to be worth more than the homestead allowance. It also provides that if the application for appraisal is not made within 60 days after levy of execution, the lien on the execution shall cease and no execution based upon the same judgment shall thereafter be levied upon the homestead.

Giomi defended and filed a cross-claim against the title company for failure to mention the declaration of homestead in the title report. The title company defended and cross-claimed against the Viottis.

The trial court quieted title in the Viottis, and said the execution lien no longer affected the property because of Giomi's failure to apply for appraisal and held the execution sale void. The court also found the title company negligent and awarded Giomi damages equal to the amount of his judgment, plus attorneys' fees.

Except as to amounts, this judgment was sustained on appeal.

The title company contended it was not liable because its title report was clearly headed, "Preliminary report only. No liability hereunder," and it had not issued a policy of title insurance or guaranty.

The court found that (1) the title company must use due care and skill in describing the recorded instruments, and Giomi's attorney had a right to rely on the title report's truth and accuracy; (2) The words, "Preliminary report only. No liability hereunder," printed on the litigation report, were not sufficient to exculpate the title company from responsibility for its own negligent acts. It said "an

agreement insulating one from liability for his own negligence must specifically so provide, and it is strictly construed against the person asserting the exemption, especially where he is the author of the agreement."

Under the holding in this case, the issuance of title reports by a company for small charges is an extremely hazardous business.

John, you mentioned that in the *Feldman* case the title company got stuck because the policy said "restrictions" and the instrument in fact created a "condition".

There is another case holding the same way. In *Holly Hotel Co. v. Title Guarantee & Trust Co.*, 264 N. Y. S. 3, affirmed 264 N. Y. S. 7, the title company set up an exception entitled "restrictive covenants". The court held the title company liable when it developed that the instrument created a condition rather than a covenant.

The word "condition" is a much older word than the word "restriction." The word "condition" in real property law has for hundreds of years meant something that causes a reverter of title if it is violated. The word "restrictions", on the other hand, did not begin to appear in legal nomenclature until after *Tulk v. Moxhay*, 2 Ph. 774, 41 Eng. Reprint 1143 (Court of Chancery, 1848). This is the case that gave birth to the general plan concept in building restrictions and the enforcement of these restrictions in equity by means of injunctions.

From the foregoing historical background, many Illinois lawyers have taken the position that if a contract for the sale of land calls for delivery of a title subject to "restrictions of record", the buyer need not accept the title if the title report shows a condition. It is one thing to be punished with an injunction suit when you violate a restriction and quite another thing to be punished by a forfeiture of title when you violate a condition. True, there is a Colorado case holding *contra*, namely, *Wolf v. Hallenbeck* Colo. 70, 123 P. 2d 412, but the Western states appear to have pioneered in the movement to apply the same rules to conditions as are applied to restrictions. For example, in California when there is a change of neighborhood, courts will refuse to enforce conditions in California. *Lettau v. Ellis*, 122 Cal. App. 584, 10 P2d 496. This idea shocks people east of the Mississippi. Anyway, even the Cali-

fornia companies don't have too much confidence in this one Colorado decision, because they label every restrictive provision "Covenants, Conditions and Restrictions." This is the practice in my company also.

In general, from the decided cases, except the Halvorsen case, which could only happen in Texas because of the peculiarities of Texas law, we can see that a title company is pretty sure to get stuck if it sets up an exception inaccurately. This is really an aspect of the so-called duty of the title company to search and report the title accurately, as is evident from the *Trisdale* case Mr. Osborn cited, where the court said:

"The defendant, having assumed to search and report upon the title, the very purpose of obtaining its services would be undone if the plaintiff could not rely upon the truth and accuracy of its report as regards essential facts of record."

With respect to the Giomi case, I am moved to draw attention to the article in 71 *Yale Law Journal* at page 1161, where the author begins with the following comment:

"Because title insurance characteristically combines search and disclosure with insurance protection in a single operation, confusion has resulted as to the exact nature and extent of the title insurance company's obligations beyond those as insurer.

