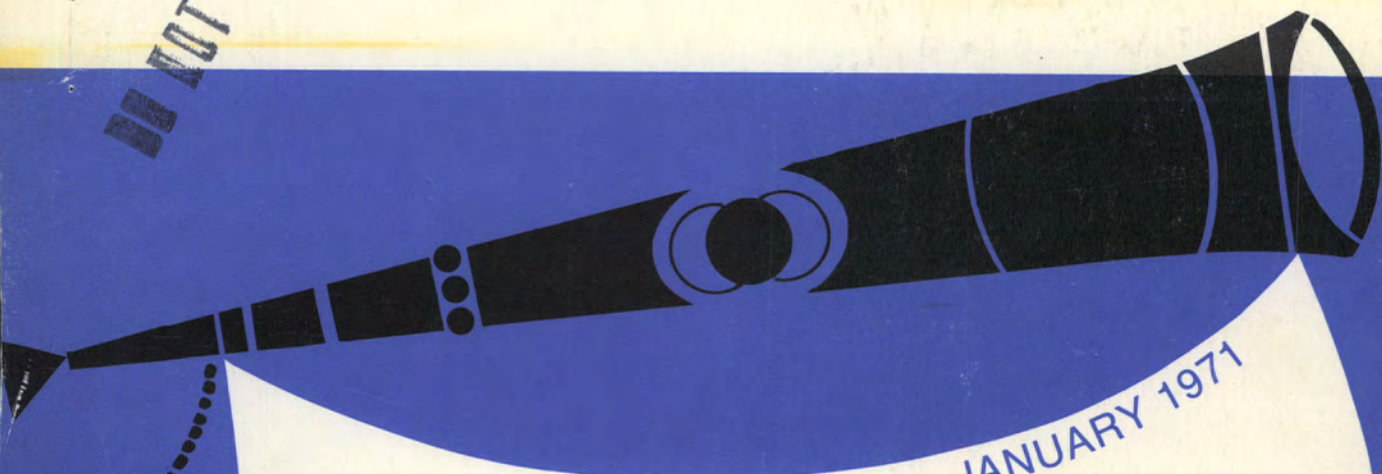


Title News

the official publication of the American Land Title Association

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JANUARY 1971



1971 happy
new year





President's Message

JANUARY, 1971

The year 1970 was a crucial one for our industry.

The decline in real estate markets adversely affected the gross income of our ALTA member companies and the continuing inflation was reflected in rising costs. Despite maximum efforts by each company, therefore, the industry generally experienced a substantial decline in net profits.

Also during 1970, our industry faced up to a number of government industry investigations, and many other important matters were resolved with related trade associations. Some of these are noted in this current issue.

It was a difficult year.

At the start of this new year, however, a spirit of optimism prevails. ALTA's Research Department is forecasting a substantial increase in the need for title evidence in 1971.

Most of our members trimmed unnecessary expenses last year while gearing to offer even greater services to our customers in 1971.

While rate increases continue to lag behind inflated costs in regulated areas, we still look forward to a more satisfactory year.

Plans are now complete for the Mid-Winter Conference in San Diego. Our committees will report, leading speakers will provide ideas of value to each of us, and Coronado provides the facilities and weather for an ideal mid-winter break from day to day operations. Send in your reservation now.

On behalf of your officers and staff, we wish each of you a happy, worthwhile, and prosperous new year.

Cordially,

Alvin W. Long



Great Western Title Guaranty Co. has King County, Washington, in a drawer

With the assistance of the computer, Great Western Title Guaranty opened its doors in Seattle, April 8, 1970, to become the first new title company in King County in forty years. President Edward A. Finsness is pictured above examining a portion of his computer produced title plant. This plant contains over 10 million document references listed by date and by property number onto rolls of microfilm. The entire plant can be stored in an ordinary desk drawer. Great Western is currently building similiar title plants for Spokane County under the name of Inland Empire Title Company and for Skagit County as Skagit County Title Company, Inc.

HW Systems, Inc., specialists in computer applications for the title industry, is providing software and computer services in support of Great Western's title plant building efforts.

*For additional information, please contact
Stanton H. Wong, President*



HW SYSTEMS, Inc.

525 South Virgil Avenue
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HW Systems, Inc. is an independent computer system development company which specializes in providing management consulting and cost effective computer services to the land title industry.

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Title News

the official publication of the American Land Title Association

Proceedings, 64th Annual Convention, American Land Title Association, New York, New York, October 14-17, 1970

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1828 L Street, N.W.
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ON THE COVER: May you have a happy and prosperous new year.

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GARY L. GARRITY, Editor, CAROLYN E. CAPPS, Assistant Editor

GENERAL SESSIONS

Several Miles Ago

Thomas J. Holstein

*1969-70 President, American Land Title Association
President, LaCrosse County Title Company, LaCrosse, Wisconsin*

Since 1966, when Don Nichols refused to call a spade a spade because of his phobia about not calling a report a report, the idea has intrigued me; so I have, with some understatement, entitled this effort—which is not a report—"Several Miles Ago". Since I have a perspective of twenty-two years in ALTA, I can attest that the job of being your president is becoming more complex and time consuming because we have an impact on and relations with more people, more organizations, and more governmental agencies. And, of course, our own membership is growing.

Accept thanks for my election to the Executive Committee four years ago. You must have had a bit more confidence than I had during the Miami convention, during which time I occupied a bed of pain in a LaCrosse, Wis., hospital.

The enormity of the job hit full force last year at Atlantic City. Our Association's activities require the appointment of some 200 committee members. That titlemen are a breed apart is proven by the fact that only one appointee refused—and he did so on the grounds that his was a geographical appointment to the Judiciary Committee and he was moving to another state. With this unanimous kind of help, who could fail? Everyone of these committeemen has performed very capably, devoting much time and effort. They should be thanked by all of us.

One committee I did not appoint is the Convention Committee from New York State. All of these people, led by Tom Quinn and Marion Erickson, have done a truly magnificent job, and my personal thanks to them all.

Of those I did appoint, some deserve special mention because of their outstanding work or extra effort and long hours on the job. A few of them are: the Membership and Organization Committee under Lawrence A. Davis, Jr., which added the New England Land Title Association as the latest jewel in our crown; the Committee to Establish Liaison with NAIC under Mack Tarp-ley; the Research Committee under

John E. Jensen; the Federal Legislative Action Committee under James G. Schmidt; and the Public Relations Committee under Edward S. Schmidt, which is so well established and is doing such a good job that a mere mention is enough. We all know how successful that program is. I must also mention our new Committee on Liaison with the Mortgage Bankers under Robert Bates.

At this time in 1969, the economic picture was rather bleak. I knew I was not going to preside at the demise of the ALTA—but it looked like a tough year. For many of us, it has been. However, we can end on an "up beat". All indications are that we have "bottomed out" and that there is some light at the end of this tunnel, though it has at times seemed like a long one. Maybe your next president can come to his report time with news of a boom in the housing industry and tell us how prosperous we are.

Now, as to my travels: My thanks for the chance to find out about this big and wonderful country. I even know where the Yampa Valley Airport is! Outside of a few four-hour layovers, some bad flying weather, and one occasion when the light in the pilot's cabin indicated that the wheels were not down just before landing, it has been fun.

One trip was a sad occasion: the one to Philadelphia with Al Long and Bill McAuliffe to attend Gordy Burlingame's funeral and convey to Chris, Skip, and Tina your sympathy and our feelings that ALTA has suffered a great loss.

About Gordy, I feel like the twenty-two year old kid who confessed that between the time he got out of high school and landed his first job after college, his father had smartened up considerably. From the time I first met Gordy, when he was a fuddy-duddy old patrician, he became, in a few years, a warm, friendly, humane, considerate, keen-minded fellow with a wonderful sense of humor. He was also the kind who occasionally set his heels and refused to budge! Knowing Gordy has been good for me.

The other trips were fun or pleasant duty. It was my pleasure to represent you at the dedication of the new FNMA building; to present ALTA's Home Buyer Education Awards at the NAREB Convention in San Francisco; to attend the U.S. Chamber of Commerce Public Affairs Conference; to present our testimony to the Department of Commerce Metric Study Conference; to attend two ABA-ALTA Conferences; two of our own Executive Committee meetings; and one Finance Committee.

The affiliated state and regional association meetings Nora and I attended taught us how deep and strong are the ALTA roots all over the country. There were nineteen of these meetings for us during the year. Don Nichols with 22 trips to state conventions still holds the all-time championship and is likely to retain it. From the organizational meeting of the New England Land Title Association to Florida, from California to Pennsylvania, and from Texas to Montana—they were all very much worth while and we met many hundreds of truly hospitable people. It is also astounding that convention chairmen can find so many delightful resorts so close to so many golf courses! There I failed you because I am not a golfer. I even thought the Calloway System meant that some guy named Calloway won the tournament! But I warn you that Al Long, John Warren, and Jim Hickman are all excellent golfers, and you should sew your pockets shut for the next three years.

I would like to mention only four ALTA activities during this past year that are relatively new or very important: "Operation Grassroots", the ABA-ALTA Conference, our efforts at research in our own industry, and our attitude toward the metrification of the United States.

"Operation Grassroots" is one of the most important activities we have attempted in many years. We are literally "taking the mountain to Mohammed". We have many valuable members in small offices whom we never see or from whom we never hear. They do not come to meetings, nor do they have time to communicate. Fifty-seven of

these offices in thirteen different states were visited on three trips by Gary Garrity and one by Mike Goodin. In each case, the visit consisted of (1) presenting an outline of ALTA services and literature available; (2) asking the abstracter for his opinion about areas where ALTA programs and services can be strengthened to his benefit; (3) asking the abstracter for basic, non-confidential information on his business over the past five years; and (4) gathering editorial ideas for *Title News*. I believe the visits should be continued. ALTA in Washington now has a "feel" for these members and a finger on the collective pulse of those who make up the numerical strength of ALTA.

In this connection, I would like to interpose some reflections on the cooperation of our two sections. I can remember that twenty years ago there was evident a considerable amount of distrust, even enmity. We fought over programs at conventions and the Abstracters Section was very suspicious of the "big" title companies, and indeed was fearful that they might build competing plants in the abstracters' counties. Now that we are more knowledgeable about title insurance, have come to like it and know how to sell it, and have found out that most title insurance people do not wear horns or eat little children, there is a new attitude. I think we are all working together now, and I hope we continue to do so. I earnestly hope that we in the smaller offices can con-

tinue to come up with men of the calibre of Al Robin and John Warren, Clem Silvers and Don Nichols. As long as we can do so, ALTA will be pretty well anchored in the grass roots. It will represent *all* title evidencers—not just a few big title insurance companies.

Now we come to our problems with the ABA. George Garber will give a report on the ABA-ALTA Conference to this convention on Friday. In spite of the amicable meetings and our agreement on the Statement of Principles, I must still report that while we are talking in the conference, another arm of the ABA, the Special Committee on Lawyers Title Guaranty Funds is vigorously promoting a national bar guaranty fund which will accept orders only from lawyers. Aside from the ethical and anti-trust implications, and aside from the fact that no professional association should encourage or sponsor or lend its name and prestige to a commercial enterprise, I would hate to see my many lawyer friends toppled from the lofty pedestal on which I personally have placed them into the level of the market place. I do not want to see them there, and I do not think these friends I mentioned will step down to there.

Our excellent and hard working Research Committee has completed a successful year, and made its report to the Board of Governors. The efforts of this committee could result in some order coming out of chaos. Before it can collect any meaningful data, uniform re-

porting on NAIC Form 9 and uniform accounting within our industry might be required. The work of the committee is most important for us if we are to have the figures to defend ourselves from attacks, which will continue.

Metrification is almost certainly in our future. This particular bag of worms can do us no good and will indeed cause an unknown, but huge amount of trouble and expense. Ed Grskovich, Bill McAuliffe, Gary Garrity and I so stated in polite words at the Construction Industry National Metric Study Conference in Washington on October 6. I am certain that metrification is coming and that we will have to go along.

Finally, I can report that we gained 33 new active members and 40 new associate members during the past year. Among them are many from the Mortgage Bankers group. We welcome them to our ranks.

I have thanked the members of all our committees for their work this year. The men on the Executive Committee, the Board of Governors, the Washington staff and our eminent general counsel also have my heartfelt thanks and a "well done". It has been a pleasure to work with them. I would also like to thank the secretary of my company, O'Nieta Thorsen, my son Bill, and of course, my wife, Nora. Without them, this year would have been an impossible nightmare—because of them, it was a pleasure.

Why Positive Thinkers Get Positive Results

Dr. Norman Vincent Peale

Minister, Marble Collegiate Church, New York, New York

Mr. Holstein, friends, despite this very kind and solicitous introduction given me by our presiding officer, there maybe somebody present who wonders, why in the world would anyone get a preacher to speak on the program of the American Land Title Association?

Now, if anybody here feels badly about this, I hope he will not feel as badly as did a certain gentleman I encountered not so long. I was the speaker at the annual dinner of a certain eastern state banker's association and arrived at the hotel where this dinner was scheduled to be held about an hour late, unavoidably.

I went to my room and as the occasion required, dressed myself in a tuxedo or dinner jacket. Thus attired, I descended in the elevator to find that all of the bankers had gone into the dining hall, save one stray banker, whom I encountered in the elevator. This banker, I am sad to relate, unlike most members of his profession, had obviously been communing with a form of spirits which wasn't what you might call "religious spirit."

He was waving rather unsteadily on his feet and he looked me over speculatively. Dressed as I was, he apparently didn't take me for a preacher. He fixed a thin, watery eye on me, and in an intimate sort of way he said, "Hello there, buddy". This was not the form of address to which I was usually accustomed, but I answered in kind and for a moment there ensued a conversation which might roughly be described as jocular.

Finally, becoming a little more confidential, he asked me, "Where are you going tonight, Buddy?" "Well," I said, "I'm going into the meeting of the banker's association, where are you going?" "Oh," he replied with ill concealed disgust, "I suppose I'll have to go in there also, but I don't want to for it won't be any good."

"Why," I asked, "won't it be any good?" "Oh," he said, "they got some preacher from New York to speak in there tonight". I said, "You don't mean that". He says, "It's a positive fact."

"Well," I asked, "why in the world have they a preacher to speak to the

banker's association?" He says, "You got me buddy, unless it must mean they are running out of money."

This rather took the wind out of my sails and deepened my inferiority complex, and I said, "Well, I guess I'll go in anyway, there is nothing else to do around here." He said he "guessed he would too, but I'm telling you it won't be any good." I said, "Brother, you don't know the half of it, I know it won't be."

Having agreed it wouldn't be any good and having gotten this matter settled to our mutual satisfaction, he went his way and I went mine. I went up to the head table, took my seat and forgot all about him, until, when I rose to speak, by some sinister quirk of fate the first eye I got at the end of the room was this man's. You could see he was, what you might reasonably call, embarrassed.

He threw up his hands in a gesture of dismay and sank down out of sight. But, presently he came up for air and he listened to me. When the meeting was over, I was standing at the head

table shaking hands with such persons as came forward to greet me when I saw him coming off from the left. He was now in his right mind. He had a shy and embarrassed smile on his face.

I could see that he hated to come up to speak to me, but I liked him, for he proved to be a "dead game sport" for getting up to me. He put out his hand and he said, "Put her there buddy, we were both right weren't we."

Now, I'd like to talk with you briefly this morning on the subject, "What's Wrong With a Problem?". I see it's in the program there as "Why Positive Thinkers Get Positive Results," but it's the same speech whatever you call it.

I am interested right now because everywhere I go I hear people telling me how bad a problem is.

The implication is always that a problem is a terrible thing. Everywhere I go, people talk to me in such a manner that I begin to think that they believe that life would be simply wonderful if either we had fewer problems or easier problems or better still, no problems whatsoever.

I should like to put to you the philosophical and practical question—is a problem necessarily a bad thing? May it not, on the contrary, be a very good thing? Would you actually be better off if you had fewer problems or easier problems or no problems whatsoever? I should like to answer my own question by telling you of an incident.

I was walking down Fifth Avenue here in New York one day not so long ago, when I saw approaching me a friend of mine by the name of George. It was evident from George's melancholy and disconsolate demeanor that he wasn't what you might say filled or overflowing with the ecstasy and exuberance of human existence, which is a highclass way of saying that George was dragging bottom. He was really low.

This excited my natural sympathy, so I asked him, "How are you, George?" Well now, friends, when you get right down to it that was nothing but a routine inquiry, but it represented an enormous mistake on my part, for George took me seriously and for fifteen minutes he enlightened me meticulously on how badly he felt. The more he talked, the worse I felt. Finally, I said to him, "George, what seems to be the trouble, what is bothering you?"

This really set him off. "Oh," he said, "it's these problems, problems, nothing but problems. I am fed up with problems! He got so excited about the matter that he quite forgot who he was talking to and he began to castigate these problems, using in the process thereof, I am sad to relate, a great many theological terms, although he didn't put them together in a theological manner, that's for sure.

But, I knew what he meant all right, for he had, what they call, the power to communicate. I said, "George, you want to get rid of these problems do you?" He said, "And how." "Well," I said, "I think I can oblige you, I think I can help you if you really want me to." He said, "I'll tell you what I'll do, Norman, you help me get rid of these problems,

and I'll contribute one thousand dollars cash money to your work."

Well now, friends, I am never one to take an offer like that lightly, and I meditated, ruminated, and cogitated on the proposition and came up with an answer which I thought wasn't half bad. But, apparently George didn't go for it because I have as yet to receive the aforementioned one thousand dollars.

I said, "You really want to get rid of your problems, everyone of them?" "Yes, sir," he said, "I do." "Alright," I said, "I think I can tell you exactly how to do it and you'll have no more problems to bother you anymore." "Oh," he said, "that's for me." "Well," I said, "George, the other day I was up in the northern part of New York City, in the Bronx on professional business, if I may thus characterize it, and I was in an area up there where the head man told me that by actual count there were one hundred and fifty thousand people, and not a single one of them had a problem."

The first enthusiasm I saw in George suffused his countenance and lighted up his eyes as he said to me with considerable eagerness, "Boy, that's for me, lead me to this place!" I said, "Okay, you asked for it, it's Woodlawn Cemetery in the Bronx."

This is a fact—nobody in Woodlawn has a problem. They rest from their labors, life's fitful fever is over—they have no problems. They couldn't care less what you and I read in this morning's newspaper or see on television that night. They have no problems at all, but they are dead. It therefore follows, I believe, in logical sequence that problems constitute a sign of life. Indeed, I would go so far as to say that the more problems you have the more alive you are.

The man who has, let's say, ten good old tough man-size problems is twice as alive as the poor miserable apathetic character who only has five problems. If you here this morning have no problems at all, I warn you, you are in great jeopardy. You are on the way out and you don't know it. What you better do the minute this meeting is over is to head for your room and shut the door and get down on your knees and pray to the Lord and say to the Lord, "Lord please, what's the matter, don't you trust me anymore—give me some problems."

I sometimes wonder what has come over this great land of the free and the home of the brave. We are the descendants of a once great breed of men who had problems and they had them a plenty. But did they whine and whimper and crawl through life on their hands and knees holding up their hands to some so-called benevolent government asking that they be relieved of all their problems? Not on your life. They realized that problems are a factor of human existence and they stood up to them and they handled them.

The question nowadays is has the breed run out? I sometimes feel like it has. Have we become so soft and fat in our affluence—not fat in our stomachs,

but fat in our heads—that we've got the idea that we shouldn't have any problems? That isn't the way the universe is made. It is predicated on problems. I hate to throw any sour note on the meeting, but I've got to tell you that you are going to have problems until the day you die and despite what I said earlier—heaven help you, you may have them after you die for all I know.

Why in the world have we got these problems? Don't ask me, I didn't create the world, but I expect the good Lord had a reason for problems. I've sometimes speculated on why he makes it so hard for us. I've finally come to the conclusion that the Creator, when he created human beings, wanted to make something of it and he knew that the only way you can make anything of a human being is to make him strong and the only way you can make him strong is to require him to tussle and to struggle. It's tussling and struggling and difficulty that make strong people.

There is a philosophy going around this country that none of us should have problems anymore, that we should be relieved of all these things. It is a pernicious philosophy because it isn't so.

Sometime ago, I was in San Francisco—I'm not bragging about it, I'm merely stating a fact—and I was walking down California Street on Nob Hill when I met an intellectual. How did I know he was an intellectual? He told me that he was. Had he not told me, I wouldn't have had the slightest idea, except that he had certain characteristics which I ascribe to the phony intellectuals.

For the bona-fide intellectual I have profound respect, but for the phony type—that is another matter altogether. This character had some of these characteristics. In the first place he had on his face along with his whiskers what is called a profoundly concerned look. When you observe these men they always look sad. They call it a concerned look. I, being a simple soul, call it a sour-like look as if he had been weaned on a pickle or something of the sort.

He has the aspect of countenance as if all the civilization rested on his shoulders—he had that sour look on his face. Then, the manner in which he was dressed. He naturally had no jacket on, that would be the last thing, nor did he have a necktie, that would also be the last thing. He did, I was surprised to observe, have on a shirt, and the shirt was obviously of good quality. Many of these characters have money of which they are profoundly ashamed. This was black and it was of good quality.

I observed that there was no undershirt beneath the outer shirt and it was open down to the third button and I reflected on why the third button and why no undershirt and came up with the conclusion that what he was trying to do was to effect nonchalantly a manly chest. But, I got up and inspected this chest minutely and there

wasn't a hair on it. But, brothers and sisters, that wasn't the worst of it. We were standing on the brow of the hill and he was between the bay and myself and unhappily, the breeze was off the bay and the atmosphere was odoriferous. I therefore, concluded that he proudly sported the badge of the new rebellion—never take a bath.

As for me, I would rather be clean and dumb, than smart and dirty anytime. This character fixed his somber gaze on me and he said, "I'm glad to meet you," and I asked the Lord to forgive me and told him I was glad to meet him also.

He said, "You are this bright, sweetness and light individual who runs around the country talking about positive thinking aren't you?" I said, "Well, now that you brought this matter up and in your restrained, urbane, academic and philosophical manner, let us carefully consider the assumptions which you have raised." I can throw the jargon around too if necessary.

I said, "I do run around the country and I do talk about positive thinking, which is neither pollyanish nor sweetness and light." I said, "Son, I'll give you a definition of a positive thinker if you'd like." He showed no disposition to want it but I gave it to him just the same.

I said a positive thinker is a man who is rough and tough and rugged mentally. He sees every difficulty and he sees them straight. Nor is he abashed by them because he knows that with the help of the good God he has what it takes to handle any problem in this world. I said he is a practitioner of that form of philosophy known as optimism which holds that at long last the goods of life over balance the evils thereof.

All this philosophy went over his head and he took a different tact, fixed his sour look on me, and he said, "Don't you know the world is full of trouble?" Just as though it should not be. I said, "Do you think I was born yesterday? Of course the world is full of trouble. In my business we know more about trouble in five minutes than you escapists would know in a lifetime. Of course the world is full of trouble and problems—that's the way its made."

Then I thought of a comeback and I have been proud of myself ever since because most of my comebacks comeback about six hours after I met him. This comeback welled right up out of the good old subconscious. I said, "Certainly the world is full of trouble, but thank's be to God it is also full of the overcoming of trouble." That really got him and he went down the street shaking his head and I could hear it rattle all the way down the block.

Of course, the world is full of trouble. Of course, you've got problems. Of course, you are always going to have problems. That's the way the world is made, that's the way we are made and the sooner we all get to recognize this fact, the better we'll handle our problems. They are here—you are here—that's it.

I believe nobody can be healthy minded who hasn't got this sort of philosophy of problems. If you want to know really whether or not you are fundamentally healthy minded, you can judge it on your reaction and your attitude when a problem confronts you. If you complain and whine and whimper and get tense and nervous and your heart begins to flutter, then it wouldn't be a bad idea to see a psychiatrist and get yourself properly regulated according to your philosophical outlook.

Now, down in my church at Fifth Avenue and Twenty-ninth Street, I've got fifteen psychiatrists on the staff of the church. I don't want you to get any false notions as to why, as to my congregation by reason of this fact. You may wonder why in the world would you even have one psychiatrist on the staff of a church? The answer is that we believe in dealing with people scientifically. How in the world are you going to get them well unless you know why they are sick?

The psychiatrist helps us to diagnose and to point up the problem and the pastor or the priest or the rabbi—working together in this clinic that we have there—advise them on the methodology of faith. I never could understand why we apply scientific methodology to everything in the world except human beings.

That is one of the reasons I went into this business on a religio-scientific basis. Don't get me wrong, we still believe that the gospel does the job—but psychiatry helps.

I don't know whether there are any psychiatrists at this meeting or not this morning but you never can tell. If there should be one here he is not going to be hurt by anything I say for I esteem him highly as a professional and even have affection for him as a colleague. But having been associated for twenty-five long years with these psychiatrists, I will admit to you in the intimacy of a little family circle here that they sure are a queer crowd.

If anyone of them had the floor in my stead, he might with equal authenticity make a not dissimilar remark about my profession—that's for sure.

It reminds me of something that happened here in New York City sometime ago. The American Association of Psychiatrists held a four day convention at the old Statler Hilton Hotel at Seventh Avenue and Thirty-second Street. Now there are in the United States only about fifteen thousand psychiatrists and eight thousand of them are in mental hospitals—as practicing physicians, I hate to add. It seemed like they were all at this convention. The hotel overflowed with psychiatrists—the lobby swarmed with them.

Across the street from the hotel is the Pennsylvania Railroad Station around which, from time immemorial, there have been flocks of pigeons. As far as anybody was able to ascertain these are well organized, emotionally contained, well integrated pigeons going about the daily function of being a pigeon. But, apparently the emotional in-

stability of the multitudes thronging in and out of this station transmitted itself to one of these pigeons and he, the pigeon, got off the beam and by a process that has never yet been accounted for, this pigeon presently found himself in the lobby of the Hotel Statler flying around among these psychiatrists. In fact, it is reliably reported that this pigeon flew around these psychiatrists for two whole days before any psychiatrist would admit to another that he saw a pigeon flying around the lobby of the Statler Hotel.

Now, in this clinic that we have there we have every known human problem—you name it, we've got it. We have worry for example which is an insidious disease and it attacks millions of people. The English word worry is derived from an old anglo-saxon word "were-game" which meant literally to strangle or to choke. If I were to come out there in the audience and grab you around the neck, cutting off your air supply, choking you, I would be doing to you dramatically what you do to yourself if you constantly are a victim of worry.

Apparently people have always worried, for back in the time of the cave-men, when they made hieroglyphics on the walls of cliffs, they had a symbol for worry and scientists have figured it out. It's a wolf with long fangs sinking his teeth into the neck of a man—this from time immemorial has been known to be the affects of worry on the human system.

Then we have anxiety, which is worry in depth and one of our psychiatrists says that anxiety is the great modern plague and we have fear which is described as the most disintegrating enemy known to man. We have cases of prejudice, for prejudice we know can make you sick and prejudice is derived from a word meaning pre-judgment—not based on facts. We have resentment-hate cases. The word resentment comes from an old Latin word meaning to hurt and to re-hurt and to hurt yourself again.

We have marital problems. We have drug problems. We have juvenile problems. You name the problem, we've got it, but, what would you think is the chief problem in a religious psychiatrically-oriented clinic over a quarter of a century, in which the caseload is fifty per cent men between the ages of twenty-five and forty-five. What would you think is the chief malady of the present day executive-type American citizen? Well, on the basis of our experience, it is this—it's a deep haunting, inward, inferior, inadequate feeling that one simply hasn't got what it takes to deal with the ordinary problems of human existence.

So, healthy mindedness is related to your attitude towards a problem.

We had an old psychiatrist who passed away recently at eighty-five years of age, one of the wisest human beings that I ever knew in my life. His name was Dr. Smiley Blanton and he was an extraordinary genius. I said to him one day, "Smiley, what do you think is the best way to cure a person of a

problem of this difficulty?" "Oh," he said, "he has got to learn to know himself for one thing. He has got to learn to think right for another and," he said, "after all is said and done, I'll tell him where to get the medicine that will heal him. He can't get it in the drug store in the form of a liquid or a pill or he can't get it shot into his arm in the form of an injection.

"You can't even give it to him in long periods of therapy. He gets it out of a book and if he'll take this thought in through his eyes into his consciousness, then he has got the healing potency to solve a problem." I said, "What's the book?" He said, "What do you think?" I said, "What is the statement?" And this is what he gave me—"Act like men. Be strong. That" he said "has what it takes to do it."

Well, just one little point more about problems—I hope you feel better about them. I don't like them anymore than you do. I go around giving this speech in order to talk myself into liking them. When something is inevitable, you might as well make peace with it.

But, you know something, every man and woman in this audience this morning has the capacity to handle any problem you'll ever have in this life. I've been looking over the room since I have been standing up here and as far as I can see from here, every person present has with him a remarkable institution—what I refer to is this thing commonly known as the head. It sits on the neck, which rests on the shoulders.

The head is a tremendous thing. Thomas A. Edison, said, "That the only reason we have a body is to carry the brain around; if you could carry it around any other way, you wouldn't need a body." You are your brain. In this thing called a head, which is a boney structure, is about three pounds of tissue, more or less, and in this three pounds of tissue you function, you operate, you are, you dream, you remember, you pray, you think, and anybody who

will keep this head in good condition—that is, keep it free of unhealthy thoughts—can think. Anyone who keeps his head cool can think for you cannot think when the head is hot, it won't correlate.

It only produces rational thought when it is cool and when a problem comes if you are a positive thinker and if you've kept your head in that condition and if you recognize the validity of problem—then when a problem comes you will have the ability to find an answer to it. I don't believe you will ever have a problem in this life for which there isn't an answer and which answer you cannot find. As tough, as complicated, as involved as they may be, there is always an answer to any problem and it can be found by the think process.

I'd like to make it this kind of a process, think-prayer process, because prayer is another form of thinking. God knows the answer, you need the answer, you think, you pray, you'll get the answer.

Let me close with the story of a boy I know, which I think wraps it up fairly well. This boy is sixteen. Last summer he wanted a job, he didn't want to sponge on his father all summer. The most remarkable boy I've heard of in years. He said to his Dad, "I'm going to get a job." Dad said, "I'll help you get a job." He said, "I said I was going to get the job. Who asked you. Thank you very much, I'll get the job on my own." Quite a boy, thank God there are a few of them left.

Well anyway, he got out the paper and he read in the paper "Boy Wanted", the specifications were all there. "Show Up" it gave the address "tomorrow morning at eight o'clock" and it said "be prompt," in big letters. The boy said, "This is for me." He went down there, not at eight o'clock, but at ten minutes of eight, only to find twenty other boys lined up ahead of him facing the secretary of the man doing the hiring.

So, our boy looked these other boys over and he said they looked very good. If I was the boss I'd hire any one of them they are all good kids. The average boy would have said well, with twenty kids ahead of me, what chance have I got? At least I got down here, I did my best and he would have gone home, but not this boy. This boy was a competitor, he was already an executive. This boy realized that a problem is for solving, so he went into his process of thinking and, this is one of the most agonizing processes known to man, he went into the process of praying.

And, he got an idea as you and I will always get ideas if we do the same. So, he took out a piece of paper and he wrote something on it. He walked over to the secretary of the man doing the hiring and he said to her, "Miss, it is very important that your boss get this note immediately." Now, she was an old hand and if he had been an ordinary boy she would have said, "Run around sonny and get back in the twenty-first position in line where you belong." But, this boy had the emanation of force. Their eyes met—his held—hers dropped. She said, "Give me the note."

He handed her the note, she read it and she smiled. She immediately got up, walked into the boss' office, laid it down on his desk, he read it and he laughed out loud, for this is what it said, "Dear Sir, I am the twenty-first kid in line, don't do anything until you see me."

Did he or did he not get the job? Will he or will he not be able to meet the problems of human existence as they come at him in the years that lie ahead? What is wrong with a problem? Nothing, except that it's a tough challenge, but the healthy minded individual who attacks it with the realization that he has what it takes to handle it gets the greatest joy and ecstasy that exists in this life.

Housing America in the '70's

Eugene A. Gullede

*Assistant Secretary and FHA Commissioner
Department of Housing and Urban Development,
Washington, D.C.*

I told Dr. Peale he sure was a hard act to follow. But, he said he had to go out to Missouri. I said I'm sure they need you as badly as we did.

It so happens that Dr. Peale gave a very good introduction into some of the things that I want to talk to you about. He enunciated very clearly the role that problems play in this world. I couldn't help but think that somehow or other I had been especially favored by our Creator with a great deal of confidence because He had put me in a position where I sure got a lot of problems.

I want to talk to you a little bit

about them because, you know, I'm not unique in this business of trying to deal with the problems of housing America. The gentlemen who are here are also engaged in some portion of these problems.

I would like to give you the benefit of an over-view, something that is afforded to very few people I suppose, the privilege to stand at the top. There is great benefit in being at the top—you can not only feel the wind from all directions, but you can also get a view in all directions. That's the advantage in having made the struggle to get there.

It so happens that for almost a quarter of a century I have been dedicating my business career as an executive trying to house the American people in a better way. I was doing it as an entrepreneur—in the private sector—trying to see if I couldn't apply the skills and abilities that I had to the problems at hand and come up with some acceptable results—both to myself and my fellow men.

It has been my pleasurable experience over the years to have several thousand families occupy houses that I have been responsible for. Then, as I became more involved in the bigger issues of housing,

I found that I was becoming more and more active in larger fields than just my own community.

Now I am in a position, I think, after a year as Assistant Secretary for Housing Production and Mortgage Credit and Federal Housing Administrator, to be able to give a fairly objective view of what I consider to be the housing picture of the seventies. I think it is one that will pay you to give heed to, because I presume that you are principals, that you are people that make decisions, that you are the ones that have to establish policies. In so doing, you need the benefit of all the crystal-balling that you can avail yourself of. So, I am going to do a little crystal-balling for you from what I consider an informed position.

First of all, I think you are going to have to reconcile yourself to even more change than you have had in the past decade. Whatever you have brought to you at this point in time is going to have to be applied to a changing set of circumstances caused by things over which neither you and I have any particular control.

One of my good friends, the executive vice president of the National Association of Home Builders, a man whom I consider perhaps the most broadly gauged individual in the entire housing field—from his many years of background in it, greatly exceeding mine, is Dr. Nathaniel Rogg. Dr. Rogg says what we are dealing with is the rising level of expectations of great masses of people in this country.

The rising level of expectations. Translated it means that people are not going to put up with what they have been putting up with in the past. It means that those institutions and those practices and those results which have been acceptable in the past will not be acceptable in the future. It means the people who have not had a voice in shaping local, state and federal policies have been able to find that voice and they have learned how to make that voice heard.

As a consequence, the constituency with which you have been accustomed to dealing in the past will not be the constituency with which you will have to deal in the future. So, we find from a standpoint of allocation of natural resources beginning at the federal level, and continuing on down to its ultimate dispensation point, that we are going to have the input of different ideas about how much ought to go where and who ought to get what and how should it be done.

That is going to be so pronounced in the decade of the seventies, that it will to many people appear as if it were a revolution, because the rapidity with which it will come about will create that impression. Let me illustrate for you a few of the specifics of this position.

Let's start with the one that you folks are particularly interested in today—land. I think it's fair to indicate to you that there is a general philosophy developing which goes something like this. There are a few things all

human beings need in order to survive. One of those for instance, happens to be water. Therefore we have great concern now about the fact that, irrespective of everything else, there is just a limited amount of water on this earth.