It might seem that attempting to resolve the questions whether a title company has a legal duty to search is engaging in meaningless verbalism, since the company is already liable under the insurance contract. In many situations, however, finding a duty to search may increase the liability of the title company. The insured may be able to recover damages in excess of the fact amount of the policy. The insured may also recover damages where no recovery would be possible on the insurance contract, because the duty to search may extend to items not expressly covered by insurance provisions. There may even be recovery for a defect of a type covered by a blanket exception clause or for a defect specifically excepted in the policy. Finding a duty to search may also enable the insured to avoid conditions in the policy. For example, he may circumvent the

standard insurance contract condition that before recovery is allowed loss must be actually realized rather than merely accrued. Similarly, conditions providing for notice may be avoided."

The author then expresses the view that the typical buyer receiving an owner's policy must pretty much take what the title company offers, the title company having the superior bargaining power.

But the mortgage lenders are in a different position, he tells us. He says:

"In the mortgagee policy situation, however, the stronger bargaining power is apt to be possessed by the insured—usually a large, well-organized institutional lender—rather than by the insurer. The insured is often instrumental in dictating the terms of the contract or even in writing the policy itself."

The public policy is clear in the author's mind. He says:

"In order for investors, owners, developers, and promoters to act wisely—that is, in order to have efficient allocation of land resources in our private enterprise economy—there must be disclosure of the rights and restrictions upon the property being developed. A prospective businessman must have assurance that he can indeed sell his wares and that customers will have easy access to his contemplated location before he can make an intelligent choice to a business site. To effectuate these social interests and individual needs, insurance coverage alone is inadequate; a duty to search title and disclose defects must also be imposed."

He then concludes:

"The mortgagee policy of title insurance seems generally the product of true bilateral bargaining, and courts should continue to respect the terms which the parties have negotiated. The individual owner's title policy, however, seems a typical situation of adhesion where the "choice" of the individual is limited to taking or leaving what he is given. Here the courts should not be hesitant, even while restricting themselves to a contract theory, to rewrite the insurance policy in order to reflect the relationship between the typical owner

and the typical insurer. By recognizing the needs and expectations of the individual owner, his lack of bargaining power, and the social implications of the owner-insurer relationship, a court reasonably and legitimately could read into the title policy an implied-in-law promise to search title with due care—a promise which should not be subject to exculpation.”

John, do you think the courts are likely to follow these arguments?

*Mr. Osborn:*

Yes, the trend of the reported cases seems to indicate the courts may find an implied duty to search. However, apparently the courts have never considered several propositions which I think are important:

(1) In several states the insurance department has furnished the bargaining power for the home owner by specifying the terms and conditions of the policies that may be issued and the rates that may be charged. These rates are based upon the amount of the policy and not upon unlimited damages the company might incur in a negligence action. In these states a strong argument may be made against the public policy proposition, since the company does not have superior bargaining power but must conform to the regulations of the state.

(2) The 1962 ALTA owner's policy contains nearly the identical Conditions and Stipulations contained in the 1962 Mortgagee Policy. The author of the Yale Law Journal article recites the mortgagee policy as the product of true bilateral bargaining; therefore, the policy terms should be respected by the courts, but the individual owner possesses inadequate bargaining power and therefore the courts should rewrite the policy by judicial construction. It seems to me that the action of the ALTA in incorporating the Conditions and Stipulations of the mortgagee policy into the owner's policy has deflated this argument and given the owner the equivalent of the product arrived at with the mortgagee by hard bargaining.

(3) The title examination is made for the benefit of the title insurance company to help it decide whether or not to insure the title and what exceptions to place in the policy. An analogy is the physical examination given by life insurance companies before they issue life insurance policies

on individuals. The examination in that case is for the benefit of the life insurance company, to enable it to determine whether or not it should issue the policy.

*Mr. Kratovil:*

Thank you, John.

I would like to ask Mr. McConville of Title Insurance Company of Minnesota to comment on the Yale Law Journal article. What do you say, Mac?

*Mr. McConville:*

Mr. Chairman, it seems to me that the author of this article has made a non sequitur. He first makes a presumption, which is not necessarily valid, that the insured under an owner's policy has less bargaining power than the large investor, so the court should rewrite the owner's contract of insurance. He concludes from this presumption that the courts will therefore impose on the title insurer a duty to search, i.e., a responsibility for negligence.