When the pioneers in this century were able to turn the television camera back towards earth from outer space and show us that little bitty blue marble all alone in the vastness of space and recognize that little blue marble was enveloped with a very thin sheet of atmosphere somewhere between two and three miles of thickness, we became fully conscious of that fact that there was only so much air. So we are starting to try to do something about making sure that the use of water and the use of air fits the overall benefits of all of us, not the particular benefits of anyone who just might happen to have a plant situated on that water. For his purposes it is easier to put the waste products from that plant into that water or the waste products of that plant into that air.

So, we find the whole environmental concept all of a sudden becoming something everybody wants to talk about and every candidate is for. Everybody that gets into office has had to promise that he is going to do something about it and every organized group around the country is going to try and see that he at least lives up to some of those promises. So, we find that word which everybody now knows and nobody knew two years ago, ecology, become something paramount in our national thinking.

We are also beginning to appreciate the fact that there is no particularly unlimited amount of land on which people want to live. I have to make that very clear to you. We have no land shortage in this country. We have a shortage of land on which people want to live. The fellow that picked me up at LaGuardia a while ago and brought me was a man who has been here in New York for a long time and it took an hour and fifteen minutes to come from LaGuardia downtown. It took fifty minutes to come from Washington up here.

We obviously had to discuss the problems of why would anybody want to live here anyway. When you boil it all down—it's simply because they prefer New York. As FHA Commissioner, I've got seventy-six offices around the country. It's a pretty good insurance business that we operate . . . eight thousand employees . . . insurance in force on sixty-seven billion dollars worth of mortgages and our reserves are on the order of one and a third billion dollars at the present time. It is all self supporting. It doesn't cost the taxpayers a cent.

But, in trying to staff our New York office I find two problems. Anybody who has been here for a while doesn't want to leave and people who haven't been here, you can't pay them to come here. All that illustrates is the fact that the people want to live together, and therefore our crystal-balling of the

future somehow or another keeps changing.

I recall standing in the rose garden of the White House about four or five years ago when President Johnson made the statement that by the end of the century we would have double our population.

At that time it was about a hundred and ninety million people. He was talking about a three hundred and seventy-five million population by the end of this century in the last decade. That has been constantly revised downward and now the more conservative figures seem to think it's three hundred million. Lately we have been getting some projections that perhaps birth control procedures and so forth and concepts and philosophies will come into play, and maybe we are only going to have two hundred and seventy-five million people by the end of the century.

Perhaps after a while they are going to have the rest of us written off, the way they keep changing those figures. In any case, there is a very large increase in population going to take place in a reasonably short period of time. We are concerned about where they are going to live. It turns out that most everybody agrees, that they are going to live where everybody is living now.

That is the reason why we are going to expect that the vast majority—say seventy-five to eighty per cent of all our population growth—is going to take place in the existing metropolitan areas. Therefore, the crowded are going to get more crowded. It's just that simple. We don't have a shortage of land, we have a shortage of land on which people want to live. Less than one and a half per cent of the total gross area is covered by anything that man put on it. In other words, on ninety-eight per cent of the land, there's nothing on it that man put there.

There is plenty of land though. So the next thought that I bring out you might say is pretty strange. But the philosophy which is becoming apparent and which I think is pretty hard to argue against, is that if there is indeed that type of shortage of land, then can we allow that land to be used just to suit the purposes of the person who happens to be there? The answer comes back no. No more than we could allow the man who has his manufacturing plant on the river just because it is there to continue to dump his waste into the river. Because you know that there is a limited amount of water and we all have to drink from it so we have to control it.

What this adds up to is, I think, going to bring very significant changes in the concepts of how land ought to be owned, how it ought to be transferred, how the cost of land might be regulated and what techniques are required to accomplish those things. So the very first things that you are going to be concerned with are the changes that are going to come about in the philosophy behind how land is allowed to be held and used and transferred from one person to another.

There is a great concern for the question of how the money supply of this country is going to be manipulated. I have to use that term manipulated both advisedly and pointedly because there is no question that the money supply in this country is manipulated—that it is managed. It is managed for specific purposes. We can go way back to 1910 when the Congress decided that constantly recurring "bank panics" as they were known then, were bad for the country and that something ought to be done about it. After a three-year study they created the Federal Reserve.

The purpose of the creation of the Federal Reserve was to provide a system of assuring liquidity so that banks might not be like those that created a panic which was causing the problems of those days. So we have a system designed to accomplish that, and in that we also said, well, someone has got to manage the money supply and you are going to be the ones to make certain that the banks have liquidity, etc., so we will let you manage the money supply. Accordingly, Congress gave the Federal Reserve that responsibility of saying how much money we are going to have.

Now, we found, nearly two and a half decades later, that problems began to creep up in the banking industry due to the fact that there wasn't any close supervision on their practices. The net result was we had the Crash of '29, and the subsequent absolute impossibility of maintaining liquidity in the banks. The banks without supervision had gone out and really done things which literally made it impossible to keep them liquid and so we had hundreds and thousands of banks that finally had to close.

Then the Federal Reserve realized that there was something wrong here. They included a much more severe auditing and monitoring and supervising and regulating of what banks could do and we got the FDIC-type thing brought in the very early thirties under Roosevelt. So we have that regulation of money supply given there.

That has grown. We began to come out of that. After World War II, the Congress decided that while you are regulating the money supply, you better do another thing—make certain that we have full employment, because fifteen million guys like you and me who were in uniform were coming out. We needed civilian jobs and they said it is very important to have full employment.

But with full employment you get a number of derivative factors. One of them is that you have got to allow for plant expansion because plants create jobs. Then you have got to allow for capital investment because that is needed to put up plants so that you can have jobs. But what good does it do to have plants and machinery and people working there if nobody can buy what those machines and workers are producing? Then you get into the concept of consumer credit and the fact that we have to allow that to expand.

You can see how a whole series of

policy decisions stem from one charge from the Congress—use the money supply to insure full employment.

Prior to World War II there was no such thing as the home building industry in this country. Actually in 1941 only forty per cent of the people in the country owned their own homes. The total housing stock in 1940 was only thirty-five million units. We only had about a hundred and twenty-five million people then too. We found that there was really no organized building industry. The emergency of trying to house millions of soldiers and sailors and marines created a concept of housing production that carried over into the post-World War II period with the beginning of such industry-wide names as Bill Levitt, etc. They truly demonstrated that an organized home building industry could be brought about.

All of this just happened without any appreciable recognition by the Congress that it took place in addition to meeting the money needs of commercial banks for plant expansion, for capital investment for plants and machinery, for programs for hiring people, and finally for programs that allowed consumers' credit to expand so that the products can be bought and so forth. Really there hasn't been anybody who has given a lot of thought to the money problems or the money needs involving long-term investment.

There is no real policy involving long-term investment. About the only thing we have is that certain types of long-term borrowers, mainly state and local municipalities, can issue bonds or long-term obligations and the interest rates on them will not be subject to federal income tax. That's about as far as we go. We haven't really turned around and tried to see how we are going to finance the housing needs of the people in this country.

That great deficiency must be overcome. That gap in policy in the institutional setup must be eliminated so we are going to find that the manipulation of the money supply of this country will now have to be cranked into it, a concept that addresses itself to the problem—how do you assure an adequate amount of money, investment money being channeled into the fields of municipal and state bonds as well as for mortgages? We don't have it and so it is going to have to come. The reason it is going to have to come is because five times in the twenty-five years since World War II was over, we have had periods of tight money. Those tight money periods have resulted in a tremendous reduction in the production of housing for the people of this country.

This took place at a time when two other things were happening. One was, and is, an ever increasing number of people in the country that need housing, and secondly an ever increasing onslaught on the existing inventory of housing to reduce it. Reduction of the current inventory of housing is taking place at an annual rate of close to seven hundred thousand units a year.

This means that you would have to just stand still and be able to build at least seven hundred thousand to keep up with where you were.

It's urban renewal. It's termites. It's fires. It's obsolescence. It's abandonment. It's vandalism. It's all these things collectively that are taking away a huge portion of our housing stock each year at a time when our population is ever increasing. Our family formation rate is up thirty per cent over what it was four years ago. We were less than a million per year net new family formations four years ago. We are over a million three hundred thousand now.

We are getting the benefits of all that post-World War II baby boom which hit the first grade about 1951 or 1952 and worked its way on up through the universities now and out into the job markets into the apartment field. Then from the apartment field beginning about 1973, they are going to move into the home ownership field. That is the natural course of events as the nature of our population changes and moves along. We find an ever mounting need for housing, a constantly increasing attrition rate for housing, and a failure to adopt national policies that would insure an increasing supply of housing.

We are going to have to have some national policies that will change all that. We have to change it because housing is not something that you can either do with or do without. People want to live with their in-laws only so long and then they look for a place of their own. With this rising level of expectations as Dr. Rogg spoke of, we have got to have a solution to the housing problems of millions of families that is going to give results better and quicker than many people in this country will be comfortable with having.

I know you get the import of the words, meaning that about ninety per cent of the people today living in this country happen to live in a fairly decent home in a fairly decent location. I dare say that everybody in this room and perhaps just about everybody you know lives in a comfortable home in a decent neighborhood. Your kids go to decent schools and you have decent recreational activities available to you and so on and so forth. It is hard to get you excited about the roughly ten per cent of the families in the country that don't have that type of situation. In order to help meet the needs of that ten percent, which incidentally is growing daily as we move through the inflationary cycle we are now in, we require changes more rapidly than most of the ninety per cent are going to be comfortable with having take place.

But it must come. It must come because it is very much like, I suppose, a quarter of an ounce of lead which might be contained in a small projectile known as a bullet that could be lodged in a two hundred pound man and in a critical place. Against his total weight that quarter of an ounce isn't much, but the quarter of an ounce can, of

course, kill a man. So we can't judge the severity of our problem of trying to house America by the fact that numerically, percentage wise, not so many people are affected.

We have seen it starting with Governor Kerner's Commission Report on the Riots in 1967 Detroit, coming on through to '68/'69. We have seen the net affect upon our cities of frustrated people who don't see any way of working out of the hold that they are in. They don't see that this system and this society holds any promise for them to get on in the action, and to get the benefits of what this country is giving to them.

As a consequence they become frustrated and when you become frustrated you lash out because you know no other way of making yourself heard or expressed. When that type of situation comes, then the ninety per cent who are complacent about things are the most defenseless portion of our whole civilization because they are not organized to do anything about it. We really aren't. You New Yorkers are not organized to defend yourselves when your garbage workers decide to strike. If you lived out on a farm you could just dig another hole and bury the garbage in it. You can't do that in New York.

When your firemen or mail workers go out on strike, a very small part of that group which renders some essential service drops out, then civilization as we know it becomes something that is pretty difficult to live with. The nation can't afford not to address itself to the problem of how we are going to offer a chance for every American family to get in on the action . . . to be able to have the expectation that within a reasonable period of time, he too can have a decent home and a suitable environment within a reasonable distance from his work and his daily activities.

That is what they expect—that the rising level of expectations will be fulfilled. You may sit back and say that's bad. It's not bad, it's the thing that makes this country great. We have to promote that which our founding fathers proclaimed our country to be—a land of opportunity and a land of freedom. The Declaration of Independence says that "we hold these truths to be self evident that all men are created equal." We either believe that or we don't.

We started this country on the premise that we do. I suggest to you that one of our greatest failings is that in practice we don't. If we don't adjust our practice to the concept then we are doomed to failure. That is why this nation cannot afford to ignore the housing needs of the people of this country.

In the whole scheme of how we are going to get around to making these changes, let me just touch on one or two small items of legislation that are beginning to point the way.

One of them is the fact the President has created a Presidential Commission, if you will, on Financial Institutions in

order to examine the role in one of our areas of concern—investigation. This Commission is to examine the role of the use of money in this country to provide mortgage money for people who need to have a place to stay. Out of that we fully expect there are going to be some significant recommendations for change.

The Congress has addressed itself to the problem of how to provide some assistance, material assistance, a form of subsidy to people who are trapped in something not of their own making. If it were your business instead of their personal income that was so badly affected then you would scream just as loudly as they do at the inequity of having national policies which have the net affect of causing the cost of an essential item of their personal budget—housing—to accelerate at a much greater rate than their ability to meet those payment. I am talking about tight money, a necessary by-product of the poor fiscal planning of the past. When you are in a battle for inflation, there is only one tool that we now have that we can use. This is to decrease the supply of money, which makes it tight. When you decrease the quantity of anything you increase its price and therefore, tight money and high money go hand in hand.

When the cost of the money gets up, then people can't afford to get a necessary product. Because of no fault of theirs, no policy of theirs, no decision of theirs, they can't afford a decent place to stay and they look to their government to do something about it. The Congress responds, the Congress provides programs. I'm here to tell you, as the man who is administering those programs, that they are totally inadequate.

I'm here to tell you that they are neither broad enough in scope nor are they administratively possible to do equity to all the people who have a rightful claim for the use of their programs. I, as a Federal administrator, am in the ridiculous position of trying to be Solomon on thousands of cases every day. The simple truth of the matter is that we have equally qualified people on the order of three who do not get benefits of the program to every one that does get benefit of the program. What is equitable and just about that program that says that three of you cannot benefit from the program, only one of you can and you are all equally qualified?

The scope of the program isn't at all what it should be. Neither are the basic concepts behind the program. I'm going to speak frankly—my political affiliation happens to be the cause of housing. It has been my privilege to work with President Johnson. It is my privilege now to work with President Nixon. I'll tell you that my personal commitment is to the cause of housing the American people and that neither political party, nor Congress has yet seen fit to come up with what I consider an adequate total approach to housing the American people.

There is hope that it is going to be done within the Department of Housing and Urban Development under the leadership of one of the men whom I consider certainly the most outstanding man in this generation, who has moved through the fields of both private enterprise and now in public service, George Romney. We are organizing within our department and coming up with programs which will be processed through Administrative channels, ultimately through legislative channels, that will deal significantly with the problems that have not been dealt with, except on a piece meal basis, in the past.

I hope you recall the import of my introduction, about how I am responsible for college housing and nursing homes and non-profit hospitals and military housing and civilian housing and elderly housing. It all adds up that I have got at least forty-two different housing programs to administer plus eight more that don't involve housing.

I made a proposition when I got to HUD. I said if anybody on the staff, that's seventeen hundred people there on the staff in Washington—if anybody here can explain all these programs to me, I'd like to buy his dinner tonight. I haven't had to buy anybody dinner yet. You even read that nine foot shelf of books which we have which contains our regulations on the programs, and nobody can understand all of them.

We made a proposal which would reduce forty-two housing programs down to four. I figured if we could get it to four, I could understand them. If I can, you can and the public can. What we have now, I repeat, is simply a patchwork of a tremendous number of unrelated efforts dealing with a total problem. The result is what you would expect.

As the Congress begins to express its concern for the ability of people to be housed they have worked their way into something on which I'll conclude. We have under the 1970 Emergency Housing Act a law, section 701 of that act, which deals in two paragraphs with something which I think is going to be pretty important to you. It has to do with this whole subject of closing costs.

You know that the service that you provide is a vital service—vital to both the investor and the purchaser alike. You know that that charge for your service is what we have included in a category of items which we call closing cost on mortgages. You may not be familiar with the fact that the Congress told Secretary Romney and the VA Administrator, "You guys get together immediately and come up with a plan that will help to standardize closing costs for your housing programs according to the different facets of programs," because we have multi-programs and VA doesn't.

We have a rental and the VA doesn't. Standardize for your programs within the geographic areas in which they operate. Examine closing costs. Publish them and do so after you have determined that is a reasonable closing cost. This is the first thing. At HUD we

have got to get together with the VA, which we are doing, and we will find out what is reasonable and standardize it and that is all that we are going to allow.

We did a study on this in the FHA, one was done by my predecessor organization, the HHFA, which Dr. Weaver headed before it became the Department of Housing and Urban Development. The previous study was done in 1965. The latest one we have done was in 1969. From the 1969 figures we found that on a typical twenty-thousand dollar mortgage, we found that the closing costs ran all the way from one and a half per cent on the sale price in San Antonio, Texas, to three and a half per cent in the Baltimore/D.C. area. What is two per cent? Two per cent is four hundred bucks.

Why should it cost four hundred dollars more in Baltimore than in San Antonio to go through exactly the same transaction? The Congress said it doesn't seem right, so VA and HUD will get together, find what is reasonable and do something about it. But, furthermore, Congress said, you fellows get together and do the study and report back to us by July 24, 1971, which is one year from the date of enactment of the legislation. Report back to us on your recommendation to do two things:

The first thing is how we can reduce those closing costs. First, they said, just standardize them. Now the charge is how can we reduce them and recommend such legislative and administrative acts that need to be taken to reduce the closing costs.

The second part says to standardize them for all geographic areas, which

means that the title insurance in Baltimore and the title insurance in San Antonio are expected to cost the same. I know the various ways in which title insurance is written. Some of you have very close state supervision, some of you don't have quite as much state supervision. This may require some Federal legislative direction.

I can tell you that it is going to represent change, gentlemen. We don't know what the answers are going to be. We don't know whether one and a half per cent in San Antonio is too low. We don't know for sure that three and a half per cent in Baltimore is too high. We are perfectly willing to study the situation because I am profit-motivated, private-enterprise oriented, and if I ever get to the point that I'm not, I'm walking out of that HUD building and heading back South again. We recognize the fact that we want to confer with representatives of this association and/or prominent companies who are involved in the business of title insurance to make sure that we know all the facts so we act neither arbitrarily nor capriciously. But, act we will and act we must.

The deadline of July 24, next year is a congressional deadline. The other ones, the first one I told you of, is when we get together with the VA on how to make a reasonable charge and it doesn't have a deadline but they expect it to be done now and we are proceeding to do it now. Your government has a sense of responsibility to the consumer which in times past they could safely and politically ignore, but which they cannot now for the reasons that I have mentioned.

The consumer has more than one Ralph Nader. There are many organizations who now pick up the voices of the poor, the unorganized. The ones who don't have trade organizations, or lobbyists, they now have them. Their voices will be heard; changes will be made. The challenge of housing America in the seventies is going to be a problem, but I think it is one that you will enjoy. It is one I have to, when I talk to my friends say, how do you feel about what there is to be done in the government? I simply tell them, if I didn't like it, I wouldn't be there.

It is a tremendous problem, a tremendous challenge, a tremendous opportunity—the opportunity to make America live for what the men who gave their lives, their fortunes and their sacred honor to make it something. They were men who committed their all to offer to this country that bright promise that it affords to everybody. We have got to continue that promise.

I think that if we can indeed create within the next decade complete freedom of opportunity for anyone to live where he chooses, according to his own ability to do so economically and otherwise, complete freedom of opportunity to live where he wants to because he has meaningful choices of where he will live, that we will have moved a long way towards assuring the fact that, as we begin the third hundred years of this country's existence, that we will have it on the same sound footing that started the first hundred years.

Thank you.

Fannie Mae—Lady on a Tightrope

Oakley Hunter

President, Federal National Mortgage Association, Washington, D.C.

While the world is being turned upside down by conflict and confrontation of every sort, the housing and home finance industry, on the surface at least, appears to be going about "business as usual."

But behind this tranquil facade, important things are happening—and not all of them are recognized by the industry as being as important as they are. In fact, as I survey the housing scene in the closing months of 1970, I believe housing may be entering a whole new era, and I am not sure the housing industry realizes it.

I do not believe, for instance, that any of us have fully analyzed the impact of off-site construction of housing, whether it be modular construction, manufactured housing, mobile homes, or whatever name you call it.

Neither, I believe, have we recognized what the environmentalist movement means to us. In this area, particularly, I believe we should take a

long, forward look at what the future holds for housing and take some action now to see what is down the road.

It is undoubtedly true that we are on a national environmental binge exuding too much emotion and too little reason. The environmental passions will most certainly cool with the passage of time and the reconciliation of theory with practice. But even so, the serious environmentalists—and they number among them some of the leading public officials and social and physical scientists in the world—will still be with us. And they will have a much stronger reservoir of public support than they ever had.

Some idea of the depth of the public commitment to protect the environment can be gained by surveying some of the activities of various committees and subcommittees of the Congress, a number of which are going into environmental problems in depth.

The National Environmental Policy

Act provides a framework for the operation of the National Council on Environmental Quality, which previously had operated under the sanction of an executive order.

Russell E. Train, who heads the Council on Environmental Quality, has listed at least two priority items which are of importance to the housing industry: incentives for solid-waste recycling and land-use planning.

When we talk about producing 2.6 million new housing units a year, we are immediately confronted with the latter question, because in many parts of the country it is easier and more profitable for the developer to build mile upon endless mile of monotonous single-family residences than it is to develop planned unit projects or cooperatives or condominium apartments with higher density.

Since we are going to run out of useable land eventually, it obviously

would be better to evolve some sensible land-use policies now—before the nation is covered coast-to-coast with subdivisions.

And while increasing attention is being paid to the adverse environmental effects of the highway construction industry, little has thus far been said about the housing industry. While obviously housing will never approach the highway construction industry as a destroyer of topsoil and natural beauty, it is not inconceivable that some day public pressure—or legal sanctions—may force us to fit the housing to the land instead of restructuring the land to fit the housing.

(In this connection, the Senate has recently passed by a 51 to 0 vote a bill which would permit the use of highway trust funds for the construction of highways in a manner which would "avoid, reduce or overcome any adverse impact on the environment. . . ." Is it possible that in some future year we may find environmental protection clauses in local building regulations or even Federal laws requiring that housing design be such that the environment is protected?)

The extent to which environmental concerns have reached the local government level can be seen by embargoes placed on new construction in areas where there is inadequate sewage treatment capacity for the new population. The Homer Hoyt Institute, in a study commissioned by the Home Builders Association of Washington, indicated that a one-year embargo in three populous suburban counties of Washington, D.C., would result in a construction loss of \$366.4 million and a loss in all levels of economic activity of \$1.6 billion.

While these figures show the enormous costs of a homebuilding embargo, they also put in better perspective the cost of taking whatever actions are necessary to assure that we provide necessary housing without degrading the environment. In other words, the cost of sewage treatment plants is a pittance compared to the economic loss if homebuilding should come to a halt.

Clearly, homebuilding must pay some attention to the environment, and in the course of this—either in this generation or the next—we may even have to discard or modify the notion that every American should have his own home on a separate plot of ground. As Mr. Train recently said, we may have to change our life style.

But enough about environment—there is, after all, a limited amount that FNMA can do directly to increase housing's awareness of and respect for environmental problems.

But there is much that we can and are doing about providing funds for the industry.

FNMA was first chartered in 1938 under legislation enacted by Congress to stimulate housing. The portfolio reached \$1 billion in 1957, and in the next 10 years grew to \$5 billion. Because of the nation's housing needs, it then took only two more years for FNMA's portfolio to double to \$10 billion in November

1969. Less than a year later, in September of this year, our portfolio passed \$15 billion, and at our current rate of growth we will hit \$20 billion next year. The reason for FNMA's dramatic growth recently is very simply that housing needs have demanded it.

FNMA was graduated from the ranks of Federal agencies in 1968 when it was decided that the corporation could operate at a more effective volume outside the constraints of the Federal budget.

This transformation of Fannie Mae to private status was completed in 1970. FNMA is now a publicly held private corporation with its stock traded on the New York Stock Exchange. And her \$15 billion mortgage portfolio makes her one of the 10 biggest corporations in the United States in terms of assets.

Generally speaking, anything FNMA can do to get more money into housing will help the housing industry, but what is a mystery and source of confusion to most people is the question of how she does this.

Simply stated, FNMA goes out in the capital markets and borrows money—just as do business corporations, local housing authorities and urban renewal agencies across the country. (These borrowings have been running at the rate of \$75 to \$100 million a week in new debt for 1970.) Thus, as her public purpose, she turns around and spends this money purchasing mortgages from institutional lenders (commercial and mortgage banks, savings and loan institutions, mutual savings banks, life insurance companies, etc.).

One of the unique characteristics of FNMA is that she is in the market borrowing money and buying mortgages during times of credit stringency, when most mortgage lenders are out of the market. This is how she fulfills her "public purpose": she stays in the market even when it would seem to be more profitable to retrench.

Two conflicting forces keep FNMA in a state of equilibrium. On the one hand, there is the pressure on behalf of the stockholders to buy only as many mortgages as can be bought at a "good price," thus helping to enhance the corporation's profitability.

On the other hand, there is the pressure from the housing industry to pump more and more money into the industry with minimal regard to the economic factors.

These two factors make Fannie Mae a lady on a tightrope—she must act like a private corporation, which she is, but she must not forget her public purpose.

But even this conflict is largely illusory, and the two apparently opposing forces can in fact be proven to be complementary. The reason for this is that FNMA's ability to respond to the needs of the housing industry during periods of tight money depends entirely on her ability to borrow money, and her borrowings in turn are limited by the amount of invested capital. The ability to attract investment capital—to get people to buy or hold stock in other words—is in turn limited by her ability to show a profit.

Looking at it from the other side, FNMA's ability to sustain the housing industry during a sustained period of credit stringency could be limited in some future time by her ability to sustain short-term losses, and this ability in turn might be limited by the reserves developed during periods of profitable operation.

An integral part of our operations is a continuing search for new ways to attract new funds to the housing industry. FNMA itself is a "new way" because by borrowing money from a wide variety of money market sources, we are able to put money into mortgages that would not otherwise get there.

Our search for new sources of funds has also resulted in the issuance by FNMA of \$1 billion-worth of new mortgage-backed bond-type securities. To back up these securities, we have set aside a pool of FHA and VA mortgages at least equal in value to the amount of the bonds outstanding. These mortgages are pledged as security for the bonds. In addition, the Government National Mortgage Association gives the mortgage-backed bonds a 100 per cent "full faith and credit" guarantee of the United States Government.

The mortgage-backed bond-type securities are intended to appeal to pension funds, trusts and other kinds of funds which are ordinarily not attracted to the mortgage market and which want the added security of the Federal guarantee.

I have limited myself thus far to consideration of FNMA's purchase of FHA-insured and VA-guaranteed mortgages, but with the passage of the Emergency Home Finance Act of 1970, a whole new vista of operations is opened up to us. And thus another new development takes place on the housing scene.

In that law, signed by President Nixon on July 24, 1970, FNMA is authorized to buy—for the first time since 1948—mortgages that are not backed by the United States Government, the so-called "conventional" mortgages. This new authority of FNMA may have more impact on the business of title companies than is apparent at first blush.

The historic relationship between FNMA and member title companies of the American Land Title Association has been perhaps more fundamental than many persons realize. It may even be said that FNMA, since its inception, has been directly responsible for a significant portion of the growth of the title industry. As a national marketplace for mortgages, FNMA early realized that good business practice dictated that we should require title insurance. Since in an increasing number of instances the sale of a mortgage is no longer a local transaction between parties that have already established a business rapport, the employment of title insurance helps to put the transaction on a uniform sound foundation and assures FNMA, or any other investor, that the titles be-

hind its security are as sound as possible.

Our relationship, additionally, seems to be on the incline. A requirement for title insurance will also be included among FNMA's forthcoming policies and procedures for our purchases of conventional mortgages, beginning early in 1971. And although our volume of purchases in these mortgages may not rival our recent FHA-VA volume in the foreseeable future, nevertheless the groundwork is laid for the continuation of your part in the protection of our assets—and I might add that these assets of ours currently exceed \$15 billion,

so you can see that we rely heavily on the service you furnish.

An additional item that I believe will interest you is a proposal we now have under study. The suggestion has been made—and we are examining its merits—that FNMA establish and publish certain items of title exceptions to which FNMA will not object. The title company then could be responsible for examining the records and documents and could certify to the mortgages and to FNMA that there are no exceptions other than those which are unobjectionable. These guidelines might be somewhat on the order of the present sec-

tion 203.389 of the FHA Home Mortgage Regulations that deals with "Waived Title Objections." This is the section that codifies the old FHA General Waiver Letter dealing with easements and encroachments on land titles. The title companies are the logical people to perform this service for lenders and investors, and we think now that the service could increase the speed and efficiency of the whole mortgage transaction. FNMA itself would benefit by having one fewer operation to perform and an additional specific service could be made available to investors and to the public by title companies.

Money, Mortgages, and Interest Rates

Robert H. Pease

*President, Mortgage Bankers Association of America
Senior Vice President, Draper and Kramer, Inc.,
Chicago, Illinois*

It is indeed an honor and a real pleasure to be with you. The mortgage bankers and the title officers have worked together very closely for many years and I appreciate the opportunity to be with you this morning.

One example of how the ALTA works with MBA was the luncheon that Al Long and I had together about a year ago. We had a few problems between the two organizations as to what we were doing that you didn't want us to and visa versa. It seems to me that there are only two major problems in business—one is people and the other is communication.

Al and I proceeded to solve both of these with the result that you have a Liaison Committee. Bob Bates of Chicago Title is chairman of your group and Ray Henson with a small mortgage company in Chicago, is chairman of our group.

It has been a very effective committee and an important committee, thus, I trust that they will continue. A small group like this working together can be very effective for both our organizations because it will prevent small things from growing into big disagreements.

Let me give you one prediction—to think about for the year ahead:

1) There will be no major life insurance company actively engaged in the mortgage market;

2) The savings and loan associations, by the middle of the year will have net withdrawals in excess of one billion dollars—net withdrawals; and,

3) The bond market will be in a virtual state of collapse—by that I mean the sale of bonds will only be made under extremely favorable buyer conditions.

If that isn't enough, the stock market will drop three hundred points on the Dow Jones Industrial Average.

Interesting, yes, because I have tricked you. Had I been here a year ago, that is the prediction that I might have made and had you heard the prediction at that time, I think you would

have felt that your business was going to be in a state of collapse. I would tell you that during that time two things have happened:

1) The title business has been slow in many places, it has not been too bad in many, in some places it has been pretty good; and

2) During that year mortgage business has been eighteen per cent greater in volume than it was in the previous twelve months. Much of this I must say is due to Oakley Hunter and his associates. Without Fannie Mae, the mortgage market and the home market would have been a total and complete shambles.

Where are we now? In the last four months, the mortgage market has had the most dramatic changes that I have seen it have in really the last twenty-five years. I am not going to give you a lot of figures, but I am going to give you a few.

In July of 1969, the savings and loan associations in this country had a net withdrawal of one billion, one hundred million dollars. One billion dollars net loss in savings deposits. In July of 1970, those identical institutions had a net gain of six hundred million dollars.

Mutual savings banks in October of 1969 had a three hundred million dollar increase in the year 1970. One year ago, they had a hundred and fifty million dollar loss. This mortgage availability by savings and loans has had the most dramatic change in these past ninety to a hundred and twenty days that we have ever seen.

By far the best source of money today certainly in the home loan field are savings and loan associations. Mortgage bankers are selling more loans to savings and loans than they ever have in their entire history.

Mutual savings banks outside of New York City have had a very good June-July-August-September. Mutual savings banks are returning to the market, the mortgage market aggressively and I think from all signs that they are going

to stay with the purchase of particularly FHA home loans, a very aggressive plan.

Pension Funds—You need only to look at the bond market for the last fifteen months and know what has happened to pension funds, they have been out of the mortgage market.

They started to come back in mid-July, and stayed in in August and September. I think that the pension funds appear to be definitely increasing their purchase of mortgage loans.

Commercial banks made a commitment to Secretary Romney in February that they would put one billion dollars of new money into home mortgage money lending in the calendar year of 1970. They are honoring that commitment.

The trust departments of commercial banks are starting back into the mortgage market.

We have only one sector really that is a problem and that is life insurance companies. Life insurance companies are tight and I think they will stay tight as far as the availability of money is concerned throughout 1970, perhaps into the early spring of 1971. They have money for real estate investments, joint ventures, what we call kicker deals, but they are out of the home mortgage market.

Their problem is very simple to explain and very difficult to solve. In 1960, policy loans of life insurance companies amounted to five billion two hundred million dollars. Ten years later in 1970, policy loans amount to fifteen and a half billion dollars. What does this mean in the mortgage market? From 1965 to 1970, the last five years the net increase in conventional loans by life insurance companies has been almost exactly eight billion dollars.

From 1965 to 1970, the net increase in policy loans by life insurance companies, is eight billion dollars. This is what has happened to life insurance companies. They have had this disintermediation and don't believe what we are talking about. Until that stops, they

are talking about. Until that stops, they will not be back into the mortgage market.

It looks to me like this dis-intermediation has stopped with life insurance companies. August was better from the policy loan standpoint. September was considerably better, and it appears that at least for the time being if the bond market does not rear up again, that the policy loan situation will be under control.

As far as mortgage rates are concerned, I would make the guess that mortgage rates are not going to go down for the balance of '70 and well into '71. I think they will stay where they are. A quarter of a point rise is possible, but anything more than that I think is unlikely.

The reason is simply the competitive situation in the investment market. If you want any key to mortgage rates, pay attention to the bond market. The whole question of buying mortgages is whether or not you can get a better yield in mortgages than you can in bonds. The spread between the yield on bonds and the yield on mortgages will determine the amount of money that flows into the mortgage field.

The first six months of this year we had a negative yield as far as mortgages were concerned. You could get a better yield out of bonds than you could out of mortgages. Actually this spread ought to be about seventy-five to a hundred and twenty-five basis points in favor of mortgages. In other words, the mortgage must yield from three quarters to one and a quarter per cent more than a bond in order to be competitive.

Your problem with interest rates is simply this—the pressure that exists with finances, the schools, the factories, the businesses of this country is so great that until that pressure is withdrawn, competition for money will continue to hold up rates. The days of six per cent money, I don't think you are going to see very soon. I don't think you are going to see very much of seven to seven and a quarter per cent money in the mortgage market before at least a couple of years.

Let me give you a couple of short figures:

1) The average monthly corporate financing in the bond market in 1969 was slightly over one billion dollars. Corporate financing each month was one billion. What is it in 1970? It is not one billion, as a matter of fact, it is over two billion dollars. You had a hundred per cent increase in your corporate dollars.

2) Plant and equipment in 1963 totaled thirty-eight billion dollars—a tremendous amount of money, until you compare it with 1969 and then it was eighty-three billion dollars. You talk about pressure on markets, this is what is causing the pressure on your investment market.

In September of this year, in the municipal market, state and local issues, not federal, just state and local had one and a half billion dollars more in '70 and '69. That seemed like a lot

until the first week in October—in that one week alone you had a billion dollar increase in '70 over '69.

So when you talk about interest rates I say to you tell me what is going to happen to the pressure on the security markets and I think you will get a clue to what is going to happen to the mortgage market.

Baltimore Gas and Electric—865
Texas Power and Light—869 (they had a new issue yesterday of Texas Electric Service 873)

When you get those yields in triple A corporate bonds, don't look for mortgage rates to decrease very much.

The question is whether FHA rate is going to go from eight and a half to eight per cent. I would tell you that I hope that it does not go down. I would also tell you that I am sure that Secretary Romney is having more pressure on him than probably any single man in Washington from a political standpoint. It is a question of how much resistance you can put up against some pretty important political pressure.

I would caution you that the function of rate is to produce the greatest flow of money into the market that you can. If you reduce the FHA rate to eight per cent, you'll drive the discount back down to about ninety-four. When you drive the discount to ninety-four I believe that you will retard the flow of money into the mortgage market. I hope that the Secretary can be as tough as I think he is and leave the rate where it is.

My guess is you'll find out within a week. If this doesn't happen within a week, then I think the political advantage by changing it would have been lost and it would probably be contingent.

Oakley gave you an excellent description of Fannie Mae. Let me remind you just of one thing. Fannie Mae is now a private company—with a public purpose. The amount of money that Fannie Mae has poured into the mortgage market has been the one thing that has sustained the home buying in this country during a very difficult period. The auction system is a completely free market system—one hundred per cent a free market and the reach is determined by competitive bidding and I think it is about as good a device as has ever been found to have a free flow of money into the mortgage market.