I do not believe that these two statements involve the same questions. We know that in some jurisdictions courts have held that a title insurer has a liability for negligence that is separate and apart from his contract liability, and may even exceed it. We hope this concept will not spread, but it is a fact in these jurisdictions.

However, I don't believe that even those same courts would rewrite an owner's policy for the reasons stated by the author. That is, if the owner's policy contains a survey exception or a mechanic's lien exception or recites an encroachment, I can't believe any well reasoning court will say that a title insurance company is liable for loss caused by these items when coverage is expressly excluded. I do not think a court will ignore the terms of the contract and reason that since a mortgagee would not have taken the policy written this way that the contract should be changed due to the lesser bargaining power of an individual owner.

*Mr. Kratovil:*

Thank you, Mac.

There was one title man quoted in the Yale Law Journal article. That was Wendell Audrian, Senior Vice President of the Security Title Insurance Company of California. It's dirty pool to call on a man without warning, but since you are here, Wendell, would you care to comment?

*Mr. Audrian:*

You will recall, Robert, that in my report of the Judiciary Committee, Title News, January, 1960, I commented on this Law Review article, and noted that while it should be read by title men, and that while the article also had some merit, the dominant theme was hostility arising mostly from outdated information and failure to ground much of the text on careful, current inquiry. To your question I prefer to reply that the author was often more strongly motivated to write a hostile text rather than a logical text.

*Mr. Kratovil:*

There are two or three additional decisions I think all title men will find of interest. The first case is *Allstate Ins. Co. v. Lanier*, 243 Fed. Supp. 73 (1965), a case dealing with rates charged by insurance companies. The U. S. District Court in North Carolina held valid local legislation requiring all insurance companies selling automobile liability insurance in North Carolina to join the North Carolina Rating Bureau. The legislation required such insurers to adhere to the rates, rating plans, classifications and so forth, as promulgated by the Rating Bureau. The fact that Allstate was thereby compelled to charge rates not compatible with their promotional programs did not invalidate the legislation. Insurers were free, under the law, to compete by customers by offering greater dividends than other carriers. No doubt Allstate preferred to compete in other ways, but this was immaterial. The McCarran Act does not invalidate this type of legislation. The case contains a good summary of the various state laws on this subject.

Another recent decision involves the tort liability of title insurers. This case is *Lane v. Security Title and Trust Company*, 382 S. W. 2d 326 (Tex 1964). An agent issued to a borrower a mortgagee's binder deliberately omitting a prior encumbrance. Later, on order to obtain the loan proceeds the mortgagor had to pay off the prior encumbrance, of which he had no knowledge until then. The court held the title company liable *in tort*. Notice that no owner's policy or binder was involved. Hence no contractual liability existed so the court resorted to tort liability in order to stick the insurer. By this interesting method the court could impose owner's liability on a company that issued only a mortgage binder.

*Mr. Kratovil:*

Our next panelist is C. J. McConville, Senior Vice President of Title Insurance Company of Minnesota. Mr. McConville:

## STATEMENT BY MR. McCONVILLE:

I imagine that many people in this room would categorize title insurance losses in a number of different ways. For purposes of this discussion, let's consider them to fall into three broad classifications:

1. Hidden defects — the forgery, missing heir, false affidavit situation;
2. Human errors, i.e. the searcher or abstractor misses a mortgage in his search or the title officer or attorney arrives at an erroneous conclusion; and
3. The kind of mistake that makes you hit your forehead with your hand and say, "Oh, no! You've got to be kidding."

It's this last category that I would like to talk about and give you some recent loss experiences—not limited to my own company. The reason I selected this type of loss is because we can definitely learn from these losses; these can be avoided. And many of these losses follow the same pattern, surprisingly enough. I might add that all of the names and the locations have been obscured to protect the innocent—and to prevent cancellation of contracts by embarrassed agents.

My first example is the "Case of the Barefaced Binder." In this case an entire subdivision was encumbered by a land mortgage. The mortgage contained the normal release clause that so long as this blanket mortgage was not in default, the mortgagee would release individual lots upon the payment of X dollars.