Ginnie Mae, I think will prove to be one of the greatest vehicles for mortgage financing in the home field that has ever been devised. I went down to a life insurance company two weeks ago and I was talking with the head of the investment department. He said, "Bob, what is this about Ginnie Mae, I don't really understand it?" He said, "Why should we buy a Ginnie Mae loan?"

I said, "Okay, at the present time when we sell you an FHA loan, what do we do? We write you a three page letter telling about the borrower, the property, about the location, about the construction. You process that letter through your mortgage department and you have a meeting and you issue a commitment and we discuss the terms of the commitment and we finally buy it.

"We send you a credit report on the borrower, we send you a complete appraisal on the property, three pages in length. We send you photographs of the property and the location. After we have finally decided to make the deal, we then send you a packet about that thick with mortgage papers.

"The next day we send you a packet about that thick of insurance papers. Now we are going to talk about Ginnie Mae.

"When you are going to buy five million dollars worth of loans, what do we send you—we send you a certificate about that size and that certificate says you own five million dollars of Ginnie Mae loans guaranteed by the face and credit of the United States government—and that is all.

"What does that little certificate cost you? It costs you six basis points." He said, "Do you mean to tell me that we could buy Ginnie Mae loans and eliminate all of the red tape for six basis points?" I said, "That is exactly the case."

That insurance company issued a letter to their correspondents about five days ago saying that hereafter their purchase of FHA loans would be in the Ginnie Mae field. For those of you who are not familiar with it, I urge you to make your mortgage bankers and your financial people in your community aware of it. It's a great vehicle.

As far as the mortgage banker is concerned, let me give you just a couple of figures that I think will be of considerable interest.

The mortgage banker has been with the title officer, working together in a pretty important part of the real estate financing industry. In Fannie Mae for example, eighty-six per cent of all purchases in Fannie Mae have been through the mortgage banker.

Sixty per cent of all FHA loans made by anybody anywhere in the United States, sixty per cent have been made through the mortgage banker.

In 1969, the mortgage banker closed twelve billion dollars of loans and in 1950, he'd have closed about fifteen million dollars in loans. Our total servicing of all mortgage bankers around the country is about eighty-two billion dollars. Together we are in a pretty important segment of the real estate financing field.

Let me give you a few odds and ends here in the last few minutes.

I would not be so foolish as to predict that starting in the spring of '71, you are going to see one of the biggest booms in small/medium sized priced housing—in fact in all housing that you have seen since the war, since right after the war.

We have had a pent up demand in this country for two years that has been going on in regard to single family homes. Why do you think people haven't bought homes? Well you can explain it because interest rates are high. You can explain it because the cost of houses are high. You can explain it any way you want—I explain it by saying that Mrs. Murphy has been worried about Pat Murphy's job and she is not going to buy a house

until she thinks that that business picture has changed.

I believe that by next spring the public will make the assumption that business is better. I personally think it is better, I think it has turned the corner. I think by the spring of '71 you will recognize it generally around the country and the home buyer will recognize it. Then I think you are going to see this money that has been poured into the savings accounts around the country start coming out. I think it will come out first of all in home purchases.

You can talk about this recession we are in, the truth of the matter is that eighty-five per cent of the people in this country are earning more money in '70 than they earned in '69 or in their entire life. If you want to label this recession I think you should label it as a capitalist recession. The bond market has gone to pot and the stock market has gone to pot, but the income of average people other than Seattle, California, and a few places, they have had a recession. By and large it hasn't.

I think that this whole thing is going to bust out in the spring of 1971 into the beginning of a major housing boom that I believe will last for five years—it may well be longer. You had a major change in housing and when you realized it in 1961, eighty per cent of all housing starts were detached single family homes—eighty per cent. In 1969, that figure is only fifty-three per cent.

You have had a major shift into the apartment field. Also a major shift into mobile homes which are now thirty per cent of all the housing in this country.

You had another shift when you stop to think about it. Just take the city of Chicago. John Hancock, Hartford Fire Insurance Company, First National Bank of Chicago, Sears Roebuck, Standard Oil of Indiana, Equitable Life, U. S. Gypsum, Continental Insurance Company, Harris Trust Bank. I am not naming businesses, I am naming eight of the last ten buildings that were built in Chicago. These are the new owners of real estate in the cities. You can see that in Detroit, you can see that in practically any city in the country.

What do you think is true of Aetna Life Insurance Company, Chrysler Corporation, Boise Cascade, Connecticut General, Hartford Insurance Company, Metropolitan Life, you name it, these are the corporations that have today bought a million acres of land in the last year and a half. They have poured millions of dollars into the real estate field.

These are the people that are now engaged in real estate. You talk about the chemical business, the electronic business—I say to you that there is no business in this country that has even an appreciable capability with the real estate field from the standpoint of growth and expansion. We have got to build about all of the homes, apartment buildings, churches, schools all over again in the next thirty years. If there is any other business with a growth potential like that, then I don't know it.

This is the rosier picture that we have ever had and there are two things about the future that can blow it all right straight out of the water.

I hate to listen to these people that talk about the federal deficit—it has always been a kind of a bogey man that whenever we want to blame something we blame the federal deficit. Many people have thought of it as a terrible thing to have, but it's a great thing to cause inflation and help our business.

I'll tell you that if the federal deficit that can happen in '71 and '72 does happen, then you don't need to worry about seven and a half per cent money because you will have nine and ten per cent money. You don't need to worry about your business today because it will be a lot worse then.

You have got a federal deficit possible, this is only possible if the programs that are now recommended are passed. If these programs are passed in fiscal '71 you can have a federal deficit somewhere between eight and eleven billion dollars and if the programs that are being suggested and recommended are passed, then in '72 you can very easily have a federal deficit of eighteen billion dollars.

How do you think you are going to finance a federal deficit of these amounts? There are only two ways you can get money—you can save it or you can print it, in just one or two ways. I'll tell you this, if you are going to finance a federal deficit of twenty-five billion dollars and then you in turn add to that all of the corporate financing that we are talking about, and all of the school church and municipal financing that we are talking about—I have no idea where you are going to stop as far as the demand for money is concerned.

It will be absolutely exorbitant and so will the interest rate—I think that that will have a break on business that could be very disappointing to say the least.

Let me ask you this—what do you think is common through Boston, New York, Baltimore, Washington D. C., Philadelphia, Cleveland, Detroit, Chicago—it is not that they are major cities—it's not that there are some of the strongest political organizations in the country being built up in those cities and they must be recognized for their political force. What is common to them is that those cities are facing the disaster of their entire civic life.

Do you realize that in those cities the physical destruction that is taking place is just appalling? You've got in the city of New York a hundred thousand units that have been abandoned. Abandoned by the tenant? No. Abandoned by the owner of the property. They are the worst cesspools of crime and corruption you ever saw in your life. Absolutely beyond the control of the police.

In these cities you have a fiscal, financial condition that seems almost beyond solution and then you compound that with the social and racial

conditions and I say to you that unless we find the solutions to the problems in those cities that we may not find the solution to the business problems that we look forward to with so much anticipation.

When Al Long called me about talking with you, I told him there was going to be one slight charge for the talk. I wanted three minutes of your time—these last three minutes are here and I would like to collect. To me this is the most serious problem of them all. I don't want to debate this with you, I only want to try to motivate you—motivate you to do something about it.

Paul Goodrich will tell you really I was a nice quiet little guy—I had two big problems. One was a back-hand in tennis that just wouldn't go down the line and was always spraying off. The other was the real estate and mortgage business that gave us our usual problems. Then I started on this junket for the mortgage bankers.

My wife and I are now on our second hundred thousand miles and we have gone all over this country and what we have seen is one of the most thrilling things that we have ever seen and is also one of the most frightening things we have ever seen. I saw a bank building in Santa Barbara, California, that had been burned to the ground. Why? Because seven hundred people stood around that bank building and wouldn't let the firemen near it.

I saw a laboratory in Madison, Wisconsin, blown apart and a professor killed.

I was sitting in my office in Chicago, talking to a mortgage banker. One of the men in our office stuck his head in the door and he said, "We have to get out of this building in five minutes, there is a bomb threat."

Unusual? Fourteen other buildings in the city of Chicago the same day in the same hour had that same bomb threat. Eleven hundred people poured out of that building and stood down in the street. I say to you that your entire country is in serious trouble, I think it is in immediate danger and I don't want to minimize it one iota. I don't know at what stage in our life admission to college became a license to riot and to burn and to destroy, but it has.

We are being told that looting and burning is a matter of self expression and we ought to try to understand it. We are being told that we ought to understand such organizations as the SDS and the Minutemen. Well, I say to that we are losing our minds and I think that we have lost our common sense. This isn't something that you can wait to blow over, it's not going to blow over.

I personally think that we can see the heritage that we have achieved over a hundred and fifty years destroyed right smack in front of our eyes. I, for one, think it is being destroyed right now and I'll tell you that the way of life as you know it can disappear if you don't do something about it.

Who is to blame? I'm to blame and you are to blame. I go to the Episcopal Church. We had a meeting down here in South Bend, nobody liked it and I didn't like it. I started to complain. Our rector said, "Remember that meeting when we selected the delegates to that meeting?" What he was trying to tell me was that at the time of that selection meeting I was trout fishing up in Baldwin, Michigan.

Now, gentlemen, we have got to stop going fishing and I say to you

that if we don't do this we are going to lose the major segment and the major hope of this country which are the young people to the radical element. They are trained and they are dedicated to the downfall of this country and we are going to lose these younger people to them if we don't do something about it.

You are successful businessmen. I say to you that you have now got to work with the same dedication and with the same energy and the same concentration—you've got to devote that not

to your business entirely, you've got to devote it to your children, you've got to devote it to your church; you've got to devote it to your community; you've got to devote it to your schools and to your universities.

You no longer can be silent and you can't continue to be indifferent. We have all been indifferent and if there is one thing that I am able to do this morning, I hope I can motivate you to do something about. I plead with you to become an active American citizen.

The Economy and Housing—Tomorrow and the Next Day

Leon H. Keyserling

Former Chairman, Council of Economic Advisers; Consulting Economist and Attorney; President, Conference on Economic Progress, Washington, D.C.

My friends, I have noted on the program here today that you are being regaled with three speakers.

The speaker from Fannie Mae might be called the official speaker. The speaker from the Mortgage Bankers might be called the semi-official speaker, and I am the unofficial speaker. Therefore, it may be possible that some of you may disagree a little more with some of the things I say than with most of the things the others have said. But I know from previous experience and from my friendship with many of you that the very fact that the official speaker, the semi-official speaker, and the unofficial speaker are all here means that you will listen to what we have to say with friendly and open minds.

I do want to say a word about my qualifications. The National Housing Act is not a revealing title, but actually the National Housing Act was the act which established the FHA. I was not only interested in it, but was a major participant in its drafting, as well as the Home-Owner's Loan Corporation Act and parts of the housing legislation, as well as the act which created a single and unified national housing effort as against sixteen conflicting and duplicating agencies. This ultimately became HUD.

So I have had, and still maintain, a rather vital interest in your problems. It may also be anticipated that, having some political affiliation, some of what I may say may be interpreted as political. But I want to say this—that while I was in the government, it was said that I was political because I supported the policies of the president for whom I worked. I believe that every economic adviser to a president has to do this, and has done this, and if he doesn't agree with these policies, he ought to resign.

But I think those of you who read the newspapers know that, since getting out of the government, and that is now seventeen years, I have supported the policies of no administration with whom I have disagreed, whatever their politics might be. Any of the criticism that I

make of national policies apply not only to the Nixon administration, but also the Kennedy, Johnson, and Eisenhower administrations, and go back at least to 1953. In some respects, they go further back than that, so there is nothing really political in what I say.

Despite the fact that I say I am interested in housing, I am going to talk mostly about the general economy, and about the relationship of housing to the general economy. There are several reasons for this.

The first reason is that, as to the really technical aspects of what should be done about certain housing regulations, and what should be done about certain housing legislation, there are others here today who are far more competent than I. But there is a far more important reason. I believe, and I think you all know from your own experience, that what happens to the general economy and what is done with respect to the types of legislation and national policies which affect the general economy have far more effect on housing than minor or even substantial changes in technical housing regulations and legislation.

As an illustration of this, the one subject which I am going to discuss at considerable length is what I call the prevalent monetary policy of tight money and rising interest rates, which is bearing down so heavily upon the economy and also upon housing. I believe that, if we could assume a very different monetary policy in the future, it would mean a great deal more to the housing industry and all allied industries than any possible changes in technical details, important though these are.

Now, the previous speaker had something to say about interest rates, and since I said I am going to talk primarily about that, let me say this—I do agree with him that it might be bad policy for the interest rates on FHA or the interest rates on housing to decline so long as other interest rates remain very high. This would place housing at a competitive disadvantage. But I respectfully suggest that this doesn't really

touch the interest rate problem—it evades it.

I pointed this out as early as 1953 when the new monetary policy started. I said, "Sure we can equalize interest rates and equalize their competitive advantages by having one chase the other upward until they reach the moon." But the reason why the tight money policy has been so dangerous and damaging is not because interest rates differ, but because they are all too high. The question now is whether we should start to remedy the situation by progressively bringing them lower, on a competitive basis, or progressively letting them get higher on a competitive basis.

In this connection, I want to say just one word about the forecast made by the previous speaker, which was in part very rosy until he came to the portion where he said that if the federal deficit increases greatly, there will be a great future interest increase, and if there is a great future interest increase all of the rosy prospects for housing will be converted into dismal prospects. Since whether you or I like it or not, we know that under current policies there is going to be a large and increasing federal deficit this year—just where do we come out on the rosy prospects?

I have this to say about the federal deficits—I don't like them. My record on them happens to be good, as I have already stated. But there is only one way to reduce the federal deficit. There are two basic reasons for the federal deficit. We can talk about spending, and some types of spending are excessive. But the first big reason for the federal deficit is the long economic stagnation.

If the economy during the past five years had come any where near full utilization of our magnificent productive resources, we wouldn't now have a federal deficit even at current levels of taxation and spending, without attempting any evaluation of the levels of spending at this moment.

Second, the biggest single item in the federal deficit, and therefore of any inflation caused by the federal deficit, is the policy of tight money and rising

interest rates. Why? The federal budget is now saddled with an obligation of more than nine billion dollars annually in the service of the national debt above what it would have if cost to service a debt of the same size interest rates had stayed where they were before they started to rise in 1953.

So, the federal deficit for the fiscal year is going to be nine billion dollars higher than if the interest rates hadn't risen. In addition, the fact that the rising interest rates and the tight money have been one of the basic causes of the economic stagnation and recession has also added to the federal deficit. Thus, we see the two reasons why the policy of tight money and rising interest rates, designed to fight inflation, has actually been inflationary, if one agrees that a big federal deficit is inflationary.

Let me get on to the current economic situation. We all know now (although we didn't realize it right away because of all the talk of an inflationary economy), that during the last four years the actual real economy, which is the pulsating source of strength and wealth and enjoyment through the production of goods and services of every business and every consumer, began to decline seriously in its rate of real economic growth from 1966 on. I'll trace that a little more in just a moment.

We didn't wake up to it until we got into an absolute economic recession. So, as a people and a nation, we were about as alert as if a great and throbbing private business, which had been registering a highly and rewarding and even growing rate of growth in sales and business, and didn't wake up to the meaning of a sharply declining growth rate until it was approximating zero, or even until it was minus rather than plus. What is so magical about the point where GNP, instead of being plus one quarter is minus one quarter, and everybody says we have a recession? When it starts going down, as it has during the last four years, from five to four to three to two to one and then to zero, we don't seem to care until it gets to zero. Let's talk about where we are now.

I saw in the *New York Times* today—and this is why I don't do too much to prepare a speech because I like to adjust it to what is just happening—I saw a very encouraging headline, "The Economy is Growing Six Per Cent a Year". But when we read the fine print, the tale is very different.

The fine print says the economy is growing at an annual rate of only 1.4 per cent in real terms, and this 1.4 per cent, measuring where we are and where we are going is virtual economic stagnation. At that rate, unemployed manpower and plant will continue to rise greatly, because the economy needs to grow 6 to 7 per cent a year in real terms. It has to do this until it catches up and overcomes the idleness, and after that stagnation it needs to grow about 5 per cent.

Another thing: The fine print does not say, unless you figure it out, that the 1.4 per cent rate of real growth and

the 6 per cent rate of growth means that we still have a 4.6 per cent annual rate of price inflation, if my mathematics is correct, and I think it is. What kind of triumph is it, after four years of slowing down the economy, and causing housing to suffer the greatest decline that any great industry has suffered since the Great Depression, and causing unemployment to rise so much, that on top of the accelerating price inflation of the last few years it is now moving forward at 4.6 per cent in consequence of the policies avowedly designed to curb it?

This is in consequence of the weapons which you and I have been urged to believe would register a great triumph in the restraining of inflation.

Let us see for a moment what this has done to housing, but first let me say something about the industrial production index. We see in the same *New York Times* front-page story today that whereas the growth in the economy has been 1.4 per cent in real terms, industrial production has gone down 1.7 per cent. Of course, both the performance of the real economy and the decline in industrial production is attributed to the automobile strike. I deplore the strike, but I am getting rather anxious for the time to come when the government statisticians will explain why things are going right instead of explaining why things are going wrong.

As a matter of fact, the automobile strike explains only a small part, and a much smaller part than the government statisticians claim of the minus 1.7 per cent decline in industrial production and the 1.4 per cent rise in real national product. When the strike is over, and I hope it will be tomorrow, this in itself is not going to give the economy the fill-up that some people think. I even wonder today whether maybe some of the people who are not buying cars because of the strike may be using the money to buy something else instead of saving it.

Now, coming to what this stagnation and this recession have done to housing and what is in prospect. It can be stated in a very simple way. Since World War II, housing has been both a favorite child and an outcast of national economic performance and policy. It has been the favorite child in soaring declarations, immense volumes of legislation and recognition of need, commencing with the Housing Act of 1949 to provide within ten years a decent home and a suitable living environment for every American family.

But it has been the outcast because purposes have not been matched by action, and the results have now reached crisis proportions. Comparing 1950 with 1968, and I say this because it is no new thing, comparing 1950 with 1968 during which period the real product and business of the American economy in general as we all know has advanced enormously, total nonfarm housing starts were down for more than 1.9 million to less than 1.5 million, a drop of more than 22 per cent.

From January to December 1969, the decline was 34 per cent. As I have said, this was the largest decline in any major industry since the Great Depression. There has been some improvement since, but seasonally adjusted August, 1970, rate of starts was about the same as in mid-1969. I don't really find any conflict between this and some of the statistics cited by the previous speaker, because while he points out that the growth in certain savings and certain types of institutions has been at an amazingly fast rate in the last few months, these additions have been smaller in the major cases cited than the decline in the similar period a year ago.

Sure we have turned the corner of the recession, but in this respect we have not quite caught up to where we were a year ago, after all these years of seriously inadequate performance.

There is absolutely no prospect—and here I come to my forecast—there is absolutely no prospect under current performance and policies, unless these are drastically changed, of attaining the annual average of more than two million units of nonfarm housing starts during the next decade which is universally recognized to be a top national priority by all tests.

The vacancy ratio in some of the larger cities, including New York, is now less than one per cent, exerting tremendous inflationary consequences upon the cost of housing occupancy. Substandard housing, with all its economic and social evils, is about as serious a problem as it was a quarter of a century ago and this menace can be overcome only by action on housing on all income fronts and not just on one.

Further, viewing the inexorable technological displacement of workers and business opportunities in mass production industries and agriculture—which has been going on for a long time—an adequate volume of housing investment and complimentary community development can solve almost half of the total problem of excessive unemployment which is bound to arise in future years if prevalent national policies including especially tight money and rising interest rates, are not drastically revised.

I was moved by the pleas to do something for our cities. I think that this is too big a problem for me to discuss here as it involves a wide range of factors. But I happen to believe, after forty years of some experience with private and public policies, that the greatest single step towards doing something about our cities and even our young people, though by no means a solvent one, would be to move toward a healthy, fully-employed economy and the remedying of housing conditions which are certainly a factor in the troubles that we now have.

As to the size of the job which still needs to be done, I have derived this from what I call a kind of rounded picture of the whole economy, which any big business uses when it projects its future. I often wonder why we are al-

ways told that government should be like business, but we do not apply these business principles and practices to the government operation. Therefore, we have a medley of confused and short-term and irrational and one step forward and two steps backwards public policies.

Compared with the need for total increase in civilian employment of more than 20 per cent over the next decade, the employment increase in contract construction needs to be close to 40 per cent. What do I mean? I don't mean simply from the viewpoint of the national interest in contract construction. I mean that, if we don't get the 40 per cent increase in contract construction, we cannot get the 20 per cent increase in the whole economy because of the vital role of contract construction in the whole economy at a time when there is going to be less employment in manufacturing and agriculture no matter what we do.

Investment in residential structures which declines from 34.7 per cent of total fixed investment in 1961 to 24.6 per cent in 1968, needs to be lifted to 34 per cent by 1980, or even ten years from now. Most of this increase is needed long before then. This compares with an average annual real rate of growth of investment in nonfarm residential construction of only about .5 per cent during the last decade. Let me linger on that for only a moment.

While the real economy, the total economy now at an average annual rate of 4 per cent from 1960 to mid-1970, investment in nonfarm residential construction, measured in real terms, declined at an average annual rate of .9 per cent. Yet, everybody, private and public, says that housing is one of the most important things that we need to expand.

The rate of growth in investment in nonfarm residential construction, in order to help maintain a healthy growing economy, a well balanced economy, needs to be lifted more than 11 per cent annually during the decade ahead. This is a vital factor in order to achieve balanced economic growth, full employment, meaningful urban renewal, and elimination of social and civil tensions. In short, this type of investment needs to grow in real terms at an annual rate more than twice as fast as the total U.S. economy needs to grow during the decade ahead.

Other economists might come in with figures varying somewhat from mine, but that would not make any difference in the nature of the problem. Quibbling about these little differences in detail is not of much use. We should all be in substantial agreement as to the nature of the challenge to every private participant and every public factor. By public factor, I don't mean public housing, I mean national policy, whether it is Fannie Mae, or FHA, or Congressional legislation.

In order to meet this challenge, practical people must ask: What has gone wrong? Why have we talked so much and set such fine goals, and then fallen so far short of them? There are, of

course, multiple reasons for the long housing stagnation and the current housing crisis. Promises and findings of need, unaccompanied by programs and performance, become a chronic national disease. There has been, and still is, the failure of the federal government to make investments in housing and community development on the needed scale, which would have the largest multiplier effect of a beneficial nature upon private investment business opportunity and employment.

The two most glaring examples of wrongful policy have been aspects of the tax and monetary policies during recent years. Let us take the tax policy first. I do not have time here to review tax policy in detail.

In 1964, when we undertook the most massive tax cuts ever taken, too much tax relief by far was awarded to the business entities and individuals who were indulging in excesses relative to other sectors of the economy. In other words, and we have heard here about plant and equipment, tremendous tax benefits were granted for plant and equipment investment. The result was that this investment continued to grow two or three times as fast as the rest of the economy. The economy got out of balance, then we had sharp cutbacks and thus the stagnation and recession.

One of the reasons I am not more optimistic about that situation today is that, because of national economic policies and other reasons, this investment in plant and equipment, even now, is growing 6 or 7 per cent a year while the whole economy at best is growing only 1.4 per cent a year. These imbalances are dangerous.

The tax legislation in 1969 went even beyond this, and in the name of reform imposed punitive treatment upon housing and related real estate investment, even when the evidence had become overwhelming that this was the weakest major segment of the economy.

On the expenditure side during 1964-69, only 2.9 per cent of federal subsidy expenditures were in aid of housing and related community development while 57.7 per cent went to agriculture, and 19.4 per cent to air transport and maritime. In 1966, 45.7 per cent of the value of all depreciation of allowances granted by the federal government went to manufacturing and only 5.8 per cent went to real estate and related community improvements.

Even more pernicious in its effects has been the policy of tight money and rising interest rates designed to curb inflation. This policy has been in effect, to my knowledge, since 1953, and thus far in 1970 has been modified only to a trivial extent in ratio to the need for modification. This has been the cause of causes of the troubles in housing and related activities, the troubles and shortages of railroad services, the power shortages in the utility industry, and the rising idleness of plant and manpower throughout the economy.

Until there is a revolution in our national thought and action with respect to the prevalent monetary policy, I do

not see how we can find our way out of the woods.

What have been the evil consequences of this policy designed to stop inflation? First of all, I have already reviewed the shrinkage in the real growth rate of the economy and the rise in unemployment from 1966 forward—which has cost us more than a hundred billion dollars in national product and has cost us about five million manyears of unnecessary unemployment.

Today, plans are operating at 77 per cent of capacity and if we take 92 per cent as optimum, this is 15 per cent short. Why is unemployment only 5.5 per cent when the plant capacity is 15 per cent short of reasonably full use? Because we have a lot of hidden unemployment that is not included in the official statistics, and every businessman knows it. When you have plants operating at 77 per cent capacity, they don't fire a proportionate number of people, and it's very good that they don't. They under utilize them in the plant not only through shorter hours, but in other ways, so that the productivity growth rate which we hear so much about, which was running at 3.7 per cent growth a year, when the economy was doing well, has fallen to about one per cent a year.

This raises labor costs, and this leads to other price increases and this is a form of concealed unemployment. When we have plants operating 15 per cent short of reasonably full utilization, the true level of unemployment, counting what is concealed, reflected in the low productivity growth rate which we all bemoan so much and appoint study commissions to cure the true level of unemployment, compatible with the 15 per cent shortage in plant use, is at least 10 per cent today and getting higher.

If the prevalent money policy and other national economic policies based upon a similar philosophy are maintained, my forecast is—let me just say one word about forecasts, which I hope you won't take as prideful. I was interested in the frightening statement by the last speaker of what was going to happen during the next year and then he said that this is not really going to happen during the next year, this is what happened last year. But nobody would have believed it a year and a half ago. Well, I wish they had believed it, because last year and the year before in Dallas before the large convention of real estate people, I told them what was going to happen last year, and I told them the year before. I have done it on many occasions and basically it has been correct. I try to be rather realistic.

If the prevalent money policy continues, and other similar policies that I have indicated, we are not going to average better in the American economy in the next ten years than a growth rate two per cent less per annum than what we ought to be doing.

This doesn't sound like very much. But ten years from now, this being a trillion dollar economy now, we would in that year alone be two hundred billion dollars short of our productive po-

tential. The average short fall for the ten years would be a hundred billion dollars lost. Considering that our total national defense program is only a hundred billion dollars a year or less, and that the rate of public outlays at all levels would need to be lifted to an annual average of about 50 billion above the current annual rate during the decade ahead with these problems of schools and transport and all other public needs, we certainly cannot afford to squander a hundred billion dollars a year in lost production during the decade ahead, which would also mean an annual average of about two million excessive unemployment of manpower.

Now, I come to the kicker. I think the housing industry and all those aligned with it have been very patient. They have been told, "We know that the money policy hurts you, but after all, it helps to cure inflation. You are among the victims of inflation, and if inflation is cured we will all be better off." But the trouble is that, all the way back to 1953, the evidence has been the evidence in the great laboratory of the American economy rather than the theories of the economists as to how things work—the evidence has been that every period of long stagnation and recession has brought more price inflation than when the economy was doing well.

Never has this been more clearly demonstrated than during the past two and a half years. Today, the officials tell us, this is just a time lag. But there can't be a time lag for seventeen years or four years or two and a half years. How can you have a time lag when, with the economy having been brought to stagnation and recession and still in stagnation, the price inflation as I have just shown is 4.6 per cent a year, or three times what it was during the five years when the annual economic growth was 5 per cent and unemployment was brought down to 3.5 per cent? This isn't a time lag.

The terrible situation we are in is that we have not really made a trade-off in the form of stunting the economy and almost killing housing, and in exchange gotten greater price stability, but that we have got the worst of all things at the same time. This is so vital and this is so contrary to the current gospel that I have to deal briefly with an explanation of why the prevalent policies cause inflation.

The first reason is that we have a lot of administered prices in the economy, not housing prices, but many types of prices. They don't answer to the law of supply and demand. The automobile industry didn't raise its prices greatly a year and a half ago or raise them more than any previous time on record a few weeks ago, because their plans are being pressed or because they had a hard time meeting demands or because they were overheated. They raised their prices, and I am not saying this critically, because they wanted to try to increase per unit profit margins to overcome the deficient level of sales.

Whether they are successful or not is another matter—they do follow this pattern. I have seen by observation that this has been done in many industries; they raised their prices very much less when the economy was growing fully and we were nearer to full employment.

The second reason why the anti-inflationary policy has failed is this: when the economy is stunted and unemployment rises the productivity growth rate in the factories declines enormously. The decline has been from 3.7 per cent a year to less than one per cent a year. The rate is about 1.5 per cent a year now. The decline in productivity growth means a tremendous increase in labor costs, which result in increased prices and is inflationary even if it doesn't result in increased prices because increases in costs for the same unit of work is inflationary by definition.

The third reason why tight money and rising interest rates is inflationary is that interest rates are at cost. I have never been able to understand the people who admit that a rising price of steel is inflationary because it increases the cost of cars and roads and houses, and that the rising price of food is inflationary because it increases the cost of the market basket, but who say that the rising price of money is not inflationary although this is a cost that enters into infinitely more products than steel, while food is an end-product in itself.

All the utilities throughout the country, which finance more out of borrowed money than any other industry except housing, are greatly raising their fuel charges, both to the industrial consumer and to the household. They need to do this because, whereas they were borrowing money at 4 to 6 per cent a few years ago, they are borrowing it now at 8 to 10 per cent. The same thing, of course, applies to housing.

The railroad industry—I fought the Penn Central merger, and there were lots of reasons for the trouble there, including bad management. But we now read in the papers that the one biggest trouble affecting the railroads is the tremendous increase in the cost of money. This not only has led to shortages of cars which affect the fuel shortage and everything else, but will necessarily lead either to a large increase in railroad rates, which is inflationary, or more government spending to help the railroads, which is inflationary in the eyes of many.

All of this, plus the nine billion dollars of the federal deficit attributable to the rising interest rates has been done in the name of fighting inflation.

The tight money policy has also been responsible for the soaring costs of medical care and for the soaring costs of housing for another reason. In both areas, great shortages have been increased, in part by the higher cost of money, and in part, regardless of the extent of what the size of the program should be, through failure to make adequate public investment in medical care and hospital facilities and the distribution of doctors and the training of

nurses and also in some types of housing.

Now, coming to program. No amount of shadow boxing, or weak-kneed measures, or rosy forecasts about the future that are not in accord with reality, can correct the travesty of getting more inflation by stunting economic performance.

The prime interest rate has been reduced from 8 per cent to 7.5 per cent, and that is good. Meanwhile, I think I am correct that the net interest rate on housing has gone up or at least hasn't come down. We are told that it may come down some next year if all goes well, provided the federal government doesn't run a huge deficit, which we all know it is going to run. If it runs that deficit, the interest rate may go up again.

The first answer to this problem is to get rid of the deficit by moving the economy toward a full rate of growth. The second, and equally important answer, is that a rising deficit, even if it is bad for the economy, does not need to be compounded with terrible rising interest rates which are also bad for the economy. There are ways, which I will not go into in detail, to prevent the federal deficit from causing the interest rates to go up.

In World War II, we were charged with the necessity of running infinitely the biggest deficit in history, and still the interest rates didn't go up because national policy and money policy didn't let them go up. There is no fair minded person today who will not admit that the financing of World War II was, on the whole, the best conducted public financing operation in history. And incidentally, this period yielded a great deal less net price inflation than we have had during the very recent years for far less necessary purposes than fighting the fascists.

Congress should require by legislation that the Federal Reserve assure an annual rate of expansion of the money supply, roughly in accord with the goal for economic growth, set forth annually in the President's Economic Report. The rate now should be about 6.7 per cent annual average for two years. This would help to keep interest rates down.

Second, subject to various limitations set forth below, Congress by legislation should concentrate authority to regulate the money supply in the Federal Reserve Board appointed by the President and conferred by the Senate, instead of having this function shared with five additional members of an open market committee drawn from private banks.

Why do I say this? Some say this would make money management too political. I want tax policy to be non-political. I want wage and price controls during wartime to be non-political. But I wouldn't want the tax policy of the nation to be made partly by politically appointed members answerable to the people through the Congress and partly by private bankers or labor leaders. It is un-American that the great monetary policy of a great nation, affecting millions of people, leaves them no recourse because there is no one of whom they can seek recourse.

Any talk about the Congress having any kind of effective control now over the discount rate or the monetary policy of the Federal Reserve System is absolute nonsense, as anybody who knows anything about Washington knows.

Finally, I think that the Federal Reserve Boards should move toward, and be required by legislation to move more toward, selective controls. If monetary restraint is necessary, it should not be a monetary policy which feeds the fat and starves the lean. The current monetary policy has almost no effect on investment in plant and equipment, because these enterprises don't borrow much money. They also pass rising internal costs onto the consumer through the price structure. In vivid contrast, the affects upon the housing industry and the building of schools and upon the federal budget and upon the average American family which result from this policy of tight money and rising interest rates are devastating. The affects are perverse and upside down from every viewpoint of sound economics and from

every viewpoint of human policy. I believe that the ultimate objective of economic policy under a free democracy is human betterment.

Finally, a word on pressures. As I said at the beginning, this great industry in which you are engaged, and the housing industry, and many others, have largely taken it lying down. They have been told: "What isn't good for you is good for the country." This is a new variant on some older slogans, but it is sad. Or, they are told: "What is bad for the country in the short run will be good for you in the long run." There ain't no such thing; and therefore I believe if you are interested in your own future, if you want it to be not only better than it was last year but what it ought to be in a decent American economy, and what it ought to be comparable to what others are enjoying as to rates of return, as to expanding opportunity, as to incentives—if you believe this, then you have to make up your minds, in conjunction with other groups, such as the utilities and the

railroads and the consumer, to press forward on an organized front, whether you call it politics or whether you call it something else. We hear a lot about "business in politics", and I don't care what you call it.

The reasons why the oil industry and the plant and equipment people got by so well in the so-called tax reform bill are plain. The oil industry got slapped a little bit on the wrist, but it was left with most of its excessive benefits. The plant and equipment industry really got more, rather than less, when one analyzes the tax law properly. And the one industry singled out for extreme punitive treatment was housing and those related to it. Why? Because you did not show strength and unity. Those other industries got their due and more than their due, because they are strong. Because they are united. Because they know what they want and because they haven't let anybody make suckers out of them.

I hope you will learn by the lesson.

The Bar Situation

George B. Garber

*Chairman, Conferees, National Conference of the ALTA and the ABA
President, Pioneer National Title Insurance Company,
Los Angeles, California*

Before I make my report, I'd like to say that we lost one of our good members of the American Bar-ALTA Conference Committee in Gordon Burlingame. He made a valuable contribution to the Conference and he will be sorely missed. Your President has named Bill McAuliffe to fill that vacancy and we now have also Tom Jackson, our general counsel, sitting in on our meetings.

The Declaration of Principles that was adopted by us and also adopted by the American Bar has been in existence since last fall. Since that time, the Conference has had two meetings. The first one was in June and the Conference was called primarily at the request of the American Bar Conferees in order to supposedly implement the Declaration of Principles.

At this meeting, we did take certain steps in the way of preparing a letter of inquiry which the American Land Title Association has sent out to the state affiliated associations and the American Bar is preparing to send this letter of inquiry out to their state and local associations. It is agreed that the responses to these letters will be reviewed by the Conference Committee and no publicity will be given out until we have had a chance to take a hard look at these responses.

In that meeting in June, the ALTA Conferees injected into the agenda a matter and the best way to state it is to read a part of the statement that I was authorized to read to the Conference. This is a portion of the statement:

"In the later section of the Declara-

tion of Principles, namely Section 3, sub-sections B & C, it is provided that the National Conference shall maintain a constant exchange of information concerning any practices on the part of their members which may be detrimental to the public or to the members of either Association and consider any controversies referred to it between title companies, abstractors, lawyers and to seek to settle and dispose of same."

Continuing my statement, "As I reflect on the progress of the Conference, I find it most regrettable that I must today point to activity of another group within the ABA that threatens to undermine all that the ABA and ALTA have accomplished together. This group is the ABA Special Committee on Lawyers Title Guarantee Funds. ALTA has a grievance against the ABA Special Committee because of the approach the Special Committee has manifested in its desire to push the ABA into the commercial land title business. If the individual members of the committee as many other members of the Bar had chosen to become a force in the land title business outside the ABA and through free and open competition, ALTA would have no cause to complain.

"Unfortunately, this has not been the case. Instead, the Special Committee has shown a strong and unrelenting desire to use the ABA and the practice of law for securing commercial land title business. The Special Committee in the past has attempted to secure ABA sanction of the national bar-related title organization to foster its objectives.

In 1967, in Honolulu, the ABA

House of Delegates by a three vote margin adopted the following resolution:

"Resolved that the American Bar Association approve in principle the formation of a National Bar Related Title Assurance Corporation and be it further resolved that the House of Delegates hereby requests the Committee on Lawyers Title Guarantee Fund working in collaboration with a sub-committee of the Board of Governors to draft a definite plan for presentation to the Board at its October meeting."

No definite report was made at the October, 1967, meeting, but at the meeting of the House of Delegates in 1968 in Philadelphia, the proposal of the Continental Insurance Company was submitted. There was vigorous opposition to the proposal and after considerable debate, it was tabled until the next meeting of the House of Delegates.

At the following meeting of the House of Delegates in 1969 in Dallas, the Special Committee obtained permission to withdraw its opposition. More recently indications are that the Special Committee or its members may be engaging in subtle tactics that promote and imply ABA endorsement of the recently formed National Attorney's Title Assurance Fund, Inc., and that ALTA is deeply concerned over this situation.

That was the end of my statement in the June meeting. It elicited a great amount of discussion particularly on the part of the Bar Conferees, who in effect attempted to deny any subtle tactics of sponsorship by the ABA.

We had a meeting again the last

Monday, October 12th. But, prior to that meeting the president of the American Bar submitted his report in the *American Bar Journal* and I read from a portion of that report.

"Through the efforts of the Special Committee on Lawyers Title Guarantee Funds, the Indiana Bar Title Insurance Company was reorganized in November to provide the corporate vehicle for a National Lawyers Title Guarantee Fund." You note the words "through the efforts of the special Committee."

Continuing his report: "The Committee reported it will assist local Bar Associations either in using the National Fund or in establishing Bar related companies which can use the National Fund as an underwriter in their states."

At the meeting last Monday, after a preliminary meeting of our own Conferees in which we discussed some matters of proposal to the Conference meeting, we prepared a resolution which I presented to the Conference, and I'll read this resolution.

A proposed resolution of the National Conference of ABA and ALTA:

"Whereas the National Conference was created at a time when there was pending before the House of Delegates of the American Bar Association a proposal for the sponsorship by the ABA of a corporation organized for the purpose of engaging in the business title to real estate in competition with commercial title insurance companies.

"Whereas the American Land Title Association has interposed vigorous objections to the proposal, primarily on the grounds that sponsorship of such insurance company by the organized Bar would constitute an unwise action on the part of the lawyers generally—it might constitute unfair competition as defined by law.

"And, whereas the proposal then pending even after modification was not adopted or approved by the House of Delegates of the ABA at least until this Conference had an opportunity to formulate a statement of principles satisfactory to both the ABA and the ALTA.

"And, whereas, thereafter a statement of principles was prepared and adopted by this joint Conference and thereafter ratified and approved by the Board of Governors of each Association.

"And, whereas not withstanding the foregoing, the Special Committee on Lawyers Title Guarantee Funds of ABA through its efforts has caused to

be created a private commercial company called the National Attorney's Title Assurance Fund, Inc., for the purpose of entering nationally into the field of issuing title insurance, limiting its sales and appeals to lawyers.

"And, whereas through such special Committee on Lawyers Title Guarantee Fund, the activities of said National Attorney's Title Assurance Fund, Inc. are being so publicized as to suggest formal sponsorship by the ABA. Now therefore, be it resolved that ABA be requested and is hereby requesting to disclaim sponsorship of National Attorney's Title Assurance Fund, Inc., or any other title insurance company organized for the purpose of engaging in the issuance of title insurance.

"Be it further resolved that said ABA instruct said Special Committee on Lawyers Title Guarantee Funds and all other of its committees and officers to discontinue the issuance of any publicity claiming or suggesting such sponsorship."

That resolution was proposed to the Conference. My resolution was seconded and it was presented on the floor of the Conference for discussion. There was no comment immediately by the Bar Conferees, they asked for a caucus. So they caucused for about an hour and then we were called back in. Their response to our resolution was as follows:

It seems that there now is a new Committee called Committee on Conferences of the American Bar. They have something like twenty- to twenty-one committees and apparently they need an overall committee to co-ordinate or something. So, they were going to refer this to the Committee on Conferences. We asked them, why they were referring it, is it because of a policy matter? Is it something that they should decide? If it is a decision of the Committee on Conferences, why do we have our Conferences? Or, is it a matter of question of procedure?

They couldn't answer us because they didn't know what the Committee on Conferences was supposed to do. As a matter of fact, now this resolution is on the table for consideration by the Conference. No action was taken, we did not want to get into a parliamentary procedure matter with them, so we left it in that position. The Special Committee on Conferences is supposed to meet the latter part of October and they are going to submit this matter to them.

Anticipating such a response of delay or passing the buck tactics, we were prepared to make a further statement and this statement was authorized for me to state to the Bar Conference on behalf of the ALTA Conferees. The substance of my statement is this:

Gentlemen, this issue is critical to the continued existence of this Conference. There is serious doubt by our Conferees and many members of our Association as to the value of the National Conference if the Special Committee on Lawyers Title Guarantee Funds continues its activities by creating an atmosphere of sponsorship by ABA of such Guarantee Funds or in any way implying such sponsorship.

Further, there is a strong feeling on our part that such matters of conflict that do exist between the Bar and the title industry can best be resolved on a local basis working through local title associations and local bar associations.

Furthermore, and my statement continues, we strongly feel that the ABA is being placed in an extremely dangerous position by the activities of its Special Committee on Lawyers Title Guarantee Funds because of possible anti-trust questions that may be involved. In other words, the Conference's existence is in jeopardy and a satisfactory resolution of this vital issue as stated in this resolution will determine whether the Conference goes forward or is dissolved.

That is where the issue stands now and I can assure you our conferees of the American Land Title Association are going to press for a resolution and a disposition of the resolution that is on the floor.

In concluding my report, I would like to compliment your conferees, they do their homework. We meet and have a preliminary meeting everytime before we have our Conference meeting. We prepare our statements. We have the information that the staff presents to us and the research that they do and you should be proud of every member of the Conference for the interest and the contribution and the efforts they make to make this Conference something that will develop something in our behalf.

I would also like to compliment Tom Jackson, our General Counsel, who has given us valuable assistance and guidance in our approach to this whole Conference idea.

Liberalizing the Uniform Commercial Code

Ralph Jossman

*Chairman, Committee to Study Article IX of the Uniform Commercial Code
Michigan State Counsel, Lawyers Title Insurance Corporation, Detroit, Michigan*

The Uniform Commercial Code is now the law of all the states except Louisiana, and of the District of Columbia and the Virgin Islands as well. The basic idea of the Code is uniformity—

that the same instrument or the same procedure should have the same effect in every state—in Portland, Maine and Portland, Oregon, Richmond, Indiana and Richmond, Virginia. But soon af-

ter they had adopted this supposedly uniform code legislators all over the country commenced making changes in Article 9 thereof, which deals with secured transactions. Numerous amend-

ments to this Article have been adopted—so many of them that Code uniformity was seriously affected. Four years ago, the Code's sponsors, the American Law Institute and the National Conference of Commissioners on Uniform State Laws, which had previously been unenthusiastic about making changes in the Code, set up a review committee to study Article 9. The job of the review committee was to effect a revision of the Secured Transactions Article, giving consideration both to the criticism which had been directed at some of its provisions, and the numerous amendments to it which had been enacted. It was hoped that the revised Article, through inclusion of some of the non-uniform amendments, might induce legislators to enact its provision and restore the lost uniformity.

When the UCC was being drafted, this Association took no part in the work. Hence, we were rather surprised by those portions of the Code which deal with security interests in fixtures. Both the notice and the priority provisions thereof created problems for the title industry. A pretty sweeping priority was afforded to fixture security interests over real estate interests, but the Code provisions made it difficult for the title searcher to find financing statements dealing with fixtures. Dissatisfaction with these notice provisions caused amendments to the Code to be adopted in many states. Undoubtedly, these amendments made things easier for the title examiner. Nevertheless, they did operate to erode the uniformity that the Code sought to attain, which was certainly a highly desirable goal.

Upon the establishment of the Review Committee, this Association decided that our views should be presented to that group, in an effort to bring about some improvement in the fixture provisions of the Code. George B. Garber, who was then our president, appointed a special Association Committee to carry out this task. My associates thereon are Robert Kratovil and Ray L. Potter, both of whom are well known to you.

Because of the lack of enthusiasm previously exhibited by the Code sponsors as far as amendments relating to fixtures were concerned, our committee had some apprehension that any suggestions it might make would receive scant consideration. We were happy to discover that our fears were groundless. Prof. Homer Kripke, of New York University, who is the associate reporter for the review project, is a man particularly well qualified to deal with the subject of security interests—not only in fixtures but in other collateral, too. He was once general counsel of one of America's largest finance companies. He has written some penetrating articles on the Code's fixture provisions, which demonstrated his awareness of the problems that had been created for the title industry and for the real estate investor. Prof. Kripke had offered some suggestions of his own for the improvement of the fix-

ture provisions, and was willing to consider any such proposals that this Association might wish to offer.

Accordingly, our committee decided to arrange some meetings with Prof. Kripke at which our proposals and arguments could be presented, and the fixture provisions, both existing and proposed, be discussed at length. Meanwhile, Ray Potter and I had been appointed, along with two New York attorneys, to a Special Committee on Article 9 in the Real Property, Probate and Trust Law Section of the American Bar Association. This dual membership has made it possible for both committees to meet with Prof. Kripke at the same time. Three such meetings have been held, all of them in New York City, where the professor teaches. We would not wish to blow too loud a blast on our own trumpet, but I do think that as a result of these meetings, the provisions of the Code relating to fixtures will be much more satisfactory to title men in the near future.

The improvement that is being brought about may be seen in Preliminary Draft No. 2 of proposed changes in Article 9, which was released earlier this year. This draft (and let me emphasize that it is still a draft) deals with Article 9 as a whole. Many of provisions related to matters with which we are not concerned. It is true that our committee is not entirely happy about some portions of the fixture provisions of this draft. This matter will be discussed later. Nevertheless, a review of these fixture provisions will show that much improvement would be effected by enactment of the changes proposed by Draft No. 2.

As has been said, one frequently expressed complaint about the Code was that its procedure for giving notice of security interests in fixtures was inadequate. More than twenty states have adopted amendments of one kind or another designed to afford better notice of such interests. Draft No. 2 incorporates some of these amendments into a much improved system of giving notice. It proposed to have fixture financing statements made a part of the land records. Such a financing statement would have to affirmatively set forth that it relates to fixture collateral and is to be filed in the real estate records. This may require a change in the form of financing statements now in common use. Those of you who have read Mr. Kratovil's articles dealing with these forms should be aware of their failure to make adequate provision for giving notice when fixture collateral is involved.

By requiring a specific statement that the instrument relates to fixtures, and is to be filed in the land records, some of the confusion created by a widespread custom of inserting indiscriminate references to "fixtures" in financing statements will be eliminated. This is often done even though the collateral is wholly of a chattel nature, and is not being attached to any real estate at all. About all that is accom-

plished by these "boiler plate" references to fixtures is to create a problem for the title examiner.

Since the fixture financing statement is to be part of the real estate records, it must necessarily contain a description of the real estate to which the goods are to be attached. Draft No. 2 would limit the present language of the Code, which specifically permits informality in real estate description, by authorizing an optional amendment providing that the description must be sufficient to constitute constructive notice if it were contained in a real estate mortgage.

Existing provisions for indexing of fixture financing statements would be improved under Draft No. 2. Such statements are to be indexed in the name of the debtor and of the secured party as well, in like manner as if he were a mortgagee. With respect to names, a filing against a partnership debtor is to be made in the name of the partnership, not those of the partners. When an individual is using a trade name, the filing is to be under his individual name only. If indexing is carried on by description, as in public tract indexes, the fixture financing statement is to be indexed therein.

A ground of objection to the Code provisions for indexing in the name of the debtor only was that, for one reason or another, his name might not appear in the record chain of title. This was responsible for a number of states adopting an amendment requiring the name of the record owner to be shown in a fixture financing statement. It is provided in Draft No. 2 that for a fixture filing to obtain priority over real estate interests, the debtor must have an interest of record in the real estate. This requirement will also operate to prevent the possibility of a security interest, created in favor of a supplier of fixture goods while they were still in a chattel state, carrying over against real estate interests when the goods are later attached to a structure.

Many of the criticisms directed at the fixture provisions of the Code were based upon the priorities afforded a security interest in fixtures.

These broad priorities reflected the general thinking of the Code's draftsmen that such financing is usually of a purchase money nature, and should therefore be entitled to preferential treatment over real estate interests. It has, however, been contended that so far as construction mortgages are concerned, the Code discriminates in favor of fixture suppliers by affording them a special remedy, instead of referring them to the mechanics' lien statute.

Draft No. 2 affords some priority to a construction mortgage, which it defines as one securing an obligation incurred for the construction of an improvement on land, with such fact being indicated in the recorded instrument. In order for a construction mortgage to obtain priority over fixture security interests, the mortgage must be recorded before the goods become fixtures. This last-mentioned event must

occur before the completion of construction. It is not intended that a construction mortgage should have priority over security interests in fixture goods that become part of the real estate some time after the building has been fully erected. The priority afforded a construction mortgage would carry over in favor of a take-out mortgage thereof.

Under Draft No. 2, once a real estate interest has priority over a security interest in fixtures, one who acquires it will enjoy the same priority that the transferor had. This is so, even though the security interest was evidenced of record before that of the assignee. The reason for this arrangement is to enable the holder of the real estate interest to transfer what he has, which would not be the case if the priority did not carry over.

A new provision contained in the draft would permit a recorded real estate mortgage to be effective as a fixture financing statement. To accomplish this, the goods must be, or become, fixtures related to the mortgaged land, and be described in the mortgage by item or type. The mortgage must comply with the requirements for a financing statement, including those about giving the addresses of the parties. In this connection, it should be mentioned that Draft No. 2 eliminates the present requirement that a financing statement be signed by the

secured party. No separate filing or payment of any additional fee would be required.

There are some particulars in which provisions of the draft may cause some concern to title men. A priority would be afforded to purchase money interests in fixture goods over existing real estate interests, if the debtor has a record interest in the real estate and the security interest is perfected within ten days after the goods become fixtures. This priority is akin to that applicable to purchase money security interests in other types of collateral. This new arrangement would really be an improvement on the present Code provisions, which give an unperfected purchase money security interest in fixtures priority over an existing real estate interest. Moreover, the retroactive priority is not operative as against subsequently acquired real estate interests. The risk to our industry from this proposal would be small.

Probably the most serious problem that would be created for us by Draft No. 2, arises from a proposal to afford priority over real estate interests to security interests in readily removable replacements of domestic appliances in a building of not over four family dwelling units, or in readily removable factory or office machines. Such priority would be afforded when the security interest has been perfected in any way permitted by the Code, including

the filing of a financing statement in the chattel records. As to the domestic appliances, the proposal would not seem to be a source of difficulty. Our Special Committee, is however, concerned about this proposal so far as the factory and office machines are concerned. It is not always easy to determine whether a machine is readily removable, and the problem can be aggravated if the decision must be made sight unseen. We have, of course, suggested that there should be some modification of the proposed arrangement. It remains to be seen what the Review Committee will do.

In view of the numerous amendments to Article 9 made by Draft No. 2, it is probable that further changes will be made therein before the Review Committee submits its final recommendations to the Code sponsors. These amendments will, however, relate to matters other than fixtures. But I do not believe that any changes will be made in the greatly improved notice provisions of the draft or any substantial change in those relating to priority. If these parts of the draft are accepted by the sponsors, we can look forward to having an improved Article 9, which may bring back some of the uniformity that the Code sought to attain, but which, so far as secured transactions were concerned, was in danger of being lost. We will also find the Code easier to work with.

Real Estate Sales in the '70's

H. Jackson Pontius

Executive Vice President, National Association of Real Estate Boards, Chicago, Illinois

Just a year ago, one of our 1,586 boards of Realtors decided to clear out all the old automobile hulks that were debasing the front lawns and the countryside in Lake City, Florida. It was part of our "Make America Better" program.

Everyone wanted these old junkers removed. They were unsightly and unwanted. Yet it wasn't enough to go to a home owner and tell him that we wanted to do him a favor by removing a piece of junk. There was the matter of *title*. Who owned this hulk, and did he want to get rid of it?

The answer is that all these people were willing to part with the piece of metal on the front lawn and the side yard. Nevertheless, the Realtors who developed this fine project discovered that any approach to the disposition of property must be done properly and legally.

This is another way of saying that the listing and selling of real estate is tied directly to the establishment of a title for that real estate. So what I am about to say today about the selling of real estate in the '70's can well be applied to your business. One thing is certain, the Realtors of America face change, perhaps radical change in the

'70's. By the same token, there is no lock-in situation for the title people. You, too, may find that the old days and the old ways are gone forever.

In any assessment of the coming decade, we must find where we stand *now*. Let us take a quick look at the present situation, and the recent past, to find a common ground for looking into the future.

1. Interest rates have gone to heights that haven't been experienced since the Civil War.

2. Housing starts this year were less than 1,400,000 which is more than a million less than the federally-projected 2,600,000 annual goal for the next 10 years.

3. Vacancy rates, both in rental housing and home owner housing, are lower than they have been in many years.

4. Mobile housing, at 400,000 units last year, is increasing.

5. Part of the low-income segment of our population is being priced out of a home.

6. Land, labor, and materials prices continue to rise.

The only certainty, as we all know, is change. Although we can applaud the

1968-69 federal proposal that we develop 26,500,000 housing units during the next 10 years, we know that there may be some holes in the prognostication. For one example, it was said that the testimony against the birth control pill in Congress would result in 100,000 "unwanted" babies in one year. Other variables may be equally potent. The 1970 census will no doubt provide us with a vast body of knowledge which can be used to improve the business of real estate and title companies.

We know that housing starts dropped to a 20-year low in 1966, and that since then, interest rates went up, money was hard to get, marginal building and sales firms went out of business, and a greater share of construction money went into multiple units. Forty-five per cent or more.

Now a new trend is with us. Money is easier to get, interest rates are declining, and new interest is being shown in housing construction. Its the old story—feast or famine.

Signs already are on the horizon to show that this cyclic situation may be passing. Housing is becoming more and more politically oriented. In each of the past three years, Congress has passed

housing laws that will have dramatic impact on the industry—and on your business.

Consider the rent supplement bill. Some of our elderly citizens now are residing in new apartments, complete with stove and refrigerator, carpets and drapes, for as little as \$39 a month. Some interest rates are as low as one per cent on government-backed housing.

Patterns of change in the ownership and financing of real estate which evolved in the second half of the 1960's, indeed have affected methods of marketing, and no doubt will, to a growing degree, in the decade ahead.

Looking into the future, always perilous, may be even more risky today because of the international influences that can affect real estate market activity. It is no longer local. We also must consider the potential financial environment in which real estate will be marketed. Furthermore, we know that there will be great technological advances in the field of real estate.

The vast majority of American families own the home they occupy. This consumer characteristic is expected to continue. Young families, those headed by a person between 29 and 35, bought more frequently than any other age group in 1969. This is a fairly recent change, largely brought about by the higher starting salaries today. In the past, we considered the demand for home purchases as concentrated in the age group between 35 and 45.

Another factor to be considered in the decade ahead is the greater percentage of ownership by older persons. Older persons not only have better pension rights, but have been able to accumulate and retain assets because of economic stability, and the safety of savings accounts.

Furthermore, in the years ahead, an increasing share of home ownership will represent not just a single family property, but a cooperative or a condominium in a multi-story structure. In the past few years, an increasing share of housing production has gone into apartment buildings, leading some economists to say that the 1970's will be the decade of the renter. This is only partly true even for the renter, because it likewise will be the decade of the second home. And we know, of course, that there is a powerful pent-up demand for single family home ownership.

Our nation has become urbanized. But a greater number of families, depressed by the foul air and overcrowding of cities, are buying second homes in the country. Last year about 150,000 of the total starts were vacation homes. The craving for property ownership persists, whether for a single family home, a cottage, or a cabin.

The major change in the years ahead likely will be in the areas of housing production and the mortgaging of existing units. Unexpected methods of production are almost guaranteed as the result of the experimental methods being pursued through Operation Breakthrough. Vastly different methods of financing and marketing are likely.

Buyers seeking homes from an existing inventory more frequently will find a computer program associated with the selection process. Last year, nearly two million families bought properties from the existing supply. Many of these families learned about available properties through Realtron, a push-button, telephone computer service sponsored less than two years ago by our Association. Listings can be obtained in seconds, properties can be compared for the purpose of pricing in just a little more time. It is easy to see how this system is valuable in commercial and industrial appraisals and in figuring costs, taxes, percentages, potential profits and the avoidance of unprofitable properties.

The Realtor reaches the memory bank of the computer by telephone. He may use a touch-tone telephone, or a dial telephone which has a Touch-Tone pad attached. Let's say he is calling to find listings of three-bedroom two-bath homes with a two-car garage, and within a certain price range and within the boundaries of a specified school district. The computer responds almost instantaneously, usually in less than three seconds.

Searching for listings, for comparables, for the information necessary to guide a prospective buyer of an office building can be time-consuming. The search may be easier, shorter, and more successful by use of the vast storage of information provided by a computer program.

Obviously, the great advantage of a computer program is that it gives the salesman more time to sell. The human element is still there. First, the property must be listed. Again, the salesman must meet with his prospect, discuss his needs, and go with him to the pinpointed properties that suit his requirements. In the meantime, a lot of his old trial-and-error, time-consuming chores will have been avoided.

This is highly important, since there is widespread belief that the marketing of homes in the '70's and thereafter will be more sales oriented than in the past. If we look at the history of housing closely, we find that the pattern of sales has been set by any number of variables. Money supply, interest rates, governmental action, building codes, and many other things—whimsical and otherwise—have set the tone for our up-and-down housing production and sales.

In connection with sales orientation of housing in the '70's, it is interesting to consider housing sales as a counterpart of automobile marketing. This is not a new idea, but it may develop rapidly as the result of the high prices of land, labor and materials. It is possible that we will have a return to the stripped-down single family homes, with perhaps two bedrooms and one bath. Room for expansion will be included, on a do-it-yourself basis. Such extras as fireplaces, air conditioning, and dishwashers could be eliminated from the housing package for the sake of economy.

The federal government, as well as

private enterprise, has been looking into the low-cost market, but with an entirely different approach. Even 10 years ago, today's incursions of the federal government into the housing market would have been inconceivable. Yet, nearly 500,000 of our annual housing starts now are subsidized one way or another by the federal tax dollar.

In yet another way, the federal government is making its influence felt in housing. Increasingly, families are being dispersed according to racial and economic status by government decree. The real estate practitioner, and the title company are well advised to watch this development as a marketing index.

The federal government continues to be involved in public housing, considered to be the last, desperate throw of the dice for families on welfare, or with limited income despite its dismal record of failure.

One of NAREB's "Make America Better" projects, developed by Realtors in Eau Claire, Wisconsin, disclosed one of the worms in the public housing apple. The Realtors built rent supplement housing for elderly people for about \$11,000 per unit. Nearly comparable public housing units cost nearly \$5,000 more!

The fate of public housing in the '70's, and the impact of such housing on private enterprise marketing, at least in part, may be decided in the United States Supreme Court. California, and several other states, have laws on the books stipulating that proposals for government ownership and operation of housing must be subject to a referendum. This has been challenged, and it will be up to our high court to decide the future of public housing.

Many other federal programs are in existence which might well alter private saving and investing decisions in the realm of housing. Tax credits, loan guarantees, subsidies, special borrowing and lending rules for private and government-sponsored institutions—these are a few.

It is evident that housing will become increasingly affected by political decisions. Basically, our economy should be able to finance housing needs, but the government's overall monetary policy will affect its availability. Indications are that the jagged up-and-down cycles of money availability and interest rates will become saucer-shaped as the Congress realizes the tremendous social importance of adequate housing.

The returns from providing adequate housing are known. Well-documented studies show that the health, productivity, absenteeism, and educational objectives of workers are affected significantly by proper housing. Once the society is sufficiently sheltered, a constantly substantial savings to income ratio is obtained, as shown by a study in Venezuela. This is considered a vital index to social health.

Changes in the ownership, and the method of financing income properties, now in process, will have a profound

effect on the marketing of office buildings, retail outlets and industrial facilities. Mortgages are beginning to contain some form of lock-in, or equity participation. Lenders, considering the variability of interest and the dollar value, are asking for a "piece of the action".

As one means of coming to grips with the gyrations of the money market, economists are looking with different degrees of intensity at the variable interest rate. On the surface, it makes sense to some. Why should Buyer A, who purchased his home before inflation zoomed in 1965, pay only 6 per cent interest, while Buyer B, five years later, pays 9 per cent? A lot of knotty problems will have to be solved before this becomes reality. Some of these include: clarity of contract, selection of an appropriate index, methods of adjustment (increase in monthly payment or extension of term), pre-payment

provision, the acceptability of the variable rate mortgage in the secondary market, and a uniform mortgage instrument. These are problems that *can* be solved if lenders and government agencies are willing.

The variable interest rate proposal is just one of the results of our prolonged seige of inflation, an inflation that is painful to everyone while it is going on, and painful while we are trying to flatten it out. In addition to the variable interest rate, it has been suggested that forms of individual home ownership be developed which provide inflation protection. For example, the home owner of the future, according to this idea, would not own his home outright, but would own stock in a corporation which owned his home. Or the lender would have an equity participation in the home. Thus if the price went up 50 per cent after 10 years, the lender would share in the profit.

Some of this is only conjecture, but there are enough straws in the wind to show that the marketing of housing in the coming decade may well be something more than evolutionary.

One thing is certain, that the preservation of the total environment has reached transcendent importance in the United States. Our National Association, through its three-year-old "Make America Better" program, is attempting to solve some of our environmental problems. Many other associations and individuals are working toward the same goal. Meanwhile, we in the real estate calling must make sure that everyone is appraised of the fact that the home is a vital core of the human environment, the place we take rest from our daily work. Let us help make sure that the home has a more *constant* place in our financial firmament.

Automation, Organization, Classification and Retrieval of Title Information

Edward A. Touma

Attorney and Consultant, Niagara Falls, New York

There is today, an increasing awareness among government officials, title companies, and abstractors of the need for some uniform method of storing and indexing land documents, as well as an awareness of some method to reduce time spent in the actual title search.

The present method of indexing documents of record to the name of the owner rather than to a means of identifying the land is only one of the problem areas that the title searcher is confronted with today.

Although both public and private title searches are primarily interested in who owns the land rather than does it belong to a certain individual, nevertheless the property is still indexed under the owner's name.

To further hamper title searching, land records are indexed in a variety of places and in a variety of ways, and this practice further increases both cost and time necessary for any particular search.

Some title companies at great expense have tried to solve some of the present problems by instituting their own data plants. However, lack of cooperation between title companies and the diverse methods of public indexing have only eased the problem in small areas.

Old methods of storing documents are still continued in the face of technological progress which provides new developments, not only in the areas of surveying and map making, but in the storage and retrieval of the documents themselves. It is possible to cut the time of a title search, thus saving the searcher, and in turn the customer, many dollars—if present advances in electronic storage and retrieval systems are utilized.

Some public offices are beginning to make use of electronic data processing equipment for the preparation of grantor and grantee indexes as well as for the storage and retrieval of land documents. However, this is done on a small scale and there is at the present time no systematic attempt to establish such retrieval and storage systems on a nationwide basis. Nor has there been any decisive plan presented for a uniform coding of all land documents so that future storage and retrieval systems could operate on a nationwide scale.

Because access to land documents must be random, there is a vital need for some improved system of information exchange among those who use these papers. Cooperation rather than competition must become an accepted way, and cooperative efforts on all levels of government and among both public and private users and data plants, must be instituted if a uniform system of codification is to be devised.

There are many factors impeding the development of such a uniform indexing system. One of the main sources of trouble is the state statutes which prohibit the use of technological developments. Therefore, one of the first phases must be a change in concepts as well as a change in the statutes which those concepts promote.

Narrow concentration of interest by the users and recorders of land records has pigeonholed records in various departments. The recorders of deeds, for example, have concerned themselves only with those land records which pertain to their departments. While tax departments have concerned themselves with the documents with which their

departments must work. As a result, a definitive search is a long and involved affair. Centralization of documents and uniform coding would save many dollars and many hours of tedious search.

The retention of the English concept of identifying land through some given individual has further diffused land records and added to the difficulty of the search itself. Thus, we find many items of record affecting the title, but containing no integral reference to the land in question. Such material may be indexed to the name of the person affected rather than to the land itself, which also adds to the length and difficulty of the search.

Competition between private data plants has led to an even greater narrowing of the information and the differences in title examination have led to a variety of ways of indexing the material. Thus, access is difficult and procedures of access cannot be uniform.

In 1962, Frederick M. Lombardi and Robert N. Cook made specific recommendations for the modernization of state recording statutes. Their principal proposals were:

1. A tract or parcel index as well as a strictly alphabetical name index be used;
2. The use of accurate large scale maps;
3. A master title record be provided for each parcel consisting of miniaturized copies of all title documents relating to it;
4. A uniform standard governing size, type and form of all documents be instituted;
5. Use of electronic data processing equipment; and,

6. Quick replacement of any portion of public records relating to land titles.

In 1968, the American Bar Association Committee on the Improvement of Land Title Records offered a form for modern land title records at the end of their five-year study of this problem, stressing in particular that such a method must be both comprehensive and unified.

At a meeting at the Cincinnati College of Law on December 9 and 10, 1966, the Tri-State Conference on a Comprehensive Unified Land Data System set forth the basic characteristics of a unified and comprehensive system of recording land documents. The seven points presented at this time were:

1. Description of land by use of coordinates which are tied into the national control system and which meet recognized legal standards for land description;
2. A land title system with an index by parcel as well as an index by person (owner);
3. Geographic coding of each parcel of land;
4. Use of the geographic code in all records of each parcel;
5. Use of a national grid system;
6. Use of a national system of code numbers to identify natural persons, corporations and organizations; and,
7. Coordination of local, state and federal activities in collecting, use and storage and retrieval of land documents.

The principle unifying factor in this system is an identifying number to indicate location by latitude or longitude or some other acceptable coordinates which can be converted to latitude and longitude.

Evidence of a need for a change in the handling of land documents is evinced by the increasing number of county land data banks.

The District of Columbia estimated a saving of \$76,000 over a period of four years by using a data bank.

Philadelphia also initiated a single system for handling land records in order to facilitate searches.

However, much of the parcel data in existing land banks is not always relevant in land transactions as the main thrust for these data banks has come from planning, taxing, and code enforcement officials rather than from the actual title searches and abstracters themselves. However, as more and more agencies turn to these data banks and they are used by more people, their usefulness will greatly increase. But this usefulness will always be dependent upon continuous and accurate updating of the materials stored.

The problem of handling land records is not limited to this country alone. A number of other countries and governments have been experimenting and trying to devise working forms of computerized land recording systems.

In March 1969, a special committee appointed by the government of Sweden recommended that Sweden establish a

centralized system of computerized land recording. The proposed Swedish system would utilize improved large scale maps and more accurate location of parcel boundaries by the use of coordinates similar to those used by the U.S. state plane coordinate systems.

Austria also is working on a similar system, but the most ambitious program for the development of a modern land system of land records has been developed in Canada at the University of New Brunswick.

This program includes the development of records pertaining to land and people as one integrated system.

Diversity of recording and obsolescence of present systems poses a problem to a unified system in the U.S. Also, interest in the development of a modern land recording system varies from state to state as does the relationship between the states and their local governments vary to great degrees.

The federal government is in the best position to provide the leadership necessary for the institution of modernized recording systems, but it too is faced with the problem of lack of coordination among its departments and independent agencies. However, a centralized data bank would greatly facilitate access to land information by all agencies and all levels of government.

From time to time, the federal government has assisted state governments in acquiring computers to determine the feasibility of establishing new and independent land records by systems. Most of them have failed due to the temporary nature of the project and the use of personnel inexperienced in coding and recording this type of data.

There were also great delays and costs as the staffs were organized and trained and there was never any provision made for the updating of information and little care was taken in the relevance of the data that was recorded.

The need for a modern system is recognized by all who use these records. The tools are available and have been available for some time. What is now needed is the impetus to carry this system through from start to finish. Since World War II, many states and counties have instituted systems of microfilming for the safe guarding of these records, but few have carried it further than this, as few of them have even completed the filming of the documents on hand.

Two western N.Y. counties, Erie and Niagara, have instituted a program of microfilming for security purposes, but in the case of Erie County alone, no provision has been made for coding and the filming is not even half done at this date.

However, for those counties and companies that have initiated their own programs, some form of microform has been used.

Microforms have many advantages, not the least of which is public familiarity with their use and their form, as well as a constantly growing use of these forms by business and government agencies at all levels.

This use of microforms is not so much the invention of a new device as it is the adaptation and modern usage of a form of record keeping that has been with us for quite some time. Microfilm has had an interesting and important history from its first discovery. It has served as amusement and as a means of communication during war emergencies and in all instances it has proved its worth. A survey of its history might be of interest at this time.

The concept of microfilm is nearly as old as photography itself. One of the first commercial uses of microfilm was done by experimenters who made microphotographs at reduction ratios as great as 150 to 1. Many of us can recall their results, for these microphotos were commercially marketed when they were mounted at the end of small magnifying tubes that were standard souvenir equipment.

Its first important application was during the Franco-Prussian War. When Paris was under siege, the surest method of escaping was by air. Much traffic was moved out by balloons, but these balloons were not powered and the drifting wind currents made their final destination uncertain.

Ingenuous French photographic technicians managed to devise an efficient airmail service between Paris and Bordeaux by using carrier pigeons who had rolls of thin film sheets attached to their tails.

However, it was not until after World War I that a manner was devised to solve important business problems by the use of microfilms. What made this possible was the development of the rotary microfilm camera by George McCarthy, a New York City bank clerk. In the daily routine of his job, he encountered problems by customers claiming that their accounts had been debited for checks never drawn. Since the bank returned the cancelled checks to its customers it had no way of determining whether or not the customer was telling the truth. McCarthy was determined to find a way to record banking transactions. Interested in photography and inventive by nature, he, with the aid of an engineer partner, worked out a machine in which a check conveyor belt was synchronized with a motion picture camera. In 1925, they applied for a patent for this machine. Big and clumsy as it was and despite its bugs, bankers showed some degree of interest in it, but it was not until the management of the Eastman Kodak Company took over the manufacture of this camera that the machine was perfected. By 1933, there were 700 of these RECO Recordaks in operation in the country.