Six of these lots were sold, houses built on them, and the new mortgages to the villain (who was also the developer) were placed on record covering each of the improved lots. There was no release secured from the land mortgage as to these six lots, however. The title insurance agent prepared six binders showing the new mortgages as first liens—completely leaving off the land mortgage that still was the first lien. The agent in writing *did caution* the mortgagee—our villain, and of course a *GOOD* customer—that he could not use the title binders until the releases for the land mortgage were secured and recorded.

Our mortgagee villain practically broke a leg running to the nearest bank to warehouse the six mortgage loans, producing the binders to show that he had good first liens on each of the six lots. He pocketed the \$85,000, thus acquired and got on the first plane for Mexico. He bought only a one way ticket. The blanket mortgage went into default and when that mortgagee started foreclosure proceedings, the whole sad tale came to light.

The lessons to be learned here are too obvious to spell out. In fact, they seem so basic most companies assume their agents and employees would use better judgment. But I find that several companies have had this same loss situation arise with slight variation. There is always a *good* customer, who gives you a *lot* of business . . . and he uses the same line: "But this binder won't be accepted by the bank if you show that first mortgage—or that mechanic's lien—or that judgment. I'll satisfy it out of the loan proceeds when the deal closes."

This second case I call "The Case of the Sloppy Subordination." This involved a case where an agent issued a title policy covering a construction mortgage. There was a prior mortgage on the property covering this and other property and the agent required a subordination agreement which specifically described the construction mortgage. This was secured and recorded so the construction mortgage was a first lien.

After construction was completed, the construction mortgage was satisfied and a new mortgage recorded for the permanent financing. Unfortunately, the agent did not require a *new* subordination agreement specifically describing the permanent loan. So it became a second lien—although it was insured as a first.

Again a very obvious lesson—yet very common, and an easy one for an inexperienced title officer to run-over. That is to treat the construction loan and permanent loan as *one* transaction.

The third case I call "The Case of the Trusting Escrow Officer." In this case the title examination disclosed that there was an outstanding interest owned by John Doe and the title binder properly required a Quit Claim Deed from him. The transaction was closed in the agent's office. The seller's attorney said that he knew John Doe very well and that he would

have no difficulty in securing a deed from him. Based on this assurance, the escrow officer closed the transaction, did not withhold any funds but paid them all out to the seller. "Oh, no! You've got to be kidding!" See what I mean? And what you expected did happen. The attorney who was going to get the Quit Claim Deed is very sorry but John Doe has moved out of the state and he cannot secure the deed. Next chapter: An action to quiet title to eliminate the outstanding interest. Again an obvious lesson—caused by violating a very basic rule.

This next case I call the Case of the Sorry Supplemental. A mortgage was placed of record for \$1,700,000 prior to the start of construction of an apartment building which gave priority over mechanic liens in that state if certain procedures for tracing the funds were followed—which they were. The agent, in fact, was making the construction disbursements based on architect certificates. About half way through, the promoter decided they needed more parking to handle all the cars the newly conceived restaurant was going to attract, so he bought land across the street for parking. Of course he didn't have any money of his own, so the original mortgagee was induced to make a supplemental mortgage for \$500,000. Instead of limiting its mortgage to just the land across the street, the mortgagee included that land PLUS the land in the original mortgage. This new mortgage, called a supplemental mortgage, contained the usual cross default provisions that if payments under either mortgage went into arrears, both could be foreclosed. Now here's where the problem arose: The agent issued an endorsement to the original policy which extended the effective date and incorporated the Supplemental Mortgage at No. 2 of Schedule A of the original policy.

Well, the apartment building didn't lease as anticipated. At the date of completion and at the time trouble developed, it was only 40% occupied. It turned out that the view from the penthouse and the top floors was gorgeous—but the first six floors had a view of slums—and to get to the apartment required driving through areas that are delicately called "fringe areas." But back to the story of the title loss: About the time of completion a bunch of mechanic liens were filed, the mortgage went into default and the mortgagee foreclosed. In the

contest that followed, the court held that:

The mortgage for \$1,700,000 was a first lien on the main building; the mechanic liens for \$700,000, filed on the main building and the land across the street were second, and the supplemental mortgage covering everything was third.