Microfilm was used in World War II to speed the air mail letters overseas. It was during this time also that the development of the microfilm aperture card presented a means of quick retrieval for material stored on microfilm.

In the 1950's, the introduction of the compact microfilm reader-printer made the use of microfilm a convenient matter in office procedures.

In the 1960's, microfilm techniques were more and more merged with elec-

tronic data processing. Systems were devised that permitted the calculations of computers to be recorded directly on microfilm in the form of graphs and charts, rather than in machine language on magnetic tape.

Methods were introduced that bypassed the chemical development of images on the standard light-sensitive film and used instead a method of electronically imposing and fixing images on the film. This development further increased the importance of microfilming as an information and communications tool.

Microfilm for the storage and retrieval of vital documents has many advantages. The first is the easy entry of the data into the system. Documents are quickly and easily filmed, processed and made accessible. The second advantage is the ability to retrieve information quickly. File integrity is another benefit of microform systems (term used to refer to any type of micro-tal system). Documents remain in the central file and are accessible only to authorized personnel. Reader-printers provide hard copies immediately if they are required. No document leaves the file, so none are misfiled, lost, accidentally destroyed, marked, or mutilated. The fourth advantage is document security obtained by placing the originals or a microfilm copy in the archives. Space savings are enormous. Microfilm reduces records to 2 percent of their original size and can be stored in an area 1/10 as large. Economy is perhaps the key word when describing the benefits of microform systems. Such a system is economical in operation and requires fewer people to maintain it. The cost of in-plant microfilming can be as low as one cent per letter-sized sheet of paper.

Microforms include roll microfilm, chip film, aperture cards, microfiche, and acetate film jackets.

Microfiche arranges a related group of images on a card-shaped transparent sheet of film. Microfiche cannot be added to or subtracted from.

The use of roll or chip film requires an additional index to direct you to the units of film containing the documents you desire.

Aperture cards are best used for blueprints. They provide for automatic retrieval, but hold a maximum of twelve documents per card.

Acetate film jackets (also called microfiche jackets) hold strips of film cut and arranged in a transparent jacket allowing for easy updating. A 4 x 6 acetate film jacket will hold up to 75 documents. It is superior for archival purposes since a roll of film is easily scratched and the jacket provides protection. It can be reproduced easily. Positive film may be stored in the jacket for day-to-day use and the negatives maintained for security, in roll form.

The recordak microstrip utilizes strips of 16mm microfilm mounted in cardboard frames that allow easy handling. The frames are inserted into a special reader for ready access.

Various indexing systems for microforms are available. The microfile system utilizes 4 x 6 microfilm transparencies stored in pockets in a ring binder which serves as an alphabetical index. Three thousand to five thousand pages of information can be stored on a sheet.

Aperture cards can be indexed by the characteristics of documents and filed by a persons' name or other alphabetical, numerical or chronological system. The characteristics under consideration are keypunched into the computer and the computer matches them and responds with the document or documents required. The actual card is manually retrieved from the files.

The color-notch code provides indexing for microfiche jackets. Each color can reference one class and each notch can be a subgroup in that class. Individual microfiche are manually retrieved.

Microfilm is also being used for input to computers. The system employed is called FOSDIC (Film Optical Sensing Device for Input to Computers). Microfilm can be fed into computers at far greater speeds than can tabulating cards. Two million bits per minute can be searched by the computer. Tabulating cards are microfilmed with 850 alphanumeric characters per linear inch of 16mm microfilm.

Indexing microfilm for retrieval may be accomplished in several ways. The Recordak Kodamatic system utilizes solid dark index lines on the sides of roll microfilm when the document is filmed. Image control indexing assigns an index code number to each document at the time of filming. A keyboard on the reader is punched for the code number desired and the film is automatically searched with the proper image appearing on the screen.

Several microfilm retrieval systems have been developed. The videofile system developed by Ampex is computer-controlled and uses cameras for input, tape for storage, tape transports for search and display monitors and electrostatic printers for output. Documents can be erased, relocated, or replaced electronically without disturbing the basic file. The search rate is 380 inches per second using a two-inch tape.

The Oak Ridge National Laboratory has developed a system combining a videotape recorder and a digital computer. The videotape is used to take a single scan TV picture of a document. The video image is stored on a magnetic tape and digital descriptions of the document are written on an adjacent segment of the tape. To retrieve, the computer scans the digital signals searching for the desired combination of key words. When they are found, the video signal is projected on a screen thirty times a second. A hard copy of the document can be obtained if desired.

To achieve rapid handling from a number of access points without the high initial cost of a computer oriented on-line inquiry system, punched feature cards may be the answer. Each card contains 10,000 discrete hold positions

providing for a classification of many documents with a particular feature in common. Retrieval is obtained by selecting the cards representing the required features, superimposing them and noting the location numbers showing a hole in all the cards selected. A new punching machine for input works at an average speed of two seconds for each of the 100 rows on a card.

In some localities, title records have been organized in an automated search and retrieval system either by the county, title insurance companies, or others interested in land documents.

1. Title Records, Inc. is a corporation owned by four title insurance companies operating in Los Angeles County, California. In 1969, the system had more than nine million computerized file entries with a growth rate of 7,500 entries daily. The system hopes to expand to include Orange, Ventura, and San Diego Counties with remote terminals at each county seat. An IBM System/360 Model 30 computer is utilized.

Four thousand five hundred documents are filed daily with the Los Angeles County recorder. These documents are obtained on microfilm and are studied for factors which affect property ownership and property title. These documents result in about 7,500 punched cards of data a day.

Specialists search unrecorded data including federal tax liens since 1923, bonds filed in cities other than Los Angeles which affect property, bankruptcy proceedings, probates and delinquent property taxes.

The information is referenced to any or all of three basic files. The first file is a property index covering descriptions, ownership, and transfers. The second file is a general index covering all factors affecting an individual's ability to hold clear title. The third file is a date-down file including all title searches in progress. Each title search may generate as many as five date-down entries including two sellers and two buyers plus the land.

Each day, 1,500 new general index entries and 6,000 property index entries are added, 120 new title searches are started and 120 are terminated, and answers to 950 customer inquiries are given.

The computer can search answers to 25 different customer inquiries, review several million filed entries for each inquiry, and print answers to them in one minute.

Title orders are received by telephone with a typewritten follow-up acknowledgement including names of buyer and seller, legal description, their title number for the search and their examiners identification number. The information is transferred to punch cards with tract, block and lot numbers and book page and map codes of official pertinent records. The computer initially checks the general and property indexes to determine if any documents are filed relative to any listed individual or property. In addition to given names, nicknames are also checked. The personal file search shows past or current divorces, liens, bankruptcies and any

other pertinent data. In searching the property index, the computer checks for old title records, easements, trust deeds, and mortgages. If nothing is found for the specific lot, the computer checks the whole block and expands to the tract. The search terminates with a chain of title listing all documents at the start of escrow relative to the title in question. This list is forwarded to the client's title examiner. If he wishes to examine any document listed on this or subsequent reports, he is provided with a photostat from the microfilm or hard copy files. Each day a check is made against the new entries in the system to find new documents of interest until the title search is completed.

2. Nassau County, New York, has set up an automatic system for retrieving its 10.5 million land title records. The system uses Mosler Selectriever Units, each housing 200,000 microfiche. Average retrieval time is eight seconds per microfiche. The conversion from libers to microfiche yields a space saving of 15,000 square feet. Personnel requirements are also reduced. Savings are expected to be \$100,000 a year. New records are now available in two days as opposed to two weeks using the libers. Retrieval is obtained by keyboarding the section, block and lot number, the microfiche containing the desired document is delivered to the operator. To do this, each microform has 35 holes along the bottom edge for coding. When a document cartridge is brought to an output station, all documents are scanned by a controlled flow of air. The desired document is lifted upward for presentation and the remaining ones are restrained by a group of rods going through the untouched

holes. Duplicate cards or copies of the document can be quickly made. The 200,000 microforms housed in the file occupy approximately twenty square feet of floor space. The system is easily expanded to accommodate more documents.

3. Georgia Power Company is using 16mm roll microfilm and an automatic keyboard to file and retrieve its 200,000 land documents. Retrieval time is ten seconds to five minutes depending on the county size. The 200,000 documents on film are contained in five hundred cartridges in one six-drawer microfilm file cabinet as opposed to the previous 1,100 square feet of filing space.

The retrieval keyboard is punched to search for a binary code imprinted on the microfilm preceding the document. A 100-foot roll of film is searched in ten seconds. The desired document is stopped and may be viewed on a reader. Paper copies may be obtained if desired. The indexing system uses a minimum of thirteen columns of code for each document covering land lot, district, grantor, recording data, type of document, subject, and department deed file number. The operator may search by any one or a combination of these coded items. Initial breakdown of the system is by county. Records for each county are filed in one or more film cartridges. Where more than ten cartridges are required for one county, further breakdowns are made in the grouping of documents to reduce the number of cartridges to be searched in order to find a document. An average of 450 documents are recorded on each cartridge.

At some future date, the present system of land title records might con-

veniently be merged into a new system under an administrative official who might be called the commissioner of land records. It is also possible that in some states through existing legislative authority, supervision of a new system of court land records might be provided by the state board of tax appeals or some other state administrative office.

Under this plan, all land documents could be brought together and stored in regional data plants. This would eliminate duplication of storage and coding. A national coding system could be devised and desired information could not only be readily available, but could be part of a nationwide storage and retrieval system. Added to this could be telecommunications network, so designed that retrieval of information would be instantaneous anywhere in the nation.

Such a possibility would necessitate the establishment of a nationally uniform coding system for all parcels of land and all documents relating to the land. Such a system would save search time and money, personnel and storage space. Also the risk of human error would be eliminated and losses of title insurance companies as the result of faulty titles would be kept to a minimum.

Furthermore, there would no longer be the costly duplication of records with inherent human error to be found when duplication of documents is great and all copies must be retrieved by a human searcher. In addition to the above possible systems, the MCR and more probably OCR scanning devices would readily approach the feasible stage as operational and financial costs would be reduced.

Interstate Land Sales Full Disclosure Act and Its Effect on Land Titles

Alfred J. Lehtonen

*Administrator, Office of Interstate Land Sales Registration,
Department of Housing and Urban Development, Washington, D.C.*

Someone has observed that a lot of today's frustration is caused by a surplus of simple answers, coupled with a tremendous shortage of simple problems. Whoever uttered this aphorism is only half right so far as my experience as Administrator of the Office of Interstate Land Sales Registration is concerned. True, we do have a tremendous shortage of simple problems, but unfortunately we also seem to have an equal dearth of simple answers. Any problems or answers we discuss today will have meaning only against the backdrop of the Interstate Land Sales Full Disclosure Act. Let us quickly review this law.

Basically, the Act prohibits the direct or indirect use of any means or instruments of transportation or communication in interstate commerce or of the mails, by any developer or agent to sell or lease any lot in any subdivision unless:

1) A statement of record meeting the requirements of both the Act and Regulations is in effect as to such subdivision;

2) The purchaser is furnished a printed property report also meeting the requirements of the Act and Regulations prior to such purchaser signing any contract or agreement for the sale or lease of such lot.

The Act also prohibits any developer or agent from using any device, scheme, or artifice to defraud, or engaging in any practice or course of business which would operate as a fraud or deceit upon a purchaser of a lot in a covered subdivision. The developer is further prohibited from obtaining any money or property by means of a material misrepresentation with respect to any information included in either the statement of record or property report.

There are 10 exemptions in the Act and 3 in the Regulations. Where a sale or lease transaction is within the scope of an exemption, none of the provisions of the Act shall be applicable. These exemptions pose many problems to which we could address ourselves, but I should like to discuss with you four areas which should be of particular interest.

As we wrestle with our familiar everyday problems, others new and not foreseen come into view. An example of the latter is that involving the treatment of the condominium concept under the Act.

CONDOMINIUMS

Even were the words "subdivision" and "lot" confined to what most of us visualize when we hear these terms, their use in connection with the Act, we have found, is not simple and crystal

clear. When we consider these terms in relation to the varied land divisions, land interests, and land uses which are constantly being devised, and which we are asked to review, the problem of administration of the Act becomes often complex and frequently baffling. As those who will be asked to step upon the titles to those evolving developments, your difficulties will be not dissimilar to ours and hence may be of mutual interest.

You may remember that the author of one of the first articles discussing the Act warned land developers and subdividers of the hazards involved in snap judgments as to whether or not they were exempt from the requirements of the statute. Just such a snap judgment was made by a developer with regard to condominium units in general, and specifically to the sale of such units in a high rise building. Our judgment on this matter was arrived at not by an off-hand determination but by careful study of the Act, its history and related legal principles.

The definition of the word "subdivision" as set forth in the statute is carried over verbatim into the regulations. The word "lot", however, is defined in neither the Act nor the Regulations. Throughout the Act, the words "subdivision" and "lot" are used exclusively to denote wholesale and retail units or real property. The context in which these words are used indicates that "lot" is intended to be an offering unit into which the defined "subdivision" is apportioned or parcelled for purposes of retail sale to the "purchaser" who is to be protected by the Act. From the definition of "subdivision" in the Act, we gather that "lots" are units of land and that such land has its usual meaning, i.e. "real estate," "realty" or "real property." Furthermore, the word "lot" has been held to apply to any portion, piece, or division of land and is not limited to parcels of land laid out into blocks or units regularly numbered and plated.

All states in the United States have statutes which permit subdividing property into a condominium project. Under the law of each state, the "units" created are treated as real property, and this is true regardless of how such units are designated: "apartment units," "condominium apartment units," "condominium units" or individual "air space units." The interest of the owner of such unit has all the characteristics of real property, including: (1) Exclusive use and occupancy within the unit boundaries as shown on the recorded condominium declaration; (2) Applicability of real property laws covering descent and distribution; (3) Requirements for taxing units on the same basis as real property; and (4) Provisions for the recording of deeds and other instruments affecting unit title on the same basis as other realty.

We conclude therefore that the word "lots" as used, but undefined in the Act, includes condominium units or any other terms or words used to denote a piece or parcel of realty which may

be offered for sale within a "subdivision." And this conclusion is unaffected by the fact that a certain portion of the project is held in common and that there exists a restriction against partition of the unit owner's undivided interest in the common areas of the condominium project. In short, the sale of a condominium unit in a condominium project can be equated with the sale of a lot in a subdivision.

Under the Act as previously noted and provided, other requisite conditions exist: it is unlawful to sell or lease, or offer to sell or lease, any lot in a subdivision without the developer having fulfilled certain requirements concerning the filing of a statement of record with OILSR and furnishing the purchaser a property report. The admonition, taken with the foregoing discussion, leads to the conclusion that any subdivision of realty, whether divided horizontally (conventional) or vertically (condominium) on the ground (conventional) or into airspace (condominium), is a subdivision within the purview of the Act, and that sales of units, no matter how designated in the condominium agreement are sales of lots within the meaning of the Act, unless otherwise exempted by the statute.

There appears to be only one exemption which might be cited in support of a contention that condominium lots are not covered by disclosure requirements of the Act; that is the provision that exempts the sale or lease of any improved land upon which there is a residential, commercial or industrial building under the contract obligating the seller to construct such a building thereon within a period of two years. The clear cases in which the exemption would be applicable are those wherein the contract of sale is for an already constructed dwelling unit in a condominium, or where there is an outstanding specific contract obligating the seller to build such a structure within two years of the date of the contract for the sale of the first unit. There would be no exemption, however, where the developer has used a condominium statute to subdivide a tract (without an air rights concept) and the lots, to be sold without improvement, are indistinguishable from any other flat land which has been subdivided. A subdivision, the characteristics of which bring it under the Act, cannot be removed therefrom by the mere declaration that the project is a condominium. Between these two extremes there are many possible variations each of which will have to be decided on a case by case basis.

With the move toward industrialized, manufactured, prefab, modular and mobile housing, not to forget industrial parks, there are bound to be new ideas on land division and title treatment. The subdivision of land for mobile home parks, for example, can adapt to the condominium concept. In such case, if the purchaser of the condominium lot purchases his home separately, even though such lot may be improved by water, sewer and electrical connections the sale of such lot is subject to the

disclosure requirements of the Act.

In the midwest, developers have constructed skeletal buildings, much like parking garages, which consist only of supports and girders. Portions of the various levels are lined off, with the intent that complete mobile homes can be placed in the demarked areas and connected to a central service and utility core. For a developer to build this as an air right or condominium structure would raise interesting questions, although it would appear that even the sale of these aerial lots would be subject to the disclosure requirements of the Act.

In a recent case we have been asked to carry the matter of condominiums one step farther. A developer in New Hampshire who registered his subdivision under the Act decided that there might be an existing market for condominium type homes and is now planning to build a number in an area of the covered subdivision. The sales of the condominium units, however, will be within one of the exemptions in the Act. Namely, the one permitting the seller to erect a building within 2 years from the date of the contract. Are the sales of the lots so to be improved subject to the Act? In the case of the covered subdivision of 50 lots where 5 are sold, the remaining 45 are still subject to the Act because once in, always in. A simple off-hand answer would be to apply the same rule to our condominium question. There seems to be at least two reasons for pause, however. First it seems clear that Congress did not intend that the Act cover improved property and second the administration of the Securities Act after which our Act was patterned authorized the Commission to exempt the individual transaction as well as the plan of which the transaction was a part. Our current opinion is to consider the sales of the condominium units, I just illustrated, as exempt transactions.

Daily we are discovering that even those exemptions which seemed simple and clear, are, in the light of specific factual situations, proving to be fuzzy and not so carefully drafted as would first appear.

ON-SITE EXEMPTION

Those who have complained that certain exemptions in the Act did not seem very clear have been all too right. The Act lists ten specific exemptions, and three more have been added by the regulations. Of these thirteen instances or transactions to which the Act or the registration portion thereof does not apply and regarding which no statement of record or property report is required, none has caused more confusion and difficulty than the so called "on-site" exemption. This provision originally exempted transactions if at the time of sale three situations obtained: (1) The real estate was free and clear of all liens, encumbrances, and adverse claims; (2) The person purchasing a lot had personally inspected such lot prior to the time of sale; and (3) The developer had filed an appropriate affirma-

tion of the foregoing, with the Office of Interstate Land Sales Registration. The exemption went on to state that the terms liens, encumbrances and adverse claims do not refer to utility easements dedicated by the developer or to property taxes which may constitute liens as they accrue and before they are due and payable. No mention was made concerning building and use restrictions which are also encumbrances and if so considered would render the exemption almost without meaning. Contrary to the belief of many subdividers and developers the subdivisions with building and use restrictions designed to protect property values were considered, encumbered by such restrictions which would have had to be removed if the subdivision were to become eligible for exemption from the Act.

In order to correct some of the obvious deficiencies of the on-site provision of the original act, the Congress, in an amendment effective in December, 1969, specifically mentioned three types of encumbrances which need not be removed before a lot was considered free of encumbrances so as to exempt it from the Act. The first was carried over from the original act, namely those property reservations which land developers usually convey or dedicate to local bodies for the purpose of bringing public utilities to the land. The second type of encumbrance waived was that represented by taxes and assessments imposed by a state, public body, or a property owner's association which impositions constitute liens on the property before they are due and payable, and the third type of waiver covered beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision. To enjoy these changes the developer, prior to the contract of sale, must furnish the purchaser a written statement setting forth in descriptive and concise terms all reservations, taxes, assessments and restrictions applicable to the lot purchases with the receipt of such statement acknowledged in writing by the purchaser and a copy filed with the secretary.

The first two of the foregoing are self explanatory; the operation of the last item can perhaps best be described by examples of determinations with respect thereto. Thus, use restrictions reserved to a developer, without provision for enforcement by other lot owners, would not be exempt no matter how beneficial to the lot owners. A possible exception to the foregoing would be where the developer retains initial control of such association to assure an orderly growth of the subdivision, but in such case such control could be only for a reasonable time with a definite date of transfer to the lot owners. There are some other situations which we believe would not qualify for exemption.

Restrictions which may be modified, changed, or waived at the discretion of developer:

—Reservations which are for the exclusive benefit of the developer

—Reservations which give the developer the right of first refusal on resale

—Assessments running with the land and payable to the developer

—Reservation on rights solely to the developer

By means of decisions such as those above, and a growing number of advisory opinions, we are evolving principles which we hope soon will become so definitive that they can be made available as precedents for the guidance of those who are attempting to comply with or are enforcing the Act.

The personal inspection by the purchaser was the heart of the on-site exemption. In order to have the full information he needs to make an intelligent decision as to the wisdom of his action, there are many things which a purchaser should know which he cannot discover no matter how long or how carefully he inspects his lot. For example: How can one know whether or not the developer can give a clear title to the lot when the buyer has paid his last installment? Will refund of payments be made upon default? Are the down-payment and installment payments held in escrow to insure delivery of good title? What assurance is there that all promised facilities will be furnished or completed? Are all the utilities in or available? Is the water supply sufficient and fit for intended use? What is the condition of the land and subsoil so far as building and drainage are concerned? And, finally, what type of deed or document of sale will the buyer receive? Each of you can no doubt think of many other questions the answers to which you would need and want to know were you the prospective purchaser.

MERGER

The Interstate Land Sales Act is among those statutes designated as "consumer oriented" or "consumer protection" legislation. As such, close questions of interpretation or construction are to be resolved in favor of the consumer, unless such determination might interfere with the general and apparent purposes of the enactment.

The question of merger seems to be involved in the provisions of the Act covering the prohibitions relating to the sale or lease of lots in subdivisions. You will remember that the section in question makes it unlawful for a developer to sell any lot unless a printed property report is furnished to the purchaser in advance of his signing of any contract or agreement for such sale. If the property report is not given to the purchaser either before, or at the time of his signing the sales contract, it may be voided at the option of such purchaser. As thus set forth, the law seems quite simple and clear—no report, no contract. The option to void the contract is in the purchaser. The Act contains a time clause in that it provides for a 48-hour period within which the purchaser can revoke, where he receives the property report less than 48 hours before he signed the contract. In addition to the right to rescind, the

Act in another section gives the purchaser the right of action in damages against the developer who sells in violation of the prohibitory section by not furnishing the property report.

Although the Act provides a time limitation for the protection of the consumer-purchaser, it sets no like limitation period to protect the developer-seller. If by inadvertence or otherwise the purchaser does not receive a property report, how much time does he have to declare his contract void? How long can he hold the possibility of avoidance over the head of the developer or the latter's successors or assigns? Usually if no time is fixed, the law assumes the time to be a reasonable time under all the circumstances of the case. But if each case varies somewhat, in those circumstances, the reasonable rule is not too definite.

Since the Act provides no clear cut-off time beyond which the purchaser may no longer void the contract of sale, there appear to arise from this omission possible areas of difficulty for a developer, a mortgagee and a title company. If the purchaser rescinds and reconveys, the developer may find himself with properties he can ill afford to hold, especially if he is called upon to refund the down payment and other monies which have been paid under the transaction. If the rescission and reconveyance comes after the title for the purchaser's mortgage is insured, the title company may find itself with potential liabilities it did not foresee. With this possibility the title company would prove loath to insure such properties, and a mortgagee in turn would not care to advance funds on lots not covered by title insurance. Troubles rarely come singly and the already harassed developer might well find that in addition to revoked contracts that his entire sales program has been suspended by our office. In addition, he is exposed to possible action for damages.

We have here a situation where the interests of each of several important parties to the over-all transaction are balanced against the interest of the consumer-purchaser. There would appear to be equities on the side of those other than the consumer which would demand some means of knowing the time when the right of the purchaser to rescind would be considered at an end.

As has been said, the Act contains nothing of assistance, on the time matter. In fact, there is one school of thought which attaches much significance to the fact that since the statute is silent, nothing can be done short of a clarifying amendment. This same source has pointed out that the respective rights of the parties cannot be affected by an administrative regulation but only by court decision. But something had to be done as soon as possible to protect the interests of the parties in those transactions. To go the legislative route requires much time and effort. At the same time there was no consensus as to how best to accomplish by regulation the end desired. Against

the foregoing backdrop, the general counsel of HUD decided that the principle of common law merger should apply. This tenet provides that if the terms of a contract for the sale of realty are consummated by delivery of the deed there is a merger of the contract and the deed. The right of the purchaser to revoke a sales contract on the ground that he was not furnished a duly approved property report thus does not survive delivery of the deed and the purchaser's right to avoidance ends on the date a complete and valid deed is delivered to such purchaser. The remedy of damages provided under the Act is available after the contract of purchase has been consummated and the purchaser has acquired title evidenced by delivery of a deed.

Even if the right of revocation does not survive delivery of the deed, it is nevertheless necessary to file a statement of record and to prepare a property report as the law requires. The reasons are: first, as between developer and purchaser there would be the basis of a suit for damages; second, continued selling could be enjoined; and third, willful violation of the act is a criminal offense.

In summation, when the several sections of the Act (Sub-Sec. 1404 (a) & (b), Sec. 1410 (b)(1) and Sec. 1410 (c)) are read in *pari materia*, we feel that the intent is: (1) That the developer furnish a property report to the purchaser at least 48 hours before he becomes bound on the contract; (2) To give the purchaser, for 48 hours after he receives a property report, a right of revocation of an executory contract, to which he otherwise would be bound; and, (3) To provide relief in damages only, where the property report is not furnished prior to the passing of title.

TRUSTEE EXEMPTION

Despite the good offices of your organization, the assistance and suggestions of certain leaders in the industry and what pressures I was able to exert for early action, there has not yet been offered an appropriate answer to the problems of clarifying the rights, duties and responsibilities of trustees of escrowees under the Act. This despite the fact that the matter has been attacked on two fronts—legislative and administrative—by proposed legislation and also by amendment of the regulations.

One of the primary objectives of the Act was to protect installment purchasers who had made their payments regularly and on time, only to be wiped out completely if the developer's interests were foreclosed because of adverse conditions in the land market or due to other unfortunate circumstances. To meet this problem, many developers have established trusts or escrows with banks, title companies, and similar institutions. In some western states, and more particularly in Arizona, development and ultimate sale is handled through a security device known as a "subdivision trust." Under this arrangement, the seller conveys the land to a trustee—com-

monly a corporate trustee or title company—to be held and managed by such trustee pursuant to the powers contained in the trust agreement. The original seller of the land is normally cited in the agreement as the first beneficiary of the trust and the buyer-developer is known as the second beneficiary of the trust and the buyer-developer is known as the second beneficiary. The second beneficiary, as long as he is not in default, maintains possession of the property and can cause the trustee, among other detailed acts, to dedicate streets, impose property restrictions, convey some or all of the property to the second beneficiary, or his nominee—lot purchaser, free of the trust, upon payment of specified amounts. The specified amounts are payable by the second beneficiary to the trustee for the benefit of the first beneficiary-seller. The first beneficiary, in turn, has the right to terminate the second beneficiary's interest in the trust should a default occur in these contractual provisions. Each beneficiary of the trust agreement is considered to own a beneficial interest in the trust, commonly construed to be a personal rather than a real property interest, together with the corresponding right to require the trustee faithfully to perform its fiduciary duties while owning and holding the legal title to the real property described in the trust.

The subdivision trust arrangement is an extremely effective, efficient, and flexible means of handling certain kinds of real estate sales, namely, installment land sale contract transactions which are the majority of subdivision sales.

In addition to the trust arrangement, there is the escrow type of transaction wherein the purchaser's payments are held by the escrowee for release to the developer when title passes or for refunds to the purchaser if the developer defaults.

Earlier this year, legislation was proposed in HR 15530. The title of this bill stated that its purpose was to amend our Act to provide "that trustees holding land for developers shall not be subject to the requirements imposed by such act upon developers or agents." This statement appears to promise a step in the direction of solving the trying trustee problem, but the method of accomplishment set forth in the body of the proposal seems fraught with danger.

The first section of the bill would exempt from the definition of the word "developer" a trustee who holds legal title to land in its name for a beneficiary who is a developer within the meaning of the Act. It also exempts from the definition of the word "agent" a trustee who holds legal title to land in its name for a developer and who in its capacity as trustee, and not personally, executes documents as seller or lessor of a subdivision lot. The apparent purpose of this first section is to relieve trustees of certain types of passive trusts from responsibility (1) for meeting the filing and disclosure requirements of the Act, (2) for the accuracy of the required filings and property reports, and (3) from civil and criminal

liability under the Act, when the holder of the beneficial title—the true developer—is primarily responsible.

The proposed bill does not define or limit the word "trustee." There are no guidelines which require, for instance, that such trustee be bonded or have any expertise of any kind. It would appear that anyone who simply calls himself a trustee would meet the section requirements. The proposed exemption of such trustee does not insure that a purchaser can obtain redress in the event he has received inadequate information concerning the land he bought.

Since the first section definition of trustee is so broad and general as to constitute a fatal defect, there seems little to be gained by considering the remainder of the proposed bill which provides that the Act shall not apply to the sale of evidences of indebtedness secured by a security interest in a real estate trust, or by discussing the changes which would be necessary in other sections of the Act where the word "trust" or "trustee" is used.

As an alternative to HR 15530 with its inherent defects, we would prefer a bill providing that the Secretary may, under such regulations as he may issue, exempt from the provisions of the Act, trustees and others acting in similar capacities where he finds that such exemption would not adversely affect the public interest. Under such regulations, the Secretary would have the latitude to develop the qualifications of such classes of trustees as might properly be exempted together with the requirements for appropriate trust instruments.

The legislative draftsmen at HUD did not see fit to offer any form of legislative proposal designed to correct the problem of the rights, duties and responsibilities of trustees under the Act, either by adopting the above legislative suggestion or by preparing a suggestion for the purpose of amending HR 15530 in such particulars as would rectify its shortcomings.

During the casting about for a solution, it was suggested that there was a legal distinction between the meaning of the words "sell" and "convey" to the effect that a trustee who performs only a conveyance and escrow function under a land trust, but who does not sell or offer to sell, is not considered to be a developer or agent within the meaning of the Act. In addition, it was said that the sale of real property as performed by a developer differed from the conveyance of real property as performed by a trustee. And finally, it was contended that the variances of the duties under "active," "passive" and "dry" trusts change the character of the words "sell" and "convey" and that the former is broader, in that it encompasses the whole transaction, including transfer of title, while the latter means merely the instrument or act conveying title.

The general counsel ruled that there was not enough distinction between the two words to enable him to rule that a "trustee" whose duties are limited to conveying title is not a "developer" or

"agent," within the meaning of the Act. For this and other strained reasoning derived from hearings on earlier versions of the Act in previous years, it was determined that the desired exclusion of trustee could not be effected by regulation.

I might add that the belief that the desired exclusion could not be accomplished by regulation evidently is not shared by the officers of your association who sometime ago suggested regulatory language to the effect that no bank, title insurance companies or similar organization shall be deemed a developer or agent of the developer

when holding title under a land trust or escrow or acting as escrowee for the purchaser's payments or in holding or delivering title.

Having reached an impasse on the legislative and administrative fronts, the next logical step appears to be to enlist the assistance of your Standard Forms Committee to see whether working together we can develop a media satisfactory to our legal advisors, and perhaps set to rest any qualms that the title insuring fraternity may have, as to their rights and liabilities under the Act.

During the past months, we have been proceeding cautiously in our efforts to evolve procedures and practices which are objective and feasible, while at the same time consonant with the salutary intent of the Congress. We have, despite our endeavors, at times felt hemmed-in and frustrated. But of late, we feel more encouraged—we think we see light at the end of the tunnel. We hope you share our confidence, and that your organization and OILSR may continue to rapport that we now enjoy—which has been positive and helpful—a relationship most unusual in these trying times.

Eulogy for Gordon M. Burlingame, Sr.

Delivered By

J. Mack Tarpley

Vice President, Chicago Title Insurance Company, Chicago, Illinois

Ladies and gentlemen, I appear before you with a most humble attitude, fully recognizing my inadequacies, but with a sense of inordinate pride that I was so close a friend of Gordon M. Burlingame that I was selected to assist this Association in honoring his memory and the accomplishments of his lifetime.

Many of us walk through the pathways of life leaving very little trace of our passage, but the footprints of Gordon are clearly visible as a loving husband, a devoted father and a leader in the title industry.

Those of you who had the privilege of working closely with Gordon, as I did, know that he always gave of himself, not for himself.

Just a few days after Gordon's death one of his closest business associates wrote me, "I can thank God for the knowledge that he also was very blessed with a long, full and rewarding life in which he realized almost all of his ambitions." God grant that most of us may attain a like comment from our friends.

Gordon M. Burlingame departed this life on Tuesday, August 18, 1970, ending a life of service to the community in which he was reared and to his chosen profession.

He attended public schools in his community and was a graduate of Lehigh University, class of 1925. Always seeking knowledge, he continued his studies with courses at several institutions of higher learning including Villanova University, where he was awarded an advanced degree in 1961.

Ever active in civic, educational, charitable and fraternal affairs, Mr. Burlingame had served as a member and as chairman of the Montgomery County Planning Commission and also had served as a member of the Villanova University Advisory Board of Lay Trustees. One service of which Mr. Burlingame was very proud, was his directorship of the Lower Merion Township Scholarship Fund. No attempt is made to catalogue all of his activities in these fields, but only to indicate some of those which, to my knowledge, were quite meaningful to him.

Mr. Burlingame served as a director of the Bryn Mawr Trust Company, the Congressional Life Insurance Company, the Josiah W. and Bessie H. Kline Foundation, Inc., and the American League Baseball Club of Philadelphia.

His dedication to the faith of his choice was well evidenced by his active participation in the many activities of his church.

In his chosen profession, Mr. Burlingame's intelligence, wit, and leadership is well known to all of us and will indeed be missed by all. He began his career in the title business in 1925 as a settlement clerk and title examiner for the Bryn Mawr Trust Company and served that company in various officer capacities until 1954 when he was named as president and director of The Title Insurance Corporation of Pennsylvania. At the time of his death, he was serving as chairman of the board of that company.

During his career in the land title profession, Mr. Burlingame had served as president of the National Title Un-

derwriters Association, as president and executive vice president of the Pennsylvania Land Title Association, as chairman of the Pennsylvania Insurance Department Title Insurance Advisory Committee, and as general manager of the Pennsylvania Title Insurance Rating Bureau.

He served this Association long and well through his active participation and leadership as a member of the Board of Governors, as chairman of many vital committees, as president and last, as our immediate past president.

Mr. Burlingame is survived by his wife Christine, affectionately known to us as "Chris"; a son, Gordon M. Burlingame, Jr., vice president and treasurer of The Title Insurance Corporation of Pennsylvania; and a daughter, Christina M.

To Chris, Tina and Skip, thank you so much for allowing us to share him with you.

Some fifty years ago, on a similar occasion, Hugh E. Keough, a Chicago newspaper man wrote a short stanza which I think is very apropos:

"Let's lay aside the lighter thought and pause a little while;

Let's give a voice to feelings pent—let tears usurp the smile.

Let grief reign where laughter was, and let us cease to doubt

That friendship lies beyond the grave—a good old pal has gone out."

Ladies and gentlemen, will you please stand for a moment in honor of the memory of Gordon M. Burlingame.

Thank you.

AWARDING OF HONORARY MEMBERSHIPS:

To Joseph S. Knapp, Jr.

*Remarks by William H. Deatly, Senior Vice President
Title Insurance and Trust Company, Los Angeles, California*

A citizen by birth; a soldier by enlistment; a lawyer by profession; a husband by choice and consent; twice a father in his own right; a titleman by vocation; a civic leader by avocation; and four times a grandfather—a full life to be sure.

Four times a director of the Real Estate Board of Baltimore, the earliest at the age of 26; a vice president of that board; president for many years of a Roman Catholic Orphanage; a long-time member of the board of Catholic Charities and of the Kiwanis Club bespeak a life devoted to civic and charitable endeavors in and about his

home city of Baltimore.

Joe devoted the last 45 years of his active business life to The Title Guarantee Company of Baltimore and its predecessor company, retiring as chairman of its board of directors on December 31, 1969. During much of the last 20 of those years, he served our national association in an official capacity, successively, as chairman of its Eastern Regional Conference; a governor of its Board of Governors; treasurer for five years; Chairman, Title Insurance and Underwriters Section; vice president and finally its president for the 1964-65 term—virtually every

office for which a member of our Association is eligible.

We titlemen and titlewomen owe a debt of gratitude for Joe's talented services in our behalf, his able direction for a time of our affairs, and his wise counsel always, a debt which our Board of Governors has acknowledged in the form of a life-long honorary membership in our Association.

This evidence of that action I now have the delightful privilege to present, which I do with the prayer that God continue to bless him and keep him always.

To Lloyd Hughes

*Remarks by Arthur L. Reppert, President
Clay County Abstract Company, Liberty, Missouri*

Lloyd Hughes is the recipient this morning of the highest honor our Association grants. He is to be made an honorary life member of the American Land Title Association.

I am very happy that I was asked to present this honor to Lloyd. I first became acquainted with him over twenty years ago and have always admired his abilities and dedication to our profession.

In Lloyd's report as president in 1960 he stated:

In the first five sections of our Code of Ethics, each sets out in so many words that our business is a 'service in the public interest'.

Lloyd has lived by this creed as he has developed a small abstract business into a very large abstract and title insurance business. His entire life has

been devoted to "service in the public interest", not only to his own business, but also to his state and national associations.

Lloyd began his career in 1931, when he went to work with the Record Abstract Company, which in 1938 became Record Abstract and Title Insurance Company in Denver. Lloyd was president of this Company for many years, and with its 1961 merger with the Title Guaranty Company, he continued as president, until this company merged with Transamerica Title Insurance Company and he became a Senior Vice President.

Lloyd became active in the Colorado Title Association shortly after becoming an abstractor and served as its secretary for many years prior to his election as president in 1941, and his

interest in Colorado Land Title Association has continued without falter.

Throughout his years in the title profession, he has been especially active in our American Land Title Association.

He has been active in both sections and was elected as secretary and vice chairman of the Abstractor Section and at the convention in Miami in 1956, he was first elected as chairman of the Section.

He was elected as vice president of our Association in 1958, and at our annual convention in 1959, in the same city we are in today, he was elected president.

He was called back into service for the Association by being elected chairman to the important Finance Committee and served for three years in this position, 1967 to 1969.

ELECTION OF NATIONAL OFFICERS

By proper nomination and second, the following officers were unanimously elected for 1970-71:

President—ALVIN W. LONG, Chicago, Illinois
President, Chicago Title and Trust Company
111 West Washington Street, Chicago, Illinois 60602

Vice President—JOHN W. WARREN, Newkirk, Oklahoma
Vice President, Albright Title and Trust Company
100 North Main Street, Newkirk, Oklahoma 74647

Chairman, Finance Committee—HALE WARN, Los Angeles, California
President and Chief Executive Officer
Title Insurance and Trust Company

433 South Spring St., Los Angeles, California 90054

Treasurer—JAMES G. SCHMIDT, Philadelphia, Pennsylvania
Chairman of the Board and President
Commonwealth Land Title Insurance Company
1510 Walnut Street, Philadelphia, Pennsylvania 19102

BOARD OF GOVERNORS
Term Expiring 1973

JAMES J. VANCE, Secretary & Treasurer
Jefferson County Abstract Co., Inc.
131 E. Milwaukee Street, Jefferson, Wisconsin 53549

JOSEPH S. WATSON, Senior Vice President
The Title Guarantee Company
St. Paul and Lexington Streets, Baltimore, Maryland 21202

ROBERT C. BATES, Executive Vice President
Chicago Title Insurance Company
111 West Washington Street, Chicago, Illinois 60602

ALLEN K. BUCHANAN, Owner
Buchanan Abstract Co.
111½ North Dodge Street, Algona, Iowa 50511

JOSEPH H. SMITH, Executive Vice President
The Title Insurance Company
711 Bannock Street, Boise, Idaho 83701

WORKSHOP SESSIONS

Multi-County Consolidation of Title Information

Commentary By

John L. Williams

Special Assistant County Manager, Metropolitan Dade County, Miami, Florida

Shortly after the founding of the American colonies, your predecessors rejected the British system of transferring land titles. This was based on the realization that the title *finding* system which they had inherited was inadequate, and that the real need was for a little *finding* system. With this realization came instant action—they immediately turned the problem over to local government.

So, three hundred and thirty years ago this October, the Massachusetts Colony general court adopted the earliest recording act in the new world. Under this and similar acts which were adopted by all the colonies and all states, it was no longer necessary to accumulate and hand over packages of prior deeds and documents when transferring land title. By law, government registry records were substituted for the actual documents.

The system of title finding by referring to county records worked well for quite a long time. More than 230 years was to pass before the first title insurance company was formed, and the long consociation between title companies and the recorders office began.

Thus, the bi-centennial year of the United States as an independent nation will also mark the centennial year of title insurance as an independent industry.

Looking back, the reasons for development of the American system of title records, as opposed to the British

system, are both obvious and logical. Lacking secure private storage places for deeds; with the advent of numerous small landholdings; with the emphasis on rights of the individual (especially rights in land); and with the firm concept that the proper role of local government in this country was to serve the needs of the citizenry, it is hard to imagine that any different system could really have taken hold in this country.

Advent of the private title insurance company is also obvious and logical; the reasons include national growth, ever increasing complexities of determining land ownership, and expanding demands by lending institutions and purchasers. Rapid turnover of real estate in the last thirty years or so, coupled with the emergence of mortgage lending as a major industry in itself, has resulted in the explosive growth of title insurance companies, both in number and in volume of business.

As the end of its first century draws near, it is evident that the title industry has not been static; witness the disastrous venture into insuring the payment of mortgages, which was soon abandoned.

The direction and extent of possible changes in the second century undoubtedly will be the subject of searching examination, spurred by the coming centennial. Perhaps it can even be determined whether the first hundred years is the hardest.

So long as individual rights are accorded at least the protection that now enjoy in this country, I would expect future progress to be gradual, evolutionary, and along lines already marked out and under study by various committees of your Association.

A brief description of recording procedures in Dade County is now in order, followed by comments on differences in the procedures of our neighbors to the north, Broward and Palm Beach Counties. For federal and state purposes, these three counties constitute a single planning district, and they are rapidly becoming recognized as a single economic community.

Unlike its population total, which climbs steadily and reached 1.3 million people this year, Dade County's recording work load has remained surprisingly level over the past ten years—varying in a narrow range from just below to slightly above 200,000 instruments annually. This year is an exception to past evenness, and at the present rate will reach 220,000 instruments.

These instruments are accorded an uncomplicated and rather traditional treatment, with emphasis on accuracy and control at minimum cost. Title companies are instructed to submit all documents to the county clerk's window prior to 3:30 pm, but individuals will be accommodated until closing at 5:00 pm. All instruments are logged in and assigned a sequential clerk's iden-

tification number that day. At 5:00 pm, the day's business is turned over to a representative of the local title companies (who has been deputized by the County Clerk) for microfilming and take-offs. On the following day, all instruments are given a book and page number, microfilmed, and a hard copy is printed out and bound. On the third day, they are classified, hand indexed, and mailed back.

Seven of the 18 title companies currently operating in Dade County receive separate microfilm copies and take-offs, share the expense of preparing and delivering them, and maintain abstract plants in some degree of completeness.

Broward County, with a 1970 population of 612,000, and a recording volume now leveling off at approximately 155,000 instruments this year goes a bit further. They assign book and page numbers along with the clerk's identification number as documents are submitted, and have abandoned hard copy for microfiche.

Palm Beach County's 1970 population is 346,000 and its steadily increasing recording volume may approach 90,000 instruments this year. County officials maintain a current tract book record, kept up to date during the day, and pay for this service by levying an extra charge on all instruments recorded. Data processing machinery is used to maintain a cumulative index for the year. Hard copy was abandoned this January in favor of coded microfilm cartridges and programmed microfilm readers which automatically stop the roll at the specific document designated.

Dade County has not experimented with more sophisticated techniques or speed ups for two reasons: money and volume.

On one hand, it would require more employees and substantial overtime to process all instruments the same day they are submitted. Actually, such a speed up is not necessary, since the title companies, as was mentioned earlier, get daily microfilm copies of each day's business, and they get them by 8:00 am the following morning.

On the other hand, it is not unusual for well over a hundred individuals to be using the hard copy records at the same time (often on their lunch hour), which would require large investments in film and viewing devices, or in on-line computer systems for such peak loads.

Most importantly, the system in Dade

works, and works well from the standpoint of all concerned, the county clerk and staff, the lawyers, the general public, and the title companies. (Incidentally, the clerk has been with Dade County for 53 years, his assistants have logged 45, 31, and 17 years respectively, and the title industry representative, who prepares the microfilm and take-offs, 27 years.) Problems that affect the title companies do come up, of course, and modifications are made from time to time. But, as you can imagine, a very comfortable and well understood working relationship has been developed over the years.

As one who is a loyal purchaser of title insurance (in three states), I do not have to be convinced of the importance of duly recorded and accessible instruments affecting land titles. I also have a clear image of the catastrophe which would result if legislative bodies decided that recording is not a proper governmental function. In fact, I can think of no industry where governmental and business operations touch more closely or productively than in the matter of land titles and of their insurance. The largest and most important investment which most people make, or can ever aspire to make, is the purchase of a home. Title insurance not only protects that home investment, but probably made it possible for the housing development to get started in the first place.

In terms of its unique importance to the American way of life, one might be tempted to think that almost any cost would be justified in performing the recording function, and in maintaining title plants. Such, of course, is not the case. What is desired, indeed required, is a speedy and efficient operation delivering maximum service at minimum cost. Attainment of this objective is the joint responsibility of both government and the title industry.

Multi-county consolidation of title plant information will serve to help attain this objective in a few, perhaps many, instances. I feel, however, that because of the elective process, legal problems and the weight of tradition, multi-county recording is as yet a long way off. I also suspect that major improvements remain to be made in eliminating duplicating industry and government costs within single county operations.

In planning to meet the needs of the future, various committees of this Association are considering such esoteric

things as land banks, grid coordinates, on-line and real-time computer systems with instant up-dating and access through remote terminals, and even joint title plants. Various other committees are considering such mundane things as stamped notary seals, uniform forms, and routine office procedures. All of these considerations are worthwhile and should continue to be pursued. But, even more important, are decisions as to the proper dividing line between your responsibilities and those of government.

The historical relationship between government and the title industry can be described as coordinate, rather than cooperative. It has never been a governmental concern to designate anyone as full or part owner of any real property. Government's role has been restricted to receive, record, preserve, and make available official records relating to land titles.

Title companies rely on the thoroughness of their research into official records as the basis for insuring individual titles. Even so, there are problems with official as well as unofficial documents.

Proposals have been discussed for government to utilize the power, speed and versatility of large computer systems to provide what would amount to abstracts. If this were to be done, I am sure it would not be at the expense of the general taxpayer. At best, such a centralized governmental service would be supported by increased fees paid by the title industry. At worst, if government is to do all the work, it is only a step for government to move into the insurance field, with workmen's compensation a possible parallel.

It is only fair to point out that if there are faults in local recording procedures, the title industry must share the blame. Recording requirements are set by law, and only minor procedural differences may vary among jurisdictions within any one state. And the differences across state lines are more often apparent than real.

If the present division of responsibility is to be changed, it should be done only after thorough study and publicity. There are ample opportunities to increase efficiency and decrease cost on a coordinate basis without changing existing legal responsibilities. And no changes in the existing division of responsibility should be made at all unless they clearly advance and improve the rights of your clients, the present and future property owners.

Commentary By

John B. Wilkie

President, Lawyers Title of Arizona, Tucson, Arizona

Arizona is a relatively large state as far as area is concerned. It is comprised of only fourteen separate counties. One county, Maricopa County has over half the population. Pima County where Tucson is located has about thirty per cent of the population

and the other twenty per cent is spread amongst the other twelve counties.

In 1946, when our company began operation in Tucson, the people who started it were foresighted enough to see that there was tremendous potential in the use of the IBM machinery. In

those days, there was an IBM keypunch machine and sorter. And, so in 1946 we began posting by the use of IBM index cards.

We felt at that time that the procedure was probably not too efficient in that the only use of the punch card it-

self was the sorting process, we did feel that in the future there would be tremendous potential.

As we began to go into the other counties in the state we carried the same concept forward, although each individual plant was built and used in its separate county seat. As the use of computers became more useful it became obvious to us that the title plant of the future, at least in our area, had to have the help of a computer. Economics dictated that this computer not only would have to cover more than one county, it probably would have to cover more than one company operating in individual counties.

We have been using this concept for about the last ten years, and our plan for the next five years, is to place our entire plant operation, and those that want to come along with us, onto a computer.

Throughout the years, we have been investigating the possibility of purchasing or leasing a computer and we have talked to the salesmen who tell us that there are no problems. Listening to Dr. Peale this morning reminded me of some of these computer salesmen. There just aren't any problems, all you have to do is think money and you have solved your problem. We felt that our budget was not quite that large. We can think, but not in the terms they think in.

We got some figures about two years ago for a computer which we thought would fit all the needs of our operation in Maricopa and Pima Counties. The best price we could get on the rental was around sixteen thousand dollars a month or a purchase price of approximately seven hundred and fifty thousand dollars.

All we could get from the computer was a hard copy print-out of the chain of title, so we decided that we were not yet ready for this. We have continued key punching the cards, sorting filing them geographically with the sorter.

About a year ago, we began to investigate the possibility of taking these cards, running them onto a magnetic tape and then from there you can go quite a few different directions. The beauty of this is the versatility. At this point in Maricopa County and in Pima and in some of the other counties in Arizona we are using the following system:

We purchase the take-off film from the county recorders. All of the county records in Arizona now are on microfilm and they are very happy to sell a copy of this microfilm.

The microfilm is then delivered to a central service bureau in Phoenix, where the key punch operator punches the take-off for all of the counties. That evening the cards are delivered to a service bureau where they are run onto a magnetic tape. Then the computer sorts the cards into the existing file and prints out the hard copy take-off.

In Maricopa County, we send this take-off to the eight or nine companies operating in Maricopa County which are purchasing this take-off through a sep-

arate corporation. In Pima County, we are still going it alone and we are looking for anybody that would like to discuss it with us.

In other counties we are negotiating with several companies to buy copies of this print-out.

This is simply an interim measure because the print-out gets to be too cumbersome. In Maricopa County, we take the magnetic tape once a month and run it through a machine that reproduces the tape on microfilm and at that point throw away all the previous microfilm and we have twenty-three boxes of microfilm that comprise the entire records of Maricopa County. Our filings there are about two hundred thousand a year. The entire plant from 1945 to date is on twenty-three boxes of microfilm which can be reproduced overnight at a price of several hundred dollars.

When people start talking about title plants, everyday the concept changes. We feel that perhaps we have been very fortunate in choosing a procedure which is able to meet these changes, or at least we think it is going to be able to meet these changes.

Another beauty of this type of take-off is being able to do it in one place. This solves the biggest problem that we have and I'm sure many of you have the same problem—trained personnel. The turnover in our office is just getting to be fantastic, I really don't know what the reasons are, besides pregnancies and all the rest. Keeping trained personnel is very difficult.

We have people who are training new personnel, they have been there five months, the new personnel have been there five weeks and they are just getting ready to train the new ones that came five days ago. Arizona is a very transitory state. The girls whose husbands are in the service stationed at the airfields or at the universities. Total university enrollment in Phoenix and Tucson is close to sixty thousand students and a lot of them are working their way through—their wives are working and they are going to college.

We are forced to employ them and when they get their degree they are gone—so the large turn-over. The problem of personnel turn-over is a very vital one as far as we are concerned. This is especially so in the smaller counties. We just can't seem to keep the people in the smaller county, so we have given up trying to train them and we bring the entire operation into one focus—one point.

As I said before, this is only an interim step, we now have all of the records of Pima County, Maricopa County and other counties in Arizona on magnetic tape. Probably in about five years we will put this all onto a computer. I doubt frankly that that computer will even be in the state of Arizona. I don't know where it will be, but there is no need for it to be in Arizona.

The location of the computer is strictly immaterial to the present posture of the development of the computer technique. When we get to meetings like

this and we start talking about what we are solving or attempting or purporting to solve in Phoenix or Tucson, somebody will say, "Well, I'm in San Jose and we got all kinds of problems and we are looking into computers, maybe we ought to get together." I think the end result will be that we are not only talking about multi-county plants, but believe it or not we are going to be talking about multi-state plants, I think this is a concept that to a lot of people is basically true.

Listening to Mr. Gullledge this morning and to some of the thoughts coming out of Washington, you can see that if we really don't move ourselves into these areas of cutting costs and operating in a more uniform fashion, somebody else is going to figure it out for us.

Actually, our next step will be to take these tapes and run them onto the computer. We have the tapes programmed for what we call "geo-check". If I own lot ten, block fourteen of Blackacre and the girl has had a hard night or something and she keeps punching it in the reverse order, we have programmed the computer to reject the cards if there are certain errors.

We are trying to put into the programming certain checks that prevent us from putting the wrong card in the wrong place. Obviously the next step will be to program the name of the owner into the particular lot ten, block fourteen, Blackacre, and if it is John Wilkie, and John Williams over here tries to put a mortgage on my property, the computer will reject it because although Williams and Wilkie are close together alphabetically, they aren't the same and the computer will reject it.

If you are going to go into a complete computer program this should be done and it is very possible. I know that some of the people at Lawyer's Title listening to me are probably about ready to murder me and think that a young upstart up there doesn't really know what he is talking about and that is probably true. This is one reason why we are going slowly into this computer operation and in a way where we can test each step without having murdered ourselves in the process. Believe me, gentlemen, you can do this. You can go so far on a computer and then all of a sudden the question arises, "Why didn't we think of this?" By the time you realize you have made a mistake, it is too late.

We hope that by the use of this step-by-step developing of the magnetic tape and working on the geo-check at a time when it is not going to kill us if it doesn't work, perhaps we can develop some kind programming and some kind of a title plant that is in one place, be it Kansas, Iowa, Arizona, California, or wherever.

Quickly, let's mention one other factor which is contrary to the idea of multiple planning. The fact that your customer wants to think that the business you are doing is close to home. He doesn't like this idea of a machine some where way off. At one time in

our development we did move a title plant from a small town south of us on the Mexican border to Tucson and we had the idea that we could do that there and that it would work nicely and there would be no problems. But, the customer reaction was bad. They wanted to see that plant, they didn't want this junk about having it up in Tucson and so it wasn't very long before we moved it all back again.

On the present posture of our title plant, the plant is right there in the county—physically, those boxes of microfilm, although in this particular county, there are only three of them. It is not very impressive, but at least all of the records of the county are in

that particular county and you could put them on the reader and the reader is programmed so that it goes right to the particular place. You push the button and you can give him a hard copy print of the chain of title. So you have to have something in the county itself so that the people can get the local information and be impressed by this local title plant.

Obviously when you have a computer that is stationed off somewhere on the desert, all you will have is a display terminal and of course, those things impress them quite a bit too—where you go in and press a few buttons and out comes a chain of title on a viewer. Then you press another button and you have a hard copy print-out. It is most

impressive if you push the right button and get the one that has his name on it. This doesn't always happen. We had one demonstration where one fellow said he wanted his brother's property checked out and we were trying to impress him so we pushed all the buttons. Unfortunately his brother had a name very similar to some other local character who had about fourteen judgments against him, and they all came out too. He was quite impressed.

That is the direction that we are taking and that we, at least I personally, believe that multi-county and perhaps even multi-state title plants are a thing of the very near future.

Thank you.

Commentary By

Carleton L. Hubbard, Jr.

President, The Garfield County Abstract Company, Glenwood Springs, Colorado

Fifty years ago, my father purchased a small title company situated in Glenwood Springs, Colorado, a mountain community in the heart of the Rocky Mountains. Glenwood, whose main claims to fame are the Hot Springs, and the final resting place of that notorious gambler, Doc Holliday, boasted a population of 1800 people in 1920, and is the county seat of Garfield County, the eighth largest county in the state in area—nearly 2 million acres. However, of this total acreage, only one half was patented, the balance had been withdrawn for the United States Naval Oil Shale Reserve, or else was too straight up and down to be useable. In the five years previous to 1920, the recordings in Garfield County had averaged nearly 4,000 per year, including chattels. Of this total, nearly one half were oil shale location certificates.

The story is told that in the early nineteen hundreds, a homesteader had built a cabin in the High Plateau near the town of Grand Valley. In place of a stove in his cabin, he built a fireplace out of the ebony colored stone which abounded in the area. Upon starting a fire in the fireplace for the first time, he was astounded to discover that the rocks started melting into a puddle of black goo; and as the heat in the fire increased the rocks actually ignited and in a short time his new cabin was a smoldering heap. The black rock in the fireplace was the first discovery of oil shale in western Colorado, and Garfield County has one of the largest oil shale beds in the world.

This was quite a burden for the small abstract office which used long hand as the method of takeoff, and utilized a blind index system. In his first year as an abstractor, my father's gross revenue was just over \$5,000.00.

Dad, who still comes to the office daily, hung onto the business through the 20's and 30's, but supplemented his income by acting as county welfare di-

rector for several years. Needless to say, during the depression years, more people came into his office to apply for welfare, than came in to order abstracts.

In the forties, the business really boomed—mainly because of the great activity in the oil shale. Major oil companies were patenting huge blocks of oil shale lands, and abstracts had to be submitted for every parcel which was being applied for. This great surge of business made it impossible to take time to modernize or streamline the plant and thus each chain which was searched became more and more timely and thus more costly.

I joined the company in 1950, but one year later had to take a sabbatical and join Uncle Sam for two years in the infantry. I returned in 1953 and have been with the company since that time.

In the mid fifties we started a program of switching all of our indices to an "open" type system. On our town lot books, we went to the beginning and set up the system, but on our tract book, we were able only to put everything subsequent to a certain date into the new system and go back and pick up the first part as time allowed.

It was also about this time that the verifax printer first found it's way into the hill country, and we changed our daily takeoff system from a typed page to a hard copy. Admittedly, the copier was not the best one made, but it was the only one available to us. This cut down the time required for the daily takeoff, and allowed more time for plant modernization or work output if the business necessitated. Once the hard copy was in our office it was posted by hand to the proper index, hopefully, appropriately marked, and then filed numerically.

We continued along these lines until the early sixties with our efforts aimed mostly towards the compiling of ab-

stracts, for the term "title insurance" was just beginning to be heard around these parts.

Just east of Garfield County lies our neighbor, Eagle County, which in 1960 had a population of 4600 persons, and a land area of just over 1 million acres. The Continental Divide forms the eastern boundary of Eagle County and its useable area is confined mainly to the valleys formed by the rivers and streams which flow through it. Farming, ranching and mining had been the main industries of this county, but in 1962 a new industry was to begin which would have a greater impact on the economy of the county in 5 years than mining had done for the previous 75 to 80 years. This new-found bonanza was in the form of snow laden mountains, and translated—this means skiing.

About the time that the plat was filed for the town of Vail in 1962, our compatriot in Eagle approached Dad and I with the idea that we buy him out. By profession he was a full time bank clerk, nighttime lawyer and weekend abstractor, and he wanted to get shed of some of the work load. Being still a young man who was over confident in his abilities, and seeing the great potential which I thought lay ahead, I was wholeheartedly in favor of the acquisition, but my father was somewhat more cautious. It was almost a year later that we finally closed the deal, but we had acquired the Eagle County Abstract Company and merged it with our company to form one medium sized non-profit corporation.

The abstract books and tract indices of Eagle must have been designed by the Devil, himself. The tract books contained a series of numbers which referred you to another book which gave you a very brief sketch of the instrument referred to.

You then had to go to the book and page where the instrument was recorded to examine it properly. At this point,

I will explain that the previous owner used the county clerks office for his abstract work, so all of the records were readily available.

Our plan had been to move all of the records to Glenwood Springs and have one central office for both counties. We thereupon embarked upon the task of microfilming all of the books in the Eagle County Courthouse. This project took several weeks to complete, but we at last had everything in one office—whether it could be made workable or not was yet to be seen.

Our first step was to immediately set up new lot book and tract indices, identical to those we used for Garfield. All instruments recorded after our date of acquisition would be posted in these books, and the old records transcribed into them as time permitted. It also became necessary to obtain some type of reader printer so the microfilm could be put into use. Through my various influential and expert contacts, we were able to obtain a printer, which, after installation, we determined had been custom built for a 6 foot 8 inch, three-handed contortionist with telescopic vision. But with the use of ladders, winches and various other custom tools we made it work—for a while. The developer fluids were so powerful that the gears in the printer mechanism lasted only a few weeks before having to be replaced. Any typist sitting near the developing mechanism would be found slumped over her typewriter unless she made regular trips to the other side of the room for fresh air.

Our biggest problem, by far, is to obtain good copies of the plats which are filed in the clerk's office. There is no machine available in Eagle to reproduce the linen or mylars which are filed. So periodically, we make arrangements to take a machine to Eagle and make the copies ourselves. The county clerk now uses a microfilm recording system, and makes a print of the plats for us from the microfilm, but it is not satisfactory in that it is not to scale, is not a clear picture and does not store well because of its tendency to tear.

It was this venture into Eagle County which really initiated us to the world of title insurance. With the great surge of building taking place, abstracts were out, so we had to be able to furnish title insurance to our customers, and furnish it fast. When you are abstract-oriented, as I was, it is somewhat difficult to make the overnight change to the supplier of commitments and policies versus abstracts, but, of necessity, we made the transition.

Forty miles south of Glenwood lies an old mining town which was one of the first towns in the country to discover that the 100 or more inches of white stuff that floated down each winter was good for something besides shoveling off of the roofs and sidewalks into the streets—Aspen is its name. This is the county seat of Pitkin County which had a total of only 2300 people in the county in 1960.

The sixties were to see the town of

Aspen grow to a permanent population of 4,000, a transient population of at least that many more, and a tourist population that reaches 12,000 to 15,000 people on peak days. Neither the tourist accommodations, nor the ski lift facilities could handle this crowd in Aspen properly, so ski areas were started at Highlands and Buttermilk, both just adjacent to town, and then came Snowmass. In many ways, this was the epitomy of village construction. Experts chose the area because of its fantastic ski potential, and all phases of the development have been equally well done. To indicate the growth of the Aspen area, which is the only population center in the county, the assessed valuation grew from \$19,000,000 in 1966 at \$42,530,000 in 1969.

In the summer of 1968, just as Snowmass was getting a good start, an attorney friend of mine in Aspen called and asked if I would be interested in managing the Pitkin Title Company for a client of his who was considering buying it. I replied that it would be necessary for me to look over the situation before answering. In the next few weeks, I sat in on many meetings between the seller and the prospective buyer. Suddenly, the buyer dropped out of the negotiations, and I found myself taking his place. On February 1, 1969, we took over ownership of the company, which was as large as what I already owned. My father was really convinced now that he had raised a complete idiot for a son. After a few months of daily drives back and forth to Aspen, and running the Glenwood operation at night and on weekends, I was inclined to agree with his thinking.

The plant itself, presented some problems, but fortunately it had been built to title insurance specifications, rather than abstract. That is, the last 12 years had been built that way—everything previous was just a photostat copy of the county clerk's tract book, and I think most of you are acquainted with that kind of animal. Anyway, here is the way we got our daily takeoff (this is not our innovation, but something the previous owner had originated) We would leave our office at 3:00 P.M. each day and go to the court house which was directly across the alley from us. We would let out a loud whistle and a hand would appear from a window on the first floor clutching all of that days recordings. We would go back to the office and microfilm the takeoff, then return to the aforementioned window, give a little whistle, wait for the arm and hand to appear, place the papers in the same hand and return to the office. The only time the procedure changed was if the clerks office was to busy to answer our signal, or if it was too cold to pucker up and whistle.

We would then proceed to develop the film, splice it on the appropriate roll, run a hard copy, and use the copy for posting and examining for pending jobs.

Whereas our business in Eagle and Garfield Counties was somewhat stable all year round, we discovered that business in the Aspen office was rushing 6 or 8 months out of the year, and ab-

solutely frantic the rest of the time. The largest surge of business would occur in the winter months for the following reasons: the developers of condominiums would start their buildings in the spring, and pre-sell the units during the summer and fall; Then, by the time the building was completed it would usually be Thanksgiving time or early December. The developer would then place the orders with us for all of the units in a given building; and as soon as the plat and condominium declaration were filed we would issue the commitments. Then, usually during the Christmas holidays, the purchasers would stay in Aspen, sign the final papers, and we would then start issuing policies. There are approximately 1500 condominium units in the Aspen area and probably 1200 of these have been built in the last 4 years.

I know that all of the foregoing sounds more like a chamber of commerce promotion rather than a talk about title insurance companies, but it was done to acquaint all of you with the situation which existed in each of the three counties.

Each county is a different type of problem in the eyes of the title insurance agent, who also owns the title plant.

First, we have Garfield County which has the largest area, the largest population, but at present does not have a building boom, but instead a steady growth.

Secondly, there is Eagle County which is experiencing a boom in one area of the county, but the balance of it is devoted to farming, ranching and small communities.

Third, is Pitkin County which is building like it was going out of style. With at least 2 new complete ski areas being planned as of this time, the business prospects look good for the future.

With the old county clerk's records, or blind indices forming the basis for the title plant in each case, it would be ideal to start over and build each plant from beginning to fit todays needs, using either a punch card system, or a geographic type filing system. We need the system which would be the quickest to install, provide the quickest retrieval, and be the most economical to set up. To this date we have not determined the route to take.

The three title plants are similar in the following ways:

- a. In Eagle, we have a Xerox machine in the court house which we use for the daily takeoff, and the posting is done by hand into tract books;
- b. In Garfield, we bring the instruments from the court house to our office, take a Xerox copy, and post into tract books by hand;
- c. In Pitkin, the clerk now provides us with a Xerox copy, which we immediately microfilm, but post from the Xerox copy into loose leaf index sheets.

Complete consolidation of the three plants would be desirable, but costly and of course time consuming.

In our particular case we could consolidate with the following "plus" factors:

- a. Geographically, Glenwood Springs sits almost midway between the two other cities—Eagle being 30 miles to the east, and Aspen being 40 miles to the south. A large area of Eagle County is situated so that its residents must come through Glenwood to get to the town of Eagle, the county seat, and portions of Pitkin County are within 15 miles of Glenwood. Beyond the main line of the only railroad through the area, and also being on the interstate highway, Glenwood Springs is a natural trade center for the area, and in the winter, all traffic to Aspen, except air traffic, *must* come through Glenwood Springs.
- b. With a present staff of between 13 and 15 people, I am sure this could be cut at least 20 per cent by putting all the bodies under one roof and having them trained to use the records of all three counties. When there would be a lull in one county, we could shift all efforts to the busy area. Also, by cutting down on employee costs in one instance, we could then use that savings to apply toward hav-

ing complete arb maps prepared.

- c. We would be able to reduce the amount of copy machine equipment by at least 30 per cent to 40 per cent.
- d. Centralization of bookkeeping and billing procedures would result in lower accounting costs.
- e. Cut down on office rental by 20 per cent to 30 per cent. By vacating our large office in Aspen and renting a smaller place we could cut down on office rental by 20 per cent to 40 per cent.
- f. Purchase supplies in larger quantities, thus obtaining a better price. The ability to purchase our supplies in larger quantities would result in lower costs.

Consolidation would necessitate keeping one person in Eagle and one in Aspen to handle the daily takeoff, and to handle orders which would be phoned or brought into that location. We would then install a toll free telephone service direct to our office in Glenwood for all our customers in Aspen and possibly in Vail.

The "minus" factors for consolidation are as follows:

- a. Immediate renovation, remodeling and enlarging of present quarters, plus additional future rent increase for larger quarters, or construction

of completely new facilities.

- b. Inconvenience to the employees who would have to move, and the problem of finding adequate housing for them.
- c. Lack of direct personal contact with the customers in the area from which you remove the office.
- d. Depriving your customers of the convenience of dropping into your office to ask you a question about a job, to look at a plat, or the many other favors which you as a little office must provide.

In many cases I doubt that the title insurance agent, as owner of the title plant, would have the time or the funds to completely re-do the title plant to make it easier and quicker to use, so he must try to work out some agreement with his principal, whereby they would assist him in his project, it would certainly seem to be to their advantage.

My personal problems toward consolidation ended just a few months ago when the company was purchased by Stewart Title Company of Texas. I remained as manager, so it is now "our" problem, and with the "know how" furnished by Stewart, and if the fine co-operation I have received so far is an example, the solution will be forthcoming.

Fringe Benefits and Retirement Programs

Commentary By

Richard D. Grinnell

*President, Richard D. Grinnell & Associates, Inc.,
New York, New York*

I am going to talk to you about employee benefit programs and will spend most of my time on retirement plans and give you, I hope, a few ideas of what can be done primarily for key men in your company. I am going to refer to benefits that can be provided for corporations. The same benefits can be provided for partnerships and sole proprietorships. However, in the case of either a sole proprietorship or a partnership, the owners of the company cannot be included for favorable tax treatment since they are not employees of the company. A recent law was passed that states that Sub-Chapter S Corporations by 1971 will be restricted to the same amount of money that may be deducted for Keogh Plans. The restriction is that in a Sub-Chapter S Corporation, as of 1971, the maximum tax deduction to a retirement plan for stockholders will be 10 per cent of their salary or a maximum of \$2500 deducted each year. Therefore, if any of you have Sub-Chapter S Corporations, I suggest you consult your accountant and attorney and consider the feasibility of becoming a regular corporation. As

you know, professional people may now incorporate and enjoy the same retirement tax benefits as a regular corporation. Many professionals, for various reasons, have been hesitating about incorporating. On October 12, 1970, a statement appeared in a bulletin published by Commerce Clearing House, stating that there is a strong possibility that in 1971, Congress may permit professionals to install corporate type retirement plans without having to actually incorporate themselves. This statement was made by one of Nixon's tax advisors, and did not give any details.

It is my feeling that every corporation in the United States, without exception, should at least have a profit sharing plan, and in a few moments, I will tell you why I make this statement. Statistics show us, however, that only about 10 per cent of all corporations in existence have a tax deductible retirement plan which would include pension or profit sharing plans. First, I would like to state the main tax benefits of having a qualified retirement plan:

1. All contributions made to such a

plan are tax deductible as any normal business expense.

2. Contributions made to the plan by the company are not taxed as current income to the participants.
3. All of the earnings of the money in the retirement trust are tax exempt until the money is withdrawn from the trust.
4. There is very favorable tax treatment for monies paid out upon death, termination or retirement. As an example, any death benefit paid to a beneficiary from a qualified retirement plan, including life insurance, is paid Federal Estate tax free, as long as paid to a named beneficiary. However, too many people today in estate planning put too much emphasis on reducing the estate tax for the wife, forgetting that when the wife ultimately dies, she will not have benefit of the marital deduction, and therefore children are often left with huge estate tax payments. Many of you may not be aware of the fact that death benefits payable from a retirement plan may

be paid to a trust which would provide upon your death, your widow with life income, but the beneficiaries of this trust would be, as an example, your children. This means that you have not only avoided an estate tax in your estate, but also in your wife's estate. While we are on the subject of death benefits, to get off the track for just a moment, very few people realize that death benefits from regular group life insurance can also be made estate tax free to your beneficiaries through an assignment of ownership of the policy.