So the proceeds from the sheriff's sale went first to the first mortgagee, but there was not enough money left to pay off the lien claimants and the supplemental mortgage also. The title company had the loss on the supplemental mortgage.

This case is not really in the "Oh, No.—You've got to be Kidding" category. But I relate it for two reasons. First, it's a fairly common practice now-a-days to handle financing of two or more apartments this way. The builder erects one apartment and a mortgage is placed on it. When completed, the builder erects an apartment on adjoining land, adds a swimming pool and parking for both apartments in between and gets new financing. There is an agreement recorded which may call the two mortgages "co-ordinate" liens (whatever that is) or tries to combine the two mortgages into one with provision for cross defaults.

Well, if the contractor goes broke while building the second apartment or for some other reason mechanic liens are filed—these liens could attach to the first apartment as well, under the continuing project theory. And even if you have avoided that hazard by securing lien waivers on the first apartment—there is the problem that if you have insured both mortgages as being co-ordinate or equal, you may find the same problem that arose on this claim—namely, the court will hold you have a first lien to the extent of the first apartment but may find the mechanic liens have intervened between the first and second mortgage because the first visible sign of improvement for the second apartment was when the construction started on the first apartment . . . they were both part of a single project.

The second reason I mentioned this claim was a holding of the court. We have all assumed that in jurisdictions where prior recordation will protect you, that you have a first lien to the extent of mortgage funds advanced. But the court here held that the mortgagee had no priority as to the amount of points paid the mortgagee

or the amount of interest paid out of loan proceeds. This is consistent with the California cases involving automatic subordinations which held the same thing regarding interest and points as to subordinations—but it is a development we should all be aware of.

The last case is the "Case of the Backward Binder." This one has not resulted in a loss—yet. But this agent signed an agency contract in a small midwestern county, got all his manuals and forms, received complete instructions (we thought)—but didn't do any title insurance business for some time. Finally he got his first order. He proceeded to issue the binder and proudly sent a copy to the Home Office with a letter saying: "Here is my first title insurance order and copy of the binder insurance order and a copy of the binder I issued. Now should I have an attorney examine the title?"

Nope, I am not kidding—it's a true story.

Well, all that we underwriters can do is what we've been doing. We prepare and mail out agent's manuals, approved attorney kits, bulletins, policy writing tips and claim experience. We often wonder how many are read—but we're going to keep doing it. Because after all, it does keep us at the Home Offices busy. And, if we keep it up, maybe the next time I tell you about claims like this—and you say, "You've got to be kidding!" . . . I can smile and say, "Yeh, I was."

*Mr. Kratovil:*

Our next panelist is John J. Eagan, Vice President and Senior Title Officer of Title Insurance and Trust Company of Los Angeles, California, who will talk on procedure in handling claims. Before you take the mike, John, I would like to offer the comment that handling claims seems to involve me in a lot of paper work. Do you find this to be true?

*Mr. Eagan:*

Yes, Bob, we have to be careful, of course, that the procedures we devise don't choke our operating people with paper. I am reminded of what I was told is Parkinson's most recent law. "When an organization has at least 1,000 employees, it can generate enough bulletins, memoranda, directives and other papers, so that it will be unnecessary for any employee ever to have to read or deal with any material from the outside." Until recently, our procedure for reporting



claims and losses was not complete enough to give us the information needed for analyzing losses or even to enable us to determine our main areas of difficulty. I will go into more detail concerning our procedure in a few minutes. I believe that the information we can obtain through the system we have adopted will justify the extra effort.

*Mr. Kratovil:*

John, I hope that your company has evolved some good, new procedures that solve the problem of excessive paper work. The mike is yours.