5. The last point I list as a tax benefit by installing a qualified retirement plan is that such a plan often enables you to release more current income for present enjoyment. By this, I mean through a qualified retirement plan, you may have the corporation pay for life insurance and investments with before tax dollars instead of after tax dollars. As an example, let's assume that a person is currently paying \$6000 per year in life insurance premiums and to his broker for investments. Let's further assume that this individual, is in the 50 per cent personal tax bracket. This means that he must draw \$12,000 a year in salary in order to net the \$6,000 that he is currently paying for insurance and investments. The difference has gone to pay Uncle Sam his taxes. I have often said to corporate presidents, who have told me that they are not ready to install a retirement plan because the company could not afford it, why not let us work out figures for you, and bring back figures to you based on the amount of money that you are currently drawing to pay for your own insurance and investment programs. Because in many cases, in small closely held corporations, we can often give the stockholders as much as 80-90 per cent of the total company contribution. Which means that, for example, if the man I just spoke about who is drawing \$12,000 a year to net \$6,000, took that same \$12,000 and put it into a tax deductible key man pension or profit sharing plan, we might possibly be able to credit his account each year with \$8,000-\$10,000. In a situation like this, the company is spending no more money than before, but he now has \$8,000-\$10,000 per year in investments and/or insurance, instead of the \$6,000 that he had without the qualified plan. Another very important fact is that his investments are growing in a qualified trust and there is no annual tax paid on the growth of investments. With his present investment program, outside of a qualified retirement plan, he is paying annual tax on dividends, as well as long and short term capital gains tax.

In addition to the tremendous tax benefits that are available in qualified retirement plans, there are very sound business reasons for the establishment of these plans. It is a known fact that practically all large corporations today have some form of a retirement plan. A large firm, in my estimation, would be a company employing 500 and more employees. Earlier, I stated that 90 per cent of all corporations do not have retirement plans, which means that these are the smaller corporations. This puts the smaller corporation at a great disadvantage when it comes to hiring key personnel. The young executive of today has learned in college the tremendous tax benefits available to him through a company retirement plan. And I have seen many cases where a smaller company, without a retirement plan, has lost a key man to a larger company even when the larger company was paying a smaller salary, but was offering in addition to the current salary, a tax-sheltered retirement plan. This means that when the smaller company installs a qualified retirement plan, they are now in a position to compete with the larger company for sophisticated key employees. Another sound business reason is that by having a retirement plan, you will reduce your turnover, and hold on to more of your key employees. Many companies that do not have retirement plans cannot with a clear conscience make their older long-term employees retire because they know in most cases the employee has not been able to save on his own sufficient money on which to retire; and we all know that social security is not adequate enough to live on. Therefore, many companies are forced to keep older employees on their payroll well beyond the age of 65. This is very discouraging to a young ambitious employee, who hopes some day to be a vice president or president of the company. However, if a company has a retirement plan, they are then able to retire their executives at age 65, which means that executive positions will then become available to the younger executives. And you can also be sure that the employee with the retirement plan who is approaching retirement will enthusiastically train the younger executive to replace himself. An additional sound business reason, of course, would be to reward faithful service. I feel that the day of the gold watch and pat on the back for 40 years of faithful service is now passé. Many companies, with retirement plans, will still hold the farewell dinner, but instead of presenting "Good Old Harry" with a gold watch, they will present him with his first monthly pension check which would be payable each month for as long as he lives. Or in some cases, for as long as he and his wife live. Believe me, this has a tremendous impact upon the morale of the other employees. And needless to say, a retirement plan will in most cases prevent the loss of social security. You and your employees both contribute substantially to the social security program. However, very few

people have been able to accumulate on their own, without a retirement plan, sufficient money in order to retire. This means that the individual must continue working beyond the age of 65, and if he earns over a certain amount of money, no social security retirement benefits will be paid to him until he is age 72. Income received from a retirement plan will, in most cases, enable a person to retire at 65.

I said before I felt that every corporation should at least have a profit sharing plan, if they ever make any profits at all. Some companies feel that a profit sharing plan must be related to profits. In other words, they feel that when they install a profit sharing plan, they have to agree to share a certain percentage of the company's profits each year. This is not true. A company may have a profit sharing plan and leave the decision as to whether a contribution should be made in any given year strictly up to the board of directors. Therefore, even in a profitable year, the corporation is not compelled to make a contribution. Many companies, instead of a profit sharing plan, pay an annual bonus. Well, as we all know, the bonus is quickly disposed of. I, therefore, suggest to you that you consider a qualified profit sharing plan that will enable money to grow tax free to a person's retirement age, because there is no fixed commitment on the company's part to make a contribution.

There are basic differences between pension and profit sharing plans. The main difference is that a profit sharing plan is primarily an incentive type program, while a pension plan is for the orderly retirement of employees. In a profit sharing plan, you are permitted to contribute up to 15 per cent of participating payroll. In a pension plan there is no such limitation on company contributions. If you have both plans together, which many companies do, you then have a limitation that states that your maximum contribution is 25 per cent of participating payroll. A profit sharing plan does a great job of accumulating retirement money for the young people. For the people closer to retirement, however, it does not in most cases, provide adequate retirement benefits. The reason for this is very simple. Let's assume that when you install your profit sharing plan, there are two men making the same salary, one man is age 30 and one man is age 55. Let's further assume that you contribute a certain percentage of their salary to their retirement age of 65. The younger man with 35 years to normal retirement age, will end up with a great deal more money than the man at 55 who only has 10 years in which to accumulate his money. This is particularly bad if the man at age 55 happens to be the president or another key employee. In the case of a pension, however, let's assume that we are to provide each of these men with a pension of \$100 per month at age 65. Today, in order to buy from an insurance company an annuity of \$100 per month at age 65, we must accumulate approximately \$14,-

000. Let's assume that our investments to the pension plan earn 6 per cent interest. The annual deposit for the man at age 30 to accumulate \$14,000 in 35 years would result in an annual contribution of \$118.52. The annual contribution to provide the same \$14,000 at age 65 for our 55 year old executive is \$1,002 annually. So, it is obvious that if our president is age 55, he is going to take a much larger tax deduction for himself under a pension plan than he would under a profit sharing plan. Many people say that they do not like pension plans because a pension plan is a fixed commitment, whereas a profit sharing plan has flexibility. However, as I have said to many accountants and corporate presidents, it is true that a profit sharing plan is more flexible, but are you willing to pay the price? A pension plan is no more of a fixed commitment than hiring an employee to work for your company. You are able to fire that employee at any time. You are free to terminate your pension plan at any time. So I say to you that if you are only getting 30 per cent of the entire company contribution from your profit sharing plan, where in many cases you may be able to have set aside for yourself 80-90 per cent under a pension plan, there would be no question in my mind as to which plan I would take, because even if you terminated that plan in say five years, think of how many additional dollars you would have been able to accumulate under the pension plan. Before you go into any retirement plan you should be presented with both pension and profit sharing figures, and possibly end up installing both plans at the same time.

Basically, there are five main methods that are used by corporations to create their pension reserves.

The first is an uninsured pension plan where there is no insurance company involved and where the trustees invest the assets of the trust in any prudent manner. Sometimes this money is even loaned to the corporation as a source of additional operating capital. The uninsured plan is used primarily by the larger corporations. However, there is no reason that a one or a two man corporation cannot have an uninsured plan. I have been amazed at the number of people who are not aware of the fact that companies can have uninsured pension plans. Most of them have felt that an insurance company has to be involved. This is not correct. It may make sense to have partially insured plans in many cases and very often it does. Because without an insurance company, by using an uninsured method of funding, the trust must guarantee the pension to the retiring employees for their lifetime. This could be a losing proposition to a trust if they have several employees living beyond the time they should have died, according to the actuarial tables that were used in determining the company contributions to the plan. There is nothing to prevent, however, their trustees from purchasing an annuity at the time of retirement

from an insurance carrier. An advantage of an uninsured pension plan is that money, if invested prudently, can keep abreast of or ahead of inflation and declining dollar value.

The second method of funding that many companies use is a group annuity or a deposit administration plan where all of the money is invested with a life insurance company. Sometimes the insurance company will even pay as much as 6-7 per cent interest. You can be sure, however, if they are paying you 6-7 per cent interest, they are probably earning 15-20 per cent with your money. Otherwise, they wouldn't be able to build all of the apartment houses they do, pay the commissions they do, and get wealthier each year. Under this method of funding, there are normally no death benefits for a person who dies, nor is this money available to your corporation as a source of operating capital. I personally prefer the uninsured method of funding to the group annuity or deposit administration plans. Because through prudent investment and proper investment management, you should be able to earn as much on your investments as the insurance company. Then you could even build your own apartment houses or dramatically decrease the cost of your pension plan or provide much higher benefits for the same company contribution. Every 1 per cent interest you earn in addition to the assumed rate of interest used in your pension plan would decrease the cost of the average pension plan by approximately 20 per cent per year, and, of course, as I have said before, you cannot use insurance company funds as a source of operating capital in your own business.

The third method of funding, unfortunately still used by many corporations and sold by many unsophisticated pension consultants, is the fully insured pension plan where individual retirement contracts are purchased on the life of each participant. Everyone in the plan has a nice death benefit from insurance, and they are also guaranteed that at retirement they will never outlive their pension. It is my feeling that this method of funding should have passed out of the picture with the Model A Ford. It is the most costly method of funding available and the least flexible of all methods of funding. After a few years, under this type of plan, the cash value exceeds the face amount of insurance. Therefore, you really don't have any life insurance at that point, all the insurance company is doing is returning your own money. And as I have said before, the money you get out of this type of funding from cash values of insurance has proven to be worth less when you take it out than it was worth when you invested the money.

The fourth method of funding that companies use is a profit sharing plan which we have already discussed. This is more of an incentive type program, primarily benefitting the younger people, and does not guarantee employees any fixed sum of retirement benefits.

I do feel, however, that a corporation gets more mileage out of this type of plan than out of paying a bonus.

The fifth method of funding which we have found to be an excellent middle of the road method of funding, particularly for key employees, is a combination plan, sometimes referred to as a split funding method of funding. Anyone having plan number 3 (fully insured plan) would in my estimation be exercising sound business judgment by changing their plan to a combination plan. The combination plan is actually a combination of the uninsured plan and the fully insured plan. Participants still get the same death and retirement benefits they would under the fully insured plan, but under the combination plan, approximately 50 per cent of company contributions are now invested by trustees. Trustees will normally tend to invest this money in equity investments which historically have been the only type of investments that have been able to keep abreast of or ahead of inflation. Money is now, with this type of plan, also available to the corporation as long as it is properly collateralized. Generally, a combination plan is at least 15-25 per cent less costly than a fully insured plan, but is much more flexible and desirable for many other reasons. It provides the same death benefits as the fully insured plan. Upon a death, however, with the combination plan, the trust retains the investment fund portion which creates a surplus which can be used to reduce company contributions for remaining participants or by amending the plan it may be used to increase benefits.

Speaking again of death benefits, if you have a profit sharing plan, I think it is advisable for you to consider allowing plan participants to have the trustees purchase insurance for them with a percentage of the company contributions. This additional benefit does not cost the company any money, but does permit, on a voluntary basis, employees to purchase tax deductible, estate tax-free life insurance if they feel they need it, thereby giving them an immediate benefit. This may also enable them to increase their standard of living, because they are now able to purchase tax deductible insurance instead of purchasing personal insurance to protect their families with after tax dollars.

Another feature that I would add to every retirement plan is a voluntary contribution which would permit any of the employees to voluntarily contribute up to 10 per cent of their income in investments purchased by the trustees. At the present time, their contribution would be paid with after tax dollars. However, the growth of the money in the trust is tax exempt. Some executives who are presently trading in the market are paying substantial income taxes each year for short and long term gain plus paying taxes on dividends. By adding this feature to your plan, you may now purchase the same investments and not be required to pay any taxes each year. When the money is ultimately withdrawn from the trust, the growth will

at that time be taxed on long term capital gains basis. In a recent *Wall Street Journal* there was an article that stated that tax officials in Washington are now considering allowing this 10 per cent contribution to be paid with before tax dollars which, of course, would be "fantastic".

It is an easy matter to set up a retirement plan covering all employees. It is more difficult to set up a plan for executives only. However, it is possible to establish a tax deductible key man pension or profit sharing plan. The other day, I was speaking with a company president in Atlanta, Georgia, who has had a partially insured pension plan for his employees for several years. The plan provided a retirement benefit of 30 per cent of salary at retirement. I explained to this company president that it was possible for him, without disturbing his existing pension plan, to install an additional pension plan covering only executive personnel. I told him, as an example, we could install an additional tax deductible plan and include only people earning over a certain salary, such as \$700, \$800 or \$1,000 per month, etc. He felt that what I was telling him was not possible to accomplish, otherwise his tax advisors would have informed him of this long before now. I convinced this man to give me the information required to make a study and told him when I presented the figures that he should have on hand his tax advisors and that I would at that time convince them all that what I was saying was not "baloney" but was in fact a "fantastic" way of converting tax dollars to savings dollars and that he as the president of the corporation would be prime beneficiary of the benefits. He admitted that if such a thing were possible, that he would immediately install such a plan since he was heavily investing in the stock market and was in the personal 70 per cent tax bracket. Such additional plans as this may also be installed on top of existing profit sharing plans in many cases.

The Internal Revenue Service permits us to install retirement plans that eliminate large numbers of employees. Some of the permissible ways of excluding people from coverage are: (1) years of service. IRS says that we may exclude in some cases, people with less than 5 years of service; (2) we may also exclude by minimum and maximum age. As an example, in some cases we may require that an employee be at least age 30 before he is eligible and that we can exclude people over the age of 55 or 60 years old; (3) if a corporation has several geographic locations, they are often able to include only those people employed in certain offices. The same holds true for people who own several corporations. A plan may often be installed including only employees from one or more of these corporations. On the other hand, one single trust could also be installed covering all corporations; (4) as I stated before, you may also exclude by salary. As an example, we can install a tax deduct-

ible plan covering only people earning over \$650 a month. A higher or lower salary may also be used for exclusion purposes.

A master trust may also be installed by a trade association permitting interested companies to join and offering substantial benefits of a single trust approach.

Other forms of key man benefit programs that can be installed if desired on a discriminatory basis are disability income and major medical insurance which can be tax deductible and cover only executive personnel. Also, you can put in the minutes of your corporation that the corporation may pay on a tax deductible basis a certain percentage of an employee's medical payments that are not covered by insurance.

Many employers are not aware of just how much their fringe benefits are really costing them. A 1968 survey made by the Chamber of Commerce indicates that the average cost as a percentage of payroll for companies paying employee benefits in the non-manufacturing group of companies is 45.7

per cent of payroll. The following types of benefits were listed which make up the figure of 45.7 per cent:

Which brings me to my final point. If you think this figure is surprising to you, you can be sure that your employees are not aware of the cost of benefits they are receiving in addition to their salary. It would behoove all of you to make some effort of communicating to your employees the value of the benefits provided by your company. If you are the typical employer, you may occasionally hold employee meetings explaining fringe benefits offered by your company. You may have a group insurance booklet, a pension booklet, individual progress reports for your profit sharing plan, etc. Which means that an employee has to do a great deal of reading in order to understand all of his benefits, which naturally they don't do. The most effective means that we have found of communicating the value of your benefit programs to your employees is to provide them each year with a comprehensive statement outlining the benefits and cost to the company of the

AVERAGE BENEFIT COSTS AS PER CENT OF PAYROLL, FOR COMPANIES PAYING EMPLOYEE BENEFITS

	Total All Non- Manufacturing
1. Legally required payments (employer's share only):	
a. Old-Age, Survivors, Disability and Health Insurance	3.8
b. Unemployment Compensation	0.8
c. Workmen's compensation (including estimated cost for self-insured)	0.5
d. Railroad Retirement Tax, Railroad Unemployment Insurance, state sickness benefits insurance, etc.	2.9
2. Pension and other agreed-upon payments (employer's share only):	
a. Pension plan premiums and pension payments not covered by insurance-type plan (net)	6.0
b. Life insurance premiums, death benefits, sickness, accident and medical care insurance premiums, hospitalization insurance, etc. (net)	2.7
c. Contributions to privately financed unemployment benefit funds	1.6
d. Separation or termination pay allowances	0.4
e. Discounts on goods and services purchased from company by employees	1.2
f. Employee meals furnished by company	1.4
g. Miscellaneous payments (compensation payments in excess of legal requirements, payments to needy employees, etc.	0.7
3. Paid rest periods, lunch periods, wash-up time, travel time, clothes-change time, get-ready time, etc.	3.8
4. Payments for time not worked:	
a. Paid vacations and bonuses in lieu of vacation	4.3
b. Payments for holidays not worked	2.8
c. Paid sick leave	1.7
d. Payments for State or National Guard duty, jury, witness and voting pay allowances, payments for time loss due to death in family or other personal reasons, etc.	0.7
5. Other items:	
a. Profit-sharing payments	6.4
b. Contributions to employee thrift plans	2.1
c. Christmas or other special bonuses, service awards, suggestions awards, etc.	1.4
d. Employee education expenditures (tuition refunds, etc.)	0.3
e. Special wage payments ordered by courts, payments to union stewards, etc.	0.7
TOTAL	45.7

group insurance, medical, major medical, disability income, thrift plan, and all the other benefits that the company is paying for. There are several organizations equipped to provide these annualized computerized statements to your employees each year. It is very impressive to give to each employee each year on one form an outline of all of the benefits he has while working for your company and showing what the

cost would be to him to provide these same benefits on his own. If you are a large enough company and have your own computers I would discuss the matter with your computer department; if you are a very small company, you could provide these same statements each year by hand, or you could hire employee communication experts to prepare the statements for you.

Gentlemen, I want to take this opportunity to tell you that it has been my pleasure and honor to speak before your distinguished group. I am afraid I ran over my allotted time, and I hope I have been able to leave with you at least one point that you were not aware of that may prove to be of some benefit to you and your company.

Thank you.

Commentary By

H. James Sheetz

Senior Vice President, Commonwealth Land Title Insurance Company
Philadelphia, Pennsylvania

Mr. Sheetz reported on data which had been developed by the Research Department on the fringe benefits of-

ferred by 14 Association member underwriter companies. The statistics covered in his report include the following:

ALTA LIMITED SURVEY ON EMPLOYEE FRINGE BENEFIT PROGRAMS OF MEMBER UNDERWRITING COMPANIES

Benefit	Aggregate Data- 14 Underwriters
1. RETIREMENT PROGRAMS	
Per cent of companies that have retirement program	92.9%
Length of service required to be eligible for retirement program	
	Qualified upon employment: 15.4%
	One to three years: 53.9%
	Five years or more: 30.7%
Portion of retirement program premium paid by company	
	Companies paying 100%: 76.9%
	Companies paying more than 70%: 15.4%
	Companies paying less than 70%: 7.7%
2. LIFE INSURANCE PROGRAMS	
Per cent of companies that have a life insurance program	100%
Portion of life insurance premium paid by companies	
	Companies paying 100%: 42.9%
	Companies paying more than 70%: 21.4%
	Companies paying less than 70%: 35.7%
Per cent of companies offering life insurance programs that are based upon the income level of the employee	100%
Per cent of companies offering life insurance programs which will permit employee to purchase additional life insurance with his personal funds	28.6%
3. MEDICAL INSURANCE PROGRAMS	
Per cent of companies having medical programs	
	Hospitalization 100%
	Surgical 100%
	Major Medical 85.7%
	Disability-Salary Continuance 64.3%
Portion of medical premiums paid by companies (percentages pertain to companies actually offering benefit)	
	Hospitalization
	Companies paying 100%: 21.4%
	Companies paying over 50%: 64.3%
	Companies paying under 50%: 14.3%

Benefit	Aggregate Data 14 Underwriters
	<i>Surgical</i>
	Companies paying 100% : 14.3%
	Companies paying over 50% : 64.3%
	Companies paying under 50% : 21.4%
	<i>Major Medical</i>
	Companies paying 100% : 7.1%
	Companies paying over 50% : 64.3%
	Companies paying under 50% : 28.6%
	<i>Disability-Salary Continuance</i>
	Companies paying 100% : 42.8%
	Companies paying over 50% : 28.6%
	Companies paying under 50% : 28.6%

4. ANNUAL LEAVE OR VACATION POLICY

Average length of service required by *clerical* employees for each weekly increment of paid vacation each year (NOTE: 50% of the companies have policies which do not permit more than three weeks vacation each year for clerical employees regardless of years of service.)

1 week vacation—6 months service
2 weeks vacation—1 year service
3 weeks vacation—11.7 years service
4 weeks vacation—20.7 years service
5 weeks vacation Not offered by
or more— any companies

Average length of service required by *executive* employees for each weekly increment of paid vacation each year (NOTE: 58% of the companies have policies which permit executives 3 to 4 weeks of vacation regardless of length of service.)

1 week vacation—6 months service
2 weeks vacation—1 year service
3 weeks vacation—8.1 years service
4 weeks vacation—11.6 years service
5 weeks vacation Not offered by
or more— any companies

5. SICK LEAVE POLICY

Per cent of companies authorizing paid sick leave
Number of paid sick leave days permitted annually

71.4%

6 days—20% of companies
12 days—20% of companies
Number of days determined on individual basis 60% of companies

Number of sick leave days which may be accumulated

NONE 78.5% of companies
12 to 20 days 14.3% of companies
No limit 7.2% of companies

6. PAID HOLIDAYS

Number of paid holidays observed annually (NOTE: Number of holidays may vary in branch offices depending on the custom in the area.)

5 days— 7.1% of companies
6 days—14.3% of companies
7 days—14.3% of companies
8 days—21.4% of companies
9 days—28.6% of companies
12 days—14.3% of companies

7. MILITARY LEAVE POLICY

Company policy with regard to an employee who is a member of a reserve component of one of the U.S. Military services and who is called to two weeks active duty for training each year

14.3% of the companies pay the employee in full for time spent on active duty and the employee also receives a paid vacation.

71.4% of the companies pay the employee a salary which is the difference between his regular salary and military salary. The employee also receives a paid vacation.

14.3% of the companies consider the spent on active duty to be leave without pay, but the employee does receive a paid vacation.

(continued)

Benefit	Aggregate Data 14 Underwriters	
8. PROFIT SHARING PLANS		
Per cent of companies having profit sharing plans	57.1%	
Length of service required for employee to be eligible for profit sharing plan (percentages pertain to companies actually offering benefit)	Qualified upon employment:	NONE
	One year:	37.5%
	Two years:	12.5%
	Three years:	50.0%
9. STOCK OPTION PLANS		
Per cent of companies having stock option plans (NOTE: Companies offering stock option plan indicated that it was limited to executives and that it was effective upon employment.)	14.2%	
10. BONUSES		
Per cent of companies paying bonuses during first year of service (NOTE: Of those companies paying bonuses, 57.1% reported that bonuses were paid to all employees, while 42.9% reported that bonuses were paid only to executives.)	50%	
	57.1% of the companies that do pay bonuses	
11. JOB EVALUATION AND SALARY ADMINISTRATION PROGRAMS		
Per cent of companies maintaining formal job evaluation and salary administration programs	57.1%	
Frequency in which salaries are reviewed (percentages pertain to companies with formal salary administration programs) (NOTE: All of the companies reported that it was not their policy to grant cost of living salary adjustments.)	Monthly	25%
	Semi-Annually	12.5%
	Annually	62.5%
12. OVERTIME COMPENSATION POLICIES		
Point at which companies begin to pay overtime compensation to non-exempt employees	Work in Excess of:	
	35 hours per week	7.1%
	37 ½ hours per week	21.5%
	40 hours per week	71.4%
Rate of overtime paid to non-exempt employees for work done on holidays (NOTE: 14.3% of the companies reported that they do grant compensatory leave for employees in lieu of overtime pay if it is requested by the employee.)	1 ½ times normal rate	78.6%
	2 ½ times normal rate	21.4%
13. PERCENTAGE OF TOTAL SALARY EXPENSE SPENT BY COMPANIES ON EMPLOYEE FRINGE BENEFITS		
Range of percentages	1.7% to 27.5%	
Average percentage spent for employee fringe benefits	16.4%	
14. ADDITIONAL BENEFITS REPORTED BY COMPANIES THAT WERE NOT INCLUDED IN THE QUESTIONNAIRE		
Benefits appear under the group in which the company reporting additional benefits is classified		

ABSTRACTERS AND TITLE INSURANCE AGENTS SECTION

Report of Section Chairman

John W. Warren

Vice President, Albright Title and Trust Company, Newkirk, Oklahoma

To you who are members of this the Abstracters and Title Insurance Agents Section and to those of you who may be guests, I wish to express my thanks for having permitted me to serve as your chairman this past year. I also want to make a report to you of the activities of your section since we last met together in annual convention at Atlantic City at the end of September, 1969.

Much good has, I think, come about since we last met together, some through the careful planning of your section officers, and some because of a change in the country's economy and the practices of its citizen savers.

Many times our best ideas originate from basic concepts. We have long known that the exchange of information from abstractor to abstractor was one of the most rewarding aspects of our assembling in conference or convention. This was refined somewhat and exploited fully at the Mid-Winter Conference in New Orleans this past April.

A number of items of discussion material was circulated among the members of your section's executive committee and narrowed to some five areas wherein, we felt, members of this section had greatest interest. We held three different thirty-minute discussion sessions with those in attendance assembling at the table wherein they held their greatest interest during the first thirty minutes, the area where their second greatest interest lay during the second thirty-minute period, and finally the next most pressing discussion area in the final thirty-minute session. Table membership was limited to approximately fifteen persons and the tables in all five areas were filled beyond capacity. In typical Mardi Gras spirit, the table moderator awarded contributing persons with a string of beads or a doubloon for each meritorious idea presented, and finally the party having the greatest collection of beads and doubloons was given the grand prize, a beautiful clock radio. Everyone was pleased and amazed at the number of good ideas that came out of these discussions.

Some time has past since our section last held any type of regional seminar meeting. As the result of my inquiry at the Mid-Winter Conference and the strong expression that we hold one or more of such meetings this year, we did so on May 22nd and 23rd. Regional meetings can have many of the

good aspects of a Mid-Winter Conference or an Annual Convention by supplying worth-while program material. They can also minimize to the abstractor expense because generally held in closer proximity to his business location and involving less hotel and travel time. With these goals in mind, meetings were held on Friday, May 22nd, at the Hilton Inn in Kansas City, Missouri, and on Saturday, May 23rd, at the Marriott Motor Hotel in Chicago. The morning sessions involved speaker presentations on title insurance coverages available today, the changes in coverages, and what brought these changes about, public relations material, and a slide highlighted presentation on microfilm equipment and its use, cost, and adaptability. The afternoon sessions were patterned after the Mid-Winter round-table discussions held in New Orleans with the discussion areas limited to four topics rather than five. One hundred men and women from nearby states attended the two meetings in spite of the fact that at the particular time title orders were generally slow and our business income substantially less.

Our section has been gifted in having several active subcommittees and the record of their work was last given you in New Orleans and will follow my report today. For this reason I shall not in my report usurp the recognition to which they are entitled by pointing to their particular accomplishments.

I have been privileged to attend three state conventions thus far this year. I continue to be impressed by the worthwhile programs that are offered at the state level. It is quite evident, and has oft been told, that those in our profession who haven't the time but take the time to be a part of their state and national meetings also just happen to be the most successful in carrying on their business and profession. I see a trend, too, toward more common problems even among abstracters distantly removed from each other. I believe this comes about because of a more uniform system of laws coming down from the Federal level, national legislation that affects each of us in a similar manner, a standard form adopted for use throughout the nation, and a communication system that alerts you to a neighbor's problem who may be many hundreds of miles away. It therefore, appears to me even more important

that we have a strong national organization with an active section aimed at solving problems that are common to us all. It is necessary that we take time out to reflect on our own business, on our method of doing business, on our neighbors' and what's coming a few years hence.

Our national office, recognizing the need to rub shoulder-to-shoulder with the man in the field, has been actively engaged in a program called "Operation Grassroots". We have learned a lot about our industry from visits over several states and several sections of United States. Our director of public relations has been scheduled to report to you about this later this afternoon. Also geared to stimulate your thinking is the panel discussion that is to occur this afternoon on taking a look at our business ten years hence. I know we will be enlightened by this discussion. I have gone about this year urging our members to be professional in their business, to take an active part in the work of this association, and to share their good ideas for the betterment of us all. If we want to lose a part of our business to be replaced by another system of evidencing, we have only to carry on as we were accustomed to doing, to reject new ideas, to decline the use of automated equipment, and to refuse to be a part of any objective discussions that involve our industry. We are desperately lacking in a public understanding of our industry, how we operate, the basis of our charges, the professional side of our work, and the importance that it has in the economy of the nation.

I am aware of the strides that our Association is making and I feel very privileged to have had the opportunity to assist in these endeavors though they may be small. Each of us here now, and as contributors to the work of the association in the years ahead, would be well guided by the final words of Robert Frost's poem "Stopping By the Woods On a Snowy Evening", and I quote:

The woods are lovely,
dark and deep.
But I have promises
to keep,
And miles to go
before I sleep,
And miles to go
before I sleep.

Thank you very much.

Report of Organization and Claims Committee

William F. Galvin

*Chairman, Organization and Claims Committee
President, Guarantee Abstract and Title Insurance Company, St. Petersburg, Florida*

The Organization and Claims Committee, in cooperation with the Research Committee, has developed a questionnaire which you will find easy to answer.

The purpose of this questionnaire is to provide data on the organization and financial structure of ALTA member abstractor-agents and to use the results as a basis for making recommendations to the members of our Section.

Examples of data to be developed, upon which the Committee hopes to base Section recommendations, include:

1. Coverage carried by abstractors in the area of errors and omissions
2. Amount invested in the business
3. Gross income developed from abstracting and title services. For many of our Association with gross of under \$50,000, ALTA has little or no information
4. Net income—and from these figures some average return on dollars invested
5. The Committee may eventually want to advise Section members concerning the changing of their operating structure—perhaps from

a partnership to a corporation; or a sub-chapter S corporation if there are advantages that become apparent from the information gathered from the questionnaire.

To accomplish our goal, your help and cooperation is imperative. This easy-to-answer questionnaire will be mailed on or about January 10, and you will be asked to return it within 10 days.

Do cooperate, and encourage your associates who are not here today to do likewise. With your help, this Committee can be of real help to our Section.

Report of Plants and Photography Committee

Otto Zerwick

*Chairman, Plants and Photography Committee
President, Abstract and Title Associates, Inc.,
Madison, Wisconsin*

It is always a great privilege to bring to you the report of your Committee on Title Plants and Photography. In this rapidly changing world of business, the techniques of reproducing and storing information is well up to the front of the procession. Xerox in the field of reproduction, and the computer manufacturers in the field of storage and retrieval have worked a major revolution in the field in which we are engaged.

So far as your committee has been able to determine, no world shaking innovations took place in the year since our last meeting, but a steady flow of refinements and interesting innovations whets the curiosity and challenges the attention of all of us, lest we find ourselves speeding along in a Model T, but gazing at the receding outline of a 1970 model super charger.

The most intriguing demonstration of storage and retrieval that has come to our attention this year is the NCR Ultra Fiche system now available to libraries. This system reduces positive images 150 to 1, enabling the reproduction of three average size books (3200 pages) on a single 5 x 8 base. The readability of the image on a special reader provided by the company is equal to the normal 17 to 1 reduction. This is certainly not an innovation which will have immediate application for most of us, but it offers a remarkable break-through in the space required for storage of huge numbers of instruments, and the fiche arrangement makes retrieval very rapid. This should lend itself to solving the problems inherent in larger plants throughout the country.

Kalvar continues to improve its product and it seems has intriguing possibilities for our operations. The company is working on a step and repeat camera. Coupled with the peculiar or I should say, unique ability that Kalvar film has of making it possible to develop images one at a time in the step and repeat process, it seems to me that this offers possibilities of improvement in microfilm systems employing geographic filing where individual documents are cut from the rolls and filed in jackets. At least it is an alternate technique which should be explored.

One of the interesting desk top copiers now on the market is the Savin, which I would suggest is at least worth investigating. It is quite low in cost, either for purchase or rental. It uses a treated paper in rolls, and therefore can take a document of any length.

Xerox, of course, is not resting on its laurels. High speed copiers that are more printing machine than copier are now available in several sizes. Some of their new equipment is not particularly related to our business, but the company is an aggressive leader and may give us a new tool tomorrow.

An exceedingly excellent microfilm viewer with multifocus blow-up is manufactured by the Vuetech Corporation of St. Louis. The only objection to this equipment is its cost, which is a little below \$2000. This reader throws the image onto a horizontal, or almost horizontal screen at approximately desk height.

Recordak's Microstrip reader retrieval system seems to us to be one of the

variations which has definite advantages over storing your information in 100 foot rolls of microfilm. The ready accessibility and ease of location of individual images strikes us as worthy of serious consideration before any decision in plant maintenance and operation change is made. One of our numbers has employed his own variant of the system, simply coating the roll film with milar tape, indexing the information on the milar cover thus produced, and filing the film after cutting into 8 to 10 inch strips on edge in drawers. Less sophisticated than the Recordak system, it is also less expensive.

Remington Rand has what appears to be a dandy little "Karda-a-Film Mini Reader", their F-400, for less than \$100 which should fill many requirements for a small, lightweight reader. Its main drawback is the size of the blow-up.

The Dasa Corporation of Andover, Mass., advertises a low-cost portable microfiche reader which, they say, was chosen by the Office of Education of the Department of Health, Education and Welfare after receiving bids from 13 companies. None of us have seen this yet, but with a price gestimated as between \$50 and \$75, it might be worth looking into, as it would make it economically feasible to have one on every desk. This has an 8½ x 11 viewing screen with 20x magnification.

We should also call your attention to the new IBM MagCard Selectric, which we think is an improvement for title purposes of the original MTST-magnetic tape selectric. It does much that the MTST does, but the storage is on cards which are easily filed and readily re-

trieved without the difficulty of location on a long roll.

One of your committee members has commenced a local-area title service, undertaking to microfilm records and furnish them to small abstracters who cannot afford such equipment themselves, or who prefer to have the work done for them, leaving their own help free for direct title production. Some of you who have equipment might find this a field worth exploring. Others who do not have the equipment might find that an arrangement could be made along these lines which would enable one of the group to install and operate the necessary equipment with a real saving to all, plus the advantages which having the actual instruments in the office would mean.

Your committee now is engaged in weighing the advantages and disadvantages of computerized title plants. Your chairman has been highly skeptical of the ultimate cost advantages of these systems, while other members of the committee seem to be convinced that this is really the wave of the future. We were extremely interested in the claims made by Great Western Title Guaranty Company of Seattle which has just completed creating a complete new plant from public records through the punch-card, magnetic-tape, micro-film route which they assure us they did at a cost of 10 cents per posting. Such an accomplishment has staggered your chairman and tossed him onto the ropes for a

complete re-appraisal of his thinking. Whether such figures could be duplicated in smaller-volume counties is an interesting area for further study.

In Madison, Wisconsin, William A. Chatterton, an attorney, is directing a Computer Assisted Legal Services Project funded through the graduate school of business of the University of Wisconsin by Legal Services Division of the U.S. Office of Economic Opportunity. They are primarily concerned with developing computer programs to perform client interviews and legal decision making theories to analyze the information gathered and document production programs to produce appropriate documents to accomplish whatever may be desired as a result of the information gathered and the analysis made. Their objective is a reduction of the cost of legal services. I mention this because of the sites these fellows have their eyes on. They are also thinking in terms of some sort of computerized, unified land title system taking into account all of the various land use controls impinging on title. Mr. Chatterton has already proposed to the chairman of the Real Property, Probate and Trust Law Section of the ABA that it consider, together with the American Bar Foundation, funding research based on the techniques already developed in his project, to develop a land title analysis system including, in addition to the usual land title problems, the expansion of the concepts and techniques to accommodate the problems developed by

zoning laws, especially such as Flood Plain and Upland Zoning Laws which we now have in Wisconsin. He remarks in a letter to me of October 8, 1970: "It would be hoped that such research could develop techniques for handling such problems and at the same time demonstrate the necessity of developing a broader title system to take into account the many areas of government now placing burdens on the use of real estate."