*Mr. Eagan:*

Losses in connection with title policy and escrow practices gradually have become a sizeable part of our expenses. In 1954 we paid approximately \$158,000 in losses and in 1964 they totaled almost \$1,564,000. These figures do not include employees' salaries or other expenses devoted to the settlement of claims, and these additional items are not insignificant. In Los Angeles, for example, we have a substantial claims department for that county. In several other counties the time of at least one person can be charged to claims administration. Five or six attorneys in the Los Angeles Law Department spend most of their time on claims work. Another factor which makes the claims problem a very important one is the customer dissatisfaction which results from some of the annoying errors which amount to very little loss in money paid out. Our loss may only be a two dollar recording fee, but we waste a great deal of our customers' time and our own explaining the situation when we record a deed with an erroneous description, and then have to obtain new documents and record them. Another cost not always considered is the fact that we buy a substantial number of deeds of trust and some land in order to mitigate losses. These have to be managed and in many cases while we hold them there is little or no income from the money we have invested.

A formal procedure for handling and reporting claims has evolved gradually with our company. For several years, we have had a procedure whereby managers of our branch offices in California, and representatives from subsidiary companies, have reported periodically in connection with claims which are expected to result in losses. The procedure has grown more detailed and a couple of

years ago actual losses paid were added to the report. These reports are made by the management of the reporting units and go to the Senior Title Officer of Title Insurance and Trust Company who is responsible for the general claims administration of the company.

A year ago we commenced a substantial revision of our procedures in connection with the administration of claims. There are several reasons for this. For one thing, we thought that California was likely to adopt a statute requiring the maintenance of a reserve for losses and such a law did become effective this fall. The statutory loss reserve is made up of first an amount estimated to be necessary to pay known claims, and second, the estimated amounts of loss adjustment expense necessary to settle or defend against known claims. The reserve must be revised annually.

A second thing we wanted was better control of litigation in California outside of Los Angeles. Several approaches in handling litigation were in operation in the state depending on the size of the office and its suits. Because of inadequate exchange of information, our practices have not always been uniform. And sometimes a county manager, not a lawyer, was saddled with obtaining and otherwise dealing with outside counsel in connection with litigation arising out of claims.

Third, we felt we had inadequate information as to the causes of our losses, and, therefore, were not able to determine what steps might be taken to reduce them.

Fourth, we felt we needed a better control over what we call suspense items, and a more satisfactory management of assets such as deeds of trust and land which the company acquires in settling a claim. Suspense items in our language are payments made in connection with claims but where the amount of loss has not been determined. You may buy a deed of trust for \$10,000 and it may be worth its face amount, or it may be worth nothing. Once purchased there is some tendency on the part of our operating people to forget about the asset and the suspense item and get on about more urgent business.

Now I will try to describe our recently adopted procedure as it applies in California. So far as the quarterly reporting is concerned, subsidiary companies follow the same practices. They also use the account numbers

which I am going to refer to later. In other respects, procedures in subsidiaries are similar, but not always identical. In California we operate through branch offices rather than agents, with the exception of a half-dozen underwritten title companies, so there are features of our plan which might not be satisfactory if our policies were issued through agents. When a claim is presented at a branch office, we like to have branch personnel handle the matter and make any necessary payment.

This means that the great majority of claims that are presented are settled locally. We do have money limitations on the authority to settle claims at various management levels. We have a form which is filled out in connection with each loss payment. Among the matters shown on the form are the reason for the loss, a short summary of the facts involved and an indication of the employee responsible. These are for the use of the county management and are available in the county offices should we want to make various types of checks. For example, if an office appears to be paying a great many more losses than most others resulting from title officer errors, we could go back over the forms to try to determine the cause.

If a claim is not going to be paid immediately, the procedure is a little more complex. If no litigation is involved, and for some reason payment is not going to be made promptly, a separate form is prepared provided the county manager estimates that the loss will cost us \$500 or more. Like the payment form, the estimate form shows the reason for the loss and contains other information which would appear on the loss payment form if payment had been made at once. This estimate form is submitted to an officer we call district counsel. This is an attorney who is primarily involved in risk or underwriting and who represents a geographical section of California. He, and the county manager, must agree on the estimate of loss. If the estimate exceeds a given amount, the Senior Title Officer of Title Insurance and Trust Company also is notified and must concur. If litigation is involved, the estimate form is prepared and sent to the district counsel regardless of the amount of estimated loss, unless the matter arises in Los Angeles, in which case litigation is referred immediately to the Law Department. Our Law Department handles litigation for Los

Angeles and in many cases for surrounding counties. Except in Los Angeles, the district counsel, subject to the general control of the Chief Counsel, is responsible for the assignment of the case to the law department or to outside counsel, unless he feels it should be settled immediately. Our district counsels do not handle litigation themselves, but they are responsible for working with the attorneys we do hire to make sure the litigation is handled properly and in line with company policies.

The purchase of assets in connection with settlement of claims is handled in much the same way that payment of losses is handled; that is, there is a monetary limitation at various levels of management, and when substantial amounts of money are involved, the departments which will be administering the assets get into the act. After acquisition, we take a look at the asset, establish a value for it, charge the balance of the payment to loss and turn the asset over to the department which will be responsible for management, sale, etc. We hope we will be able to achieve a more satisfactory practice in handling such assets, and also will get this function out of the hands of the operating title people.

Losses paid and pending claims are the subject of a quarterly report compiled for each county and each subsidiary. This report shows the total loss payments made during the quarter (only a few being shown individually) and itemizes all pending claims which involve litigation and all those which do not involve litigation where the estimate of loss exceeds \$500. This quarterly report of pending claims, and the loss estimates which it reflects, will be the primary basis for establishing the statutory reserve now required in California.

In the past we haven't collected adequate information concerning causes of our losses. Under the new procedure, each title and escrow loss will be charged into a sub-lot in the loss account. The loss account is divided up into a series of subheadings based on various insurance and examination functions. The general loss account is 591. The accounts from 591.10 through 591.19 are devoted to insurance risks. 591.10 is a summary account which can provide a total for accounts 591.11 through 591.19, 591.11 is for forgery and fraud, 591.12 for incompetency, 591.13 for losses caused by lack of capacity of a partnership

or corporation, etc. The 591.20 series cover losses from risks authorized by company practices; for example, we may have a practice not to report on or to examine some type of item, and if loss results, this should appear in account 591.24. The 591.30 series deals with posting, searching and abstracting errors; the 40 series with typing and reviewing; the 50 series with engineering or drafting; the 60 series with examining or title officer errors; and so on. This material will be fed into the data processing equipment as accounting reports are received in the central accounting department in Los Angeles, and then regular reports will be compiled concerning the number and amount of losses paid in each category. We hope that over a period of months or years this type of information will point out weaknesses in our practices, perhaps in our training procedures. It can be used to summarize what the company is paying in one loss category, or any group of categories, or to determine how individual units compare with one another or with the company objectives.

#### *Mr. Kratovil*

John, the companies in California have had some problems with subordination and the losses ran into box-car figures. How did these claims arise?

#### *Mr. Eagan*

"The California courts have been quite strict in protecting a subordinating lien claimant. Where a purchase money mortgagee subordinates to a 'construction loan', it has been held that the subordination is not effective as to any funds not used for labor or materials. Thus, money used to pay interest, points or overhead of the builder, as well as funds diverted to other jobs, travel or yachts, is not ahead of the supposedly subordinated purchase money mortgage. Recently our problems seem to arise from failing to read the subordination. During the last couple of weeks we heard of these cases. In one the subordination permitted a loan with a maturity date of between 1 and 25 years from its date. We insured a 6 months loan as having priority. In a second case, the earlier deed of trust subordinated to a loan with an interest rate not to exceed 7%. We insured as prior a loan with an interest rate of 6% for the first year and 10% thereafter. I guess you might say we are relatively clear as to what the law is, but it is difficult to cope with nonreaders."

#### *Mr. Kratovil:*

In our own corporate family, the claims expenditures for 1964 look like this:

Chicago Title & Trust Co.	\$ 348,00.00
Chicago Title Insurance Co.	326,000.00
Kansas City Title Insurance Co.	280,000.00
Title Insurance Co. of St. Louis	79,000.00
TOTAL	\$1,033,000.00

This does not make allowance for some salvage, mostly on prior year's claims, nor does it include salaries, rent allocations, and other administrative costs.

My feeling is that for the foreseeable future the claims curve will be taking a steep climb. The rate of climb will be greater than any foreseeable increase in earnings. Claims, in my view, are likely to take an increasingly larger bite out of earnings.

Just to go back to John Eagan's figures, his company's claims jumped from \$150,000 in 1954 to \$1,500,000 in 1964. In a ten-year period the claims jumped to ten times the figure that started the period.

A number of reasons combine to account for this trend:

(1) The chief reason, of course, lies in the box-car side of real estate transactions today. By definition, you cannot have a thousand dollar claim on a shopping center. As an example, just relocating a water pipe in a shopping center parking lot costs us \$33,000.00. I humbly entreat all gathered here to ponder this development earnestly. The day of the box-car size claim is here. The industry wrote its largest policy, this year, \$250,000,000 on Freedom Land. Imagine what it would cost to relocate a missed water pipe easement running thru the middle of this tract.

(2) The title companies have joined the ranks of the other insurers that cannot win law suits. The cases we have discussed today and others we have not had time to mention are convincing proof of that fact. Nor can we hope that defending in the assured's name will insulate us from these consequences. Judges and juries seem able to smell an insurance company defense.

What conclusions you draw from this are up to you. Some of you may feel that we should be less secretive about claims losses than we have been in the past. The article we all complained about in the Reader's Digest

might never have appeared had we been frank enough to let the public know how hard claims hit us. Will we be astute enough to tell the public how badly we have been hit in Texas alone this year?

Others may think new and better procedures are needed, for example, more and better audits, to prevent

defalcations, better exchange of information in the industry about crooks and forgers, tighter home office controls on the big figure policy.

The home office will be increasingly involved in big litigation, that seems certain.

In short, the rise in claims loss will for the foreseeable future be a major concern of management.

## THE 1966 MID-WINTER CONFERENCE WILL BE DIFFERENT!



- *All room reservations at the San Marcos Resort will be made through the ALTA office.*
- *Business sessions in the morning only. Social activities in the afternoons.*
- *First golf tournament in ALTA's history.*
- *Registrants must notify Resort management regarding arrival in Phoenix.*
- *Ladies' Luncheon, style show, shopping trips to Scottsdale and Phoenix.*

### SAN MARCOS RESORT AND COUNTRY CLUB

MARCH 21-24, 1966

CHANDLER, ARIZONA



## MEETING TIMETABLE



**March 23-24-25, 1966**

### MID-WINTER CONFERENCE

American Land Title Association  
San Marcos Hotel & Country Club  
Chandler, Arizona

**April 14-15-16, 1966**

Texas Land Title Association  
Sheraton-Dallas, Dallas

**April 28-29-30, 1966**

Arkansas Land Title Association  
Velda Rose Towers, Hot Springs

**April 29-30, 1966**

Oklahoma Land Title Association  
Skirvin Hotel, Oklahoma City

**May 1-2-3, 1966**

Iowa Land Title Association  
The Town House, Cedar Rapids

**May 10-11-12-13-14, 1966**

California Land Title Association  
Arizona Biltmore Hotel, Phoenix, Arizona

**May 12-13-14-15, 1966**

Washington Land Title Association  
Alderbrook Inn, Union

**May 15-16-17, 1966**

Pennsylvania Land Title Association  
Skytop Lodge, Skytop

**June 8-9-10-11, 1966**

Oregon Land Title Association  
Salishan Lodge, Gleneden Beach

**June 15-16-17, 1966**

Illinois Land Title Association  
Belair Motel, St. Louis, Missouri

**June 16-17-18, 1966**

Land Title Association of Colorado and  
Wyoming Land Title Association  
Stanley Hotel, Estes Park, Colorado

**June 16-17-18, 1966**

New Jersey Title Insurance Association  
Seaview Country Club, Absecon

**July 10-11-12-13, 1966**

New York Land Title Association  
Otesaga Hotel, Cooperstown

**August 18-19-20, 1966**

Montana Land Title Association  
Viking Lodge, Whitefish

**August 25-26-27, 1966**

Minnesota Land Title Association  
Howard Johnson Motel, St. Paul

**September 29-30; October 1, 1966**

Wisconsin Title Association  
Park Motor Inn, Madison

**October 16-17-18-19, 1966**

### ANNUAL CONVENTION

American Land Title Association  
Fontainebleau Hotel, Miami Beach, Florida

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# American Land Title Association

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