At least great changes are in the air. You have seen, I imagine, the Teletitle demonstration. Things can be very different from the kind of title plant operation we learned and probably use. How great the possible changes are must be determined by sophisticated examination and analysis.

Your committee is interested in every facet of the title evidencing job from ball point pens and office desks to computers and microfiche and wired video. In many ways your Committee on Title Plants and Photography is a committee of the whole association. Everyone of you are part and parcel of it. We solicit your active interest, your communications, and your presence at our meetings. We hope in the future to have these better publicized and largely attended. We would particularly urge you to write to us of any innovation, news, bit of equipment, or system which you think unique different, useful. We would like to be no more than a sounding board,—a sort of catalogue, perhaps, to display the wares you collect.

Report of Schools Committee

Ray Frohn

Chairman, Schools Committee

President, Ray Frohn Company, Lincoln, Nebraska

In reporting upon the Abstract and Title Schools Committee, I will first give you a brief run-down of the reports received from the 37 questionnaires mailed out to those affiliated associations last August. Of the 28 associations reporting, 17 stated that they did not hold an abstract or title school during 1970.

Eleven states did, or will, hold schools or seminars during this year:

- California held educational conferences in February and March and also offers a correspondence course on abstract and title insurance
- Colorado held schools during September, consisting of first and second year abstracting courses
- Illinois held a short title course in May
- Indiana held a seminar and round table in April
- Iowa will hold an abstracters seminar in November
- Kansas held an abstract and title school in June
- Missouri had a land title school in May
- Nebraska also held an abstract and title school in May

—New York held a real estate institute in August

—Pennsylvania held a sixteen-week course from September through January

The numbers attending the schools and courses ranged anywhere from 15 to 400. In all cases, programs were planned and circulated prior to holding the schools.

Four states said that certificates of attendance or completion were issued, and one of the states stated that college credits were received for satisfactory completion of the school.

In the questionnaires circulated by our committee, one question was asked as to recommendations to national headquarters in correlating the uniformity of instructions and the following replies were received:

1. By correlating the material contained in *American Title Association Handbook on Short Courses of Land Title Instruction* outlining suggested advance notices; advantages and disadvantages of time and place of convening; lists of courses for study, together with a table of contents for each; format for the conducting of classes with

emphasis on student participation; and the merits of student evaluation.

2. Recommend subjects, series of courses offered with number of years for school to be set up preferably on a three-year basis.

3. The various state associations should try to have their courses sponsored by one of the leading universities in the state and should also endeavor to have the courses accepted as credit toward a real estate brokers license.

I wish to thank all persons who responded, and especially those who took the time and effort to make a detailed report to assist myself and the committee in helping to further our efforts with their suggestions in the educational program on land title abstracting and title insurance.

I noted some interesting observations reported by some of the students attending one particular school. The impressions varied greatly, and I would read a few:

1. "Facilities were inadequate. No heat in rooms. Bathroom far, far down the hall. Couldn't even buy a newspaper. No mirrors, radios, etc. No drinking glasses. Parking too, too far away. I

think transportation to distant quarters should have been planned. One lady alone had no ride and stayed behind alone. Women alone in strange towns are afraid to get out at night. Next time, I think motel reservations should be made for everyone at the same place. Meals were good. Mr. (Jones) was good in his presentation. *Still* I enjoyed it."

2. "Did not like accommodations. No glass to get a drink. No mirrors. Too hard to get to—keys—locks—more keys. Parking problems—too far away, parking tickets everywhere you go.

Meals were good. No planned transportation to distant quarters. The classes were fine, subjects covered adequately."

3. "Great—let's do it again."
4. "It was very enjoyable and informative. Thank you all for your efforts."

5. "Although I have long been an abstracter, this is my first meeting of any kind pertaining to this business. I found it to be informative as well as enjoyable. I especially liked the discussions and sometimes wished we had more time for this."

I gave you these remarks and observations for only two reasons: one

being the certainty that students are not all alike; the other being that some are not only interested in furthering their education, but are also very much interested in their own personal comforts and conveniences.

Future activities of the committee are up to the discretion of our honorable chairman, Mr. Warren. However, there are some rather far-reaching proposals coming out of our meeting Thursday morning, and those will be set forth in an article which will appear in *Title News* in the near future.

A Look at the Title Business Ten Years Hence

Comments By

Jack Rattikin, Jr.

President, Rattikin Title Company, Fort Worth, Texas

After accepting the challenge to appear on this panel several months ago, I promptly forgot about the subject assigned to me, that is "A National Underwriter's Viewpoint of the Title Business Ten Years Hence". There was method in John Warren's madness in contacting us so early. You know, when anyone asks you to do something a long time in the future, the easy way out is to accept and thereby avoid the embarrassment of thinking of a good excuse, especially when you don't have one. Of course, had I thought about it, I really had the best excuse right at hand. That was that I know absolutely nothing about what I'm going to be doing even tomorrow, let alone forecasting the future 10 years hence. I'm afraid that I have lived on the NOW theory all my life, and it's awfully hard to break. However, since forecasting the business climate is so very important now-a-days, I decided that a little thinking about my subject just might do me some good, not to mention what good it will possibly do for my company.

Whenever anyone asks me to tell them everything I know about any given subject, I always volunteer that I would be happy to if they have a couple of seconds. Since this discussion is supposed to take about 15 minutes instead of a couple of seconds, I'm afraid that I will have to stretch my knowledge and rely on others for some of my material. Fortunately, I was assigned to talk first, so any overlapping on Jim's and Vic's topics won't be noticeable until you find them stammering around, trying to think of something different to say. Therefore, I'll apologize to them in advance.

Since this topic takes on the subject of "crystal gazing", I decided to learn about that first. I bought the book "The True Story of Houdini", and thoroughly enjoyed learning about the steps Houdini went through proving that foreseeing the future was a total fraud on the public. Now, today I am asked to perpetuate that fraud on you. There-

fore, consider the source, and take my few remarks for what they are worth.

I will break down the title insurer's viewpoint into three categories: (1) related activities that will affect our business, (2) the future of title insurance companies from within the industry, and (3) the growing importance of market research.

The largest single factor that will make or break the title insurer in the 1980's appears to be the economic picture at the time, the public's attitude toward commercial title insurance, and the development of housing, not to mention the continuance of free enterprise itself.

According to all of the information I could get, it appears that 1980 will see a gross national product tremendously higher than we have today. I'm afraid that inflation will increase at an unprecedented pace, thereby causing a rapid rise in costs of doing business. This means that the title insurance company will have to be geared toward systems of lower costs, less employees, etc. I'll go into this more in my second point. Economists believe that the corporate cash flow will be some \$200 billion in 1980 as opposed to about \$100 billion in 1970. As you can see, this is about double in the next ten years. Knowing nothing about economics, I don't exactly know how this affects the title insurance companies, but it is bound to have a terrific impact.

All forecasters seem to think that the demand for private housing will be so great by 1980 that it will almost be impossible for the construction industry to keep up with it. If this is true, the title insurance company will be forced to expand its services through agencies and branch office operations beyond its wildest dreams. Because the costs will apparently keep rising, the construction industry will become more and more compact. That is, there will be a huge growth in national contracting concerns which will be formed as divisions of even larger major corporations. By

doing this, the company can take advantage of volume buying and thereby be able to cut their costs.

Hopefully, the savings will be passed on to the ultimate homebuyer. The title insurance company in 1980 will have a substantially larger national sales department in order to keep up with the necessity of keeping these large concerns within the title company's own backyard. The title insurance company will have more concentration on the large national customer because so much of its potential income will depend on their business. Sales gimmicks, of course, will still be in existence, but the 1980 customer will be more sophisticated and will demand more and more expanded services. These services will include the necessity of every underwriter maintaining construction loan disbursement departments whereby completion of the project will be guaranteed. More and more affirmative insurance will be demanded, and, due to the press of competition, will unfortunately be given. This, of course, will lead to that forbidden subject—"casualty title insurance coverage". If this is to come to pass, the underwriter will have to adjust his agency policies as well as his rates. The title insurance companies are now hard at work trying to buck this trend. Such casualty insurance would go against the very concept of title insurance as now set up. The title underwriter feels, as all of us do, that the ultimate consumer wants to make sure that they *do own* their own home. They are not interested in having to move because of some defect in title. People want to feel secure in the fact that they have something they can call their own, and are not so interested in just getting paid off in the event of difficulty. Therefore, the title insurance underwriter must not give in to the demands for casualty coverage requested by the builder or others, but must be cognizant of the wishes of the homebuyer himself.

The increase in costs and competition will bring about a trend toward companies that offer a complete package of real estate services. This includes land acquisition, development, financing and marketing. Since the local title agent will probably be out of touch with such concerns, it will be the duty of the title insurance company to see that the available business goes to its agent. At this time, the local title agent is the one who sifts out the available customers, but it will not be so much that way in 1980.

Naturally, and in my mind, unfortunately, there will probably be more regulation of title companies by government agencies. Now, in my state of Texas we have complete regulation of our industry by our state government, and we love it. However, this is due to the fact that we really regulate ourselves, and the Texas State Board of Insurance merely sees that we all follow the rules we make.

Of course, the Board is watching to make sure that the public is not mistreated, but so far our own industry has been extremely fair to John Q. Public, probably more so than in any other state. The thing I fear is federal regulation. It appears that if such federal regulation does come about in 1980, it will be due to the fault of title insurance companies throughout the nation. When we think more of the money in our own pockets than we do the average homebuyer, it serves us right when federal regulation does occur. The title insurance companies must, therefore, even before 1980, strive to keep their own skirts clean in order to avoid this federal regulation which appears to be eminent by 1980.

There are many more areas of related activities which could be mentioned, but time will not allow for these.

The second area I will mention deals with the future of the title business from within the industry itself.

I believe that 1980 will show a tremendous reduction in the number of title insurance companies. This will be

due to the fact that commercial developments are now getting so large and so expensive, that only the large title insurance companies can write a policy which will be acceptable to the investor. There will be a continued growth of large national title companies, thereby bringing about more and more mergers and title conglomerates in order to be able to compete. The rising cost of doing business, as well as the present necessity to have greater control, both financially and fidelity wise, will bring about the company owned operation in the larger cities rather than the agency operations of today. Even today we see more and more agencies selling their companies to national underwriters. This is not brought about through the wish of underwriters to grab all the money, but has been brought about through the tremendous amounts paid out each year by the underwriters through fidelity losses and the failure of smaller agents. I'm sure that this does not sit well with many of you here today, but we can all see it, and we all know the tremendous pressures we are under today. So many agencies sell to relieve themselves of this pressure, and the underwriter is forced to buy in order to stay in business in an important city or county.

I also feel that 1980 will be a time of greater standardization of title operations. This will be done through the development of national standards and procedures in the industry. This will be brought about through inter-company agreements and through the American Land Title Association. The needs of the ultimate consumer are basically the same throughout the nation, and the present day confusion they experience when they move from state to state will have to be rectified. Standard procedures of 1980 and after will assure the people that the title insurance companies are *all* working for a common cause, that is, the security of real property ownership, and not working to charge all the traffic will bear. Of course, standardized procedures will

bring about more uniform pricing of services. In non-regulated states today, the homebuyer must literally "shop" his business in order to avoid being charged more than the average. Complete standardized prices between the states will not be available by 1980, because of the differences between the real estate laws of each state. However, charges within a particular state should be fairly uniform, at least as far as underwriting charges are concerned.

The last forecast I will make of title business in 1980 concerns "market research".

It is my belief that by 1980, the title insurance companies will move away from being production oriented to being sales and marketing oriented. The largest cities will change from semi-monopoly, as far as title insurance companies go, to highly competitive. Since the business is shifting from merely providing a title policy to supplying a broad package of financial and real estate services, thinking and acting creatively with regard to these new opportunities will become a potent tool to increase revenues. The first step for the title insurance company of the 80's will be to learn as much as possible about the markets in which they operate. This will involve the collection and analysis of data, a revamping of sales programs and appraisals of market potentials. Market research will therefore become one of the most important areas for all title insurance companies by 1980, and it is my belief that the company which researches well and follows through, will be the one that will reap the greatest rewards.

Well, I'm sure that my time is more than up, so I will turn it over to my two cohorts here to provide more intrigue and crystal ball gazing concerning the title insurance industry. If you followed my remarks at all, you will realize that all I really said was that the title business is going to be bigger than ever in 1980, at least as far as the title insurance companies are concerned.

Thank you.

Comments By

Victor W. Gillett

President, Stewart Title and Trust of Phoenix, Phoenix, Arizona

If we just take a moment to look at all the changes we have seen in our industry since 1960, then we know there will be even more rapid changes during these next ten years.

I feel that I have a fairly objective outlook of the agent and his problems of the future as I have been on both sides of the fence. I was branch manager in Texas and supervised agency activities in 15 counties for Stewart Title Guaranty Company from 1954 to 1961. In 1961, I moved to Phoenix, Arizona, to head up a new independent

agency company called Stewart Title & Trust of Phoenix. This company is owned by about 300 stockholders residing in 14 states and we're the exclusive agent for Stewart Title Guaranty Company. I answer to an outside board of directors that are elected by these many stockholders and this outside board injects into our title business some good non-title company thinking and has, I feel, helped our growth and ability to compete. Also, our Articles of Incorporation limit the number of shares any individual can own in our corporation,

and this keeps a "corporate operator" from decimating a company and selling it and removing all of its cash.

Now for looking to the future—let's break our agency companies into two groups; those that operate in the small community with only one, two, or three competitors. In the other group, let's put the agent who operates in the larger city with many, many competitors, most of whom are a branch of a major nationwide underwriter.

I feel that in the first group, the small city operation, that the agent will

not face too much change. In many cases, the small city agent probably, in addition to being a title insurance agent, also makes abstracts. He may, in addition be practicing law, selling insurance or real estate, be the local banker or savings and loan official and is a major contributor to the business, civic and social life of his community. As long as the small operator continues to give good service and keeps in close touch with the customers, he will prosper and grow with the community.

The small city agent must, however, in the next 10 years, bring his children into the business or else bring in a promising young person who will someday take over the operation. This is the hard part, because a man who has built up his business will tend to continue "holding the reins", and this will discourage the new man and he may eventually leave or open up a competing firm. The underwriter or underwriters will no doubt press the owner of the agency to bring up someone to build the agency, as they are interested in seeing that their outlet in that county stays prosperous. The small city agent should stay active in his state land title association and the American Land Title Association, as this is one of his only outlets to keep up with the changes in the future.

Now, let's look at the big city agent and try to figure where he will be during the next 10 years. During the late 50's and early 60's, many of the underwriters felt that going into a new market should be accomplished through an agent, and when one was available who could write for several underwriters, they usually tied up a contract with him. In some cases, they took an up-and-coming vice president or title officer from one of the older companies in the community and set him up to build a new operation. The problems that came from this means of operation were many, because the particular individual may have been a great escrow officer or title officer but he was not well grounded in over-all management,

and in many cases the underwriter had to take over the agent to keep him from failing.

Also, in many cases, the agent did not have the character to withstand the temptation of occasional "dipping into the escrow funds". These antics by the agent soured many of the national underwriters on working through agents. So, they have moved more and more toward the philosophy of having a wholly-owned branch. They are also moving toward buying up control of the large city agents. This is, in some cases, a mistake, as a good conscientious agent who has a good track record of successful operations will sell more title insurance by being an independent. There is more incentive to him personally than if he were just a branch manager. Also, the agent can do a better job with the biggest problem in the title business—personnel—because he has probably been in the community longer and knows the local available title people better.

All of the items mentioned previously that are advantages to the small city agent are also advantages to the large city agent. However, in the larger cities, the independent agent has to really work on developing an attitude of giving "the best service possible" because his competition, the branch office of national underwriter, will have the great tools of national referrals and large bank balances placed from the home office to tie up large builders and mortgage loan business.

The independent agent has several advantages that I feel will continue to improve during the next ten years. One is flexibility. He can do many things to utilize his assets that are prohibited by state laws to the underwriter. He can buy an apartment, build a subdivision, buy a related business and many other things to increase the net worth of his stockholders in the corporation. The independent agent will react quickly to change and this is one of his greatest assets.

I believe that to compete successfully

in the next ten years, the independent agent in the large cities will more and more have to develop and become a student of scientific management and become familiar with the functions of planning, organization, supervision, and control. He will have to, in addition to being active in his state association and the American Land Title Association, take a course at one of the larger universities on law, business, or management. Also, he should belong to the American Management Society or to the Society for Administrative Management or other similar groups.

He must also work toward joint plant systems and other labor saving methods. He must continue to recruit, train, and promote young people in his organization. He should give these young people adequate salaries and responsibilities, so they are not wooed away to another field.

He should know his state legislators and other elected officials and keep up on legislation problems at all levels. And, above all, he should be active in his community, in civic and social affairs, because by being in a service business, the greatest number of the customers that he must serve reside right there in that community.

In most businesses, in the next ten years, bigness will choke up the smaller companies. Many agents will be purchased by underwriters. Some agents will merge together and form their own underwriting company. Some agents will move toward having less employees and handling only a certain number of customers and giving exclusive "cadillac service" at possibly a larger fee than that charge by their competitor. And, in some cases, agents will grow larger in their communities because the public will demand local, personalized service, where they can talk and see "the head man" if some problem arises.

Yes, these next ten years will certainly be interesting. In any case, no one can say, "the title business is not interesting". It is interesting because there is never a dull moment in this business. Thank you.

Comments By

James A. Gray

President, Fidelity Abstract and Guaranty Company, Benton, Arkansas

Mr. Chairman, ladies and gentlemen. It is a pleasure to take the remaining moments of this program to present the view point of the abstractor as to what might be in store for him ten years from now in 1980. One prediction I'll make first—the rest last—all the men will be ten years older. The ladies won't. And one more. Abstractors will be still trying to charge more per page and getting less on it. Abstractors know more about space than the Apollo astronauts.

Let's look at our present situation, name a few trends and from that, make

a prediction of what might lie ahead for us. We abstractors are information storers and sellers. And there are generally three steps involved. Information storage, information retrieval and reproduction or other use of the information which we sell. The information we are talking about pertains to matters that happen to land and matters that happen to people. Both the land and the people are subdividing like amoebae and both seem to be getting more complicated to keep up with daily.

There is no longer a simple property

transaction, consummated with the recording of a single deed. Now there is a literal snow storm of papers at a real estate closing and the sale and transfer of a tract of land may terminate in the recording of a deed; a mortgage; a power of attorney, or two; an amended restriction; the lifting of a restriction or right of way; a building loan agreement; an agreement to execute partial releases upon partial payments; a couple of affidavits thrown in for good measure; and so on ad nauseum, and the whole thing re-recorded two or three times to correct typographical er-

rors in the names of the parties and the description of the land.

The population will increase considerably the next ten years and it isn't expected that the complexity of any aspect of modern life will diminish to any great extent. It is at this point that I leave out all my jokes about the population explosion.

There is quite a lot of variety of real estate activity going on now, such as construction of apartments—high rise, garden and other types; mobile home subdivisions; modular housing is the coming thing; and retirement villages are carving up rural and underdeveloped areas at a very great rate. These activities will probably continue into the eighties and perhaps sometime in the next decade we may be able to see some old-fashioned single family residential construction again.

There is a lot of activity in general. Forty million Americans move every year and we read about large corporations such as Shell Chemical relocating, moving their plants and people about the country. New highways are being built and more will be built, thus making vast quantities of real estate and people accessible to other vast quantities of real estate and people. Mass transit systems are going to produce the same result.

The foregoing indicates there will be plenty of transfers to keep up with on the land. We also keep up with matters of public record involving what happens to people. People don't change much, but their affairs are more involved and everybody has affairs that find their way into the courthouse. We have more law suits, judgments and liens, bankruptcies, probate, and the like to keep up with. If the IRS has reason to believe a person might travel through Arkansas in the next five to seven years, they will file a copy of any liens they have against that person in every county along the interstate highway.

So all in all, there appears to be no shortage of matters and things the abstractor will have to keep up with, enter in his plant, and search through to get at whatever it is he wants to get at, which may be where the law of diminishing returns sets in—an economic law long familiar to the abstractor.

Speaking of diminishing returns, we recently read about the computerized supermarket in California going bankrupt after only eleven days of business. They did so much business they went broke. The more grocery orders they took, the more money they lost. It's a familiar story. If you lose money on a unit, you can't make it up on volume.

Information storage is so much overhead and so is the retrieval part of it. Therefore, the abstractor must find ways to reduce his costs in this area and some of my predictions have to do with how he will do it, by turning to science. Science is resourceful. It can't get the windows open in a modern house, so it air conditions the house.

The third item in the abstractor's little hobby shop is the matter of the reproduction or use of the material he has searched out. I understand that great companies have been diligently at work for years and years trying their very best to produce a good machine that will make pictures from microfilm. Such a machine would be called a reader-printer. The companies are still at work. Many abstractors have already scrapped the idea of reproducing anything and are issuing title insurance policies only.

We have predicted that there will be a substantial increase of recordings. We may predict that there will be some increase in orders for saleable material—that is, more business. We have predicted that we will be ten years older. I should be at least one-third accurate at this point. Not only will you and I be ten years older but also some of the more senior abstract company owners or operators. And we have pointed out some apparent trends.

Therefore, from the foregoing, I fancy some of the following in varying degrees will be taking place, or will have taken place by 1980:

1. Nothing. In some abstract offices not even the cobwebs will be changed in the next ten years. These companies will go into the 21st century the same way they came into the 20th century. Fairly successful and somewhat satisfied. You can't argue with that. No man with four acres ever wanted a new deal.
2. Some abstract companies will cease to operate as such. Resisting all change and all progress, making no provision for succession, the senior will pass on and the books will either become dormant or go to a local law firm or a title insurance company and the title business in that area takes on a different complexion.
3. By 1980, startling breakthroughs will have occurred in the manufacture of microfilm reader-printers that produce good pictures at a reasonable cost. It may be predicted then that the photographic abstract will gain increasing popularity.
4. Use of data processing equipment even in the smaller abstract office.

People are still telling me that DP is not adaptable to the title business and somehow will never work. You can't really blame those who have made it work for letting you know about it. Nobody who ever caught a large fish ever went home through the alley.

5. The larger companies are almost certainly going to have to convert to data processing and both the the small and the large companies will be renting computer time, if not the whole machine and computer expense will become as any other utility cost.
6. There will be increased use of joint title plant facilities. What better way to cut costs. Why should four or five title companies in the same county maintain separate records?
7. Companies will be formed which will specialize in plant maintenance. Small abstract plants will be maintained on a regular basis by professionals many miles away.
8. Title business expansion will cease to respect county lines. There will be companies operating in several counties from one centrally located computerized plant. Such a company will not only search the title but its computers will calculate the settlement sheets, and perhaps draft the standard legal documents for use in a closing in a distant county seat. Such a closing would be conducted by the closing officer in the central plant with the aid of a secretary in the distant county seat with papers and documents transmitted instantly over telephone lines. Closed circuit television could be used to an advantage in such a transaction.
9. The country once needed a good five cent cigar. Now it needs a good 6 per cent loan. And what I really need is a low priced machine that will automatically draw out a long metes and bounds description upon being fed the courses and distances and dimensions of the larger tract. I don't predict the cigar nor the loan. I do predict that such a drafting machine will gain some usage in the next ten years.

If I have missed a single one of the foregoing predictions, just meet me here in 1980 and I'll pay off all bets at that time.

It has been often said that victory belongs to the swift and the strong. Perhaps in athletics, it does. But more and more in our business I think success will come to the imaginative and the innovative. Thank you.

ELECTION OF SECTION OFFICERS

By proper nomination and second, the following officers were unanimously elected to serve for 1970-71:

Chairman—JAMES A. GRAY, Benton, Arkansas
President, Fidelity Abstract and Guaranty Company
126 North Main Street, Benton, Arkansas 72015

Vice Chairman—ELWOOD WEYLANDT, Odessa, Texas
President, Lawyers Title Agency of Odessa, Inc.

102 Phillips Building, Odessa, Texas 79760

Secretary—BETTY LYNDE, Pueblo, Colorado
President, Lawyers Title of Pueblo, Inc.
519 North Santa Fe Avenue, Pueblo, Colorado 81002

EXECUTIVE COMMITTEE

W. S. ENGMAN, Duluth, Minnesota
President, The Consolidated Abstract Company

607 Lonsdale Building, 300 West Superior Street, 55802
AMY FROHN, Lincoln, Nebraska
Ray Frohn Company
139 South 12th Street, 68508
LESTER M. SMITH, Jefferson City, Missouri
Secretary, Cole County Abstract, Realty & Insurance Co.
306 Monroe Street, 65101
D. H. STUFFLEBEAM, Blackfoot, Idaho
President, The Bingham Title & Trust Co.
156 West Judicial Street, 83221

TITLE INSURANCE AND UNDERWRITERS SECTION

Report of Section Chairman

James O. Hickman

*Chairman, Title Insurance and Underwriters Section
Executive Vice President, Midwest Division
Transamerica Title Insurance Company, Denver, Colorado*

I want to call this meeting to order to report to you the activities of the Title Insurance and Underwriters Section for the past year. I would like to make the report as brief as possible.

It is my opinion that the program that has been provided certainly reflects the activities of this Association during the past year and if we will examine what has appeared on the program, I am sure that we will see many of the matters that are now of the utmost concern to our industry. We have had the opportunity to have had our speakers this morning, our workshops and our speakers yesterday and further speakers tomorrow—all will be talking on current matters that are now facing us.

I do feel that there are a few matters that I would like to emphasize further. You have had reports, but certainly they are a matter of concern to us and we all should be made cognizant of them and kept abreast of the events as they happen.

I feel probably the most important is the one concerning the Emergency Home Finance Act which will be arriving at standardizing settlement costs. We will hear further from Mr. Jensen on this program and on this facet, but by July, 1971, we must arrive at a matter that HUD and VA will be working on and we must be able to support our position as relates to settlement costs. This is a very, very vital matter.

Another matter that gives concern to me is the continued activity of our members in Congress and Senate to be examining and looking at the title insurance industry. We have heard of Senator Proxmire's investigation. For-

tunately, we believe at this time this matter is sleeping, however, it could arise at any time. Another one that has come to the floor is Senator Hart of Michigan. He has stated that he would like to make examination also of settlement costs in the title insurance industry. The conducting of the proposed hearings and research so far has been done primarily by his staff. It was Mr. Sharp of Senator Hart's staff, that at a meeting of casualty underwriters on April 3rd, 1969, made the statement:

"Preliminary studies indicate that the American home buyer is being overcharged fifty million dollars for title insurance annually."

We feel, certainly, that this is an inaccurate statement and we have asked for supporting documents to this and so far have not received any.

Another matter that we have been vitally concerned with are legislative matters. Your committee and your association has had a committee composed of Bruce Jones of Security Title Insurance Company, Los Angeles, Marvin Bowling of Lawyers Title Insurance, Richmond, and Robert Haines of Chicago Title. They have been working with the Interstate Land Sale Registration to adopt changes on a proposed amendment to the Act which would affect improvements. This is something that we feel we must work on.

We are all cognizant of the effect truth-in-lending has had on our industry and the indefiniteness of some of its rules and regulations. The Standard Title Insurance Forms Committee has requested that there be clarification of some of the rules as relates to three of

the technical points within the provisions of this Act. We are working on this, we have not yet clarified it, but we do hope to make further clarifications in the Truth-in-Lending Act.

Mr. Garber reported this morning on the ALTA-ABA Conference, another very vital matter that we all must be kept abreast of.

We have not had a report to the General Session at this time on the metric study, however your association has been working on this matter. You are aware at the mid-winter meeting we passed a resolution that the ALTA would cooperate with the National Bureau of Standards in the study of the metrification. However, we did not see the need of conversion to the metric system as related to the land transfers.

At a very recent meeting, within the last week, your president, Tom Holstein presented a paper to the Study Committee that is studying metrification. This is a matter which may be coming before us in the next year or two.

As we look at organizations that are studying our industry, there is one further one and this is a committee that has been composed to adopt a uniform Land Transactions Act. This committee is financed by the various state legislatures that have appointed committees. The endeavor of this committee is commendable certainly in that they want to make the transferring of property with ease.

Also, in the committee it has been reported again that closing costs are too high, the title of evidence and title insurance, abstracting should be examined. It has even been proposed that the

United States adopt a system similar to the Torrens System, which would be that the evidencing of titles would be done by political bodies rather than private industry. Bob Kratovil is on this committee, and we will be keeping you aware of it as it does develop, hoping that you can lend us your efforts in working with the various committee people.

I think that what it really points out to me is that in this very, very changing times it behooves all of us to become aware of the developments within the national industry. Certainly the staff in Washington is doing an excellent job. We endeavor to keep you apprised of it in *Capital Comment*, but I think

that where we perhaps fall short, is that we do not have enough feedback from the members of our industry out in the field, so to speak. It would be most helpful to us if we could be made aware of your personal contacts with representatives on these various committees, for your own personal knowledge, and in order to work with Senators and Congressmen in Washington.

As a charge to the industry, I feel that we must be made cognizant of government, we must take part and that we should know our Senators and Congressmen—in that when matters such as this come before us, we have friends we can at least explain our sides of the

issue for them.

Before I conclude I would like to thank the members of the Title Insurance Committee that have assisted me during the past year: Mr. Joseph Smith of Richmond, Virginia, now Boise, Idaho; Roy Hill of Casper, Wyoming; Walter Sprouls of Newark, New Jersey; Joseph Watson of Baltimore, Maryland; James McKillop of Winter Haven, Florida and Ernest Billman of Los Angeles, California. These gentlemen have indicated and have always been very, very helpful on any suggestions, ideas or work that has been assigned. I appreciate the cooperation that these gentlemen have given to me during the past year.

Report of Research Committee

John E. Jensen

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

Before reporting the activities of the committee, I would like to take just a moment to express my deep and sincere appreciation to three separate groups who were vital in all of the work that has been done this year by my committee.

First, of course, is the Washington staff and the research operation headed by Mike Goodin in Washington. You have no idea the amount of material Mike has thumbed through and tussled with in trying to prepare the information we have been able to gather for the association.

Secondly, of course, are the other members of my committee—all of whom have shown a willingness to cooperate, shown great creative and original thinking, have come to meetings at short notice, although I was very careful not to call any breakfast meetings at this convention. In spite of that, they have been most helpful.

Finally, and perhaps most important, and this I must stress—none of the material that we have been able to gather in the past or the material we hope to gather in the future would have had any meaning whatsoever unless we had the whole-hearted cooperation of most of the members of this association and particularly most of the members of this section. Any research projects that we undertake or have undertaken or will undertake depend totally upon your cooperation. We have received your cooperation in the past, we hope we will continue to receive it in the future.

The first project I would like to report on is the second annual study of the NAIC Form 9, prepared by most of the underwriters in our industry. This project began by covering the reporting year of 1968 and we have completed our study for the reporting year of 1969.

I am delighted to say that as in 1968, eighty-six per cent of the companies belonging to the underwriters of this as-

sociation did assist us in the study. Although I am delighted with eighty-six per cent participation, of course, we are pushing for a hundred per cent. We did change the format of the inquiry this year, we are using just a form that can be filled out. For those of you who have problems in giving us a complete copy of your Form 9, or have reluctance to do so for whatever reason, if you could just give us the information contained in the questionnaire you will receive after the first of the year—sometime in March—it would be most appreciated.

Again, the more participation we have, the more accurate the figures we report will be. We recognize in any reports having to do with Form 9 that the data contained therein is fraught with inconsistencies that regardless of the fact we are all filling out the same printed form, we all fill it out in a different fashion, we all interpret it somewhat differently.

At the same time, we think that some general conclusions can be drawn such as:

In 1969, I was surprised and somewhat pleased to find that the operating income and operating expenses of the reporting companies turned out to be within one half of one per cent of the operating income and of the operating expenses of the companies in 1968. If I had been asked to guess before the data came in, I would have thought that income would have been down and expense would have been up.

We were also surprised and pleased to find that the losses and loss adjustment expenses as reported in the Form 9 were down almost seven per cent from 1968. We recognize again the inadequacies of the reporting and yet it does give some indication as to what their loss experience has been over a short two-year period.

Unfortunately as a result, even in spite

of, the decline in losses, the operating profit margin for all of the companies participating in the survey, remained unchanged from the profit margin in 1968. We still talk in terms of a pre-tax operating profit margin for the title industry of approximately thirteen per cent.

I am talking about things that took place a long time ago in 1968. We have all been suffering through 1970 and lost a little bit of interest in 1969.

Another of the continuing projects of the Research Committee has been a quarterly sample of title insurance underwriters as to what is going on now and what do we think is going to happen for the rest of this year. The last sampling that has been completed and published took place in mid-year 1970. There will be another sample taken this month. Those of you who have participated in the sampling before, we will ask you to participate again. We have arranged to release the results much faster than we have been able to do here-tofore, so we think the results will be a little more helpful than they have been.

In any event, 1969 was the same as 1968 by and large. 1970, at the end of the first half, gross operating revenue of the companies sampled was down eight per cent, expenses up three per cent. This should not come as much of a surprise—the numbers may be new, but I think most of us had a sort of intuitive feeling that something like this was wrong and happening in 1970.

When asked to make a forecast as to how the rest of the year would turn out—on the whole, the companies felt that 1970's growth was going to be down about three per cent compared to 1969. If at mid-year, growth was down eight per cent and for the year everybody thought gross was going to be down three per cent, even someone with a limited mathematical education such as myself can conclude that everybody anticipated a better second half than a first half. I think that some

of the conversations we have heard here in New York in various hospitality suites would indicate that there is at least some indication that as far as the title insurance underwriters are concerned, things have picked up some in the second half. We are looking for a continuing pick up on the last quarter, we think that these conclusions will be borne out when we complete the third quarter survey.

We think that this survey is useful not only in providing those of us here in the room with some feel nation-wide as to what is going on in our industry, but I would like to point out that the results of this survey are released to the press as soon as they are available. We have gotten some very good publicity in the papers in substantial national or large metropolitan dailies from coast to coast at no cost. This is almost free advertising for our industry and we look forward to continuing this study in the future.

We have completed the first claims study for our industry and again, I report this one with mixed emotions. We are extremely pleased with the number of companies that participated in this first survey covering claims on a format prepared by the Association's Claims Committee last year. We received forty-three out of the ninety-five underwriters who responded giving us the results for 1969. One hundred and nine abstractors or abstractor agents out of almost two thousand responded for 1969.

This sounds like we didn't have very many respondents and I guess that absolutely we didn't. However, many, many companies who did not give us information and could not give us information indicated that they did not only because their systems were not set up to report in the format requested by the Claims Committee. Many of them, indicated that they would participate in the survey for 1970 because during the year 1970 they changed their claims record keeping systems.

We are pleased that as many responded as did, however, because of the extremely limited response, we have concluded that there are not very many hard facts that you can pull out of this first survey. We have had to discard a lot of the information, even from those companies that did come in because we didn't feel it was a representative group of the industry, either underwriters or abstractors and that any conclusion we drew from the material or conclusions we could have drawn from the material would have been misleading.

However, I drew some conclusions anyway and some of these are rather obvious and some of them came at least to me as a surprise. For example, even with this limited sampling of underwriters, I am speaking now only of the underwriters material. I was surprised to find that seventeen and a half per cent of the dollar losses paid by the underwriter was a result of what were classified as basic risks—this is the fourth forgery category. I would never thought it would have been that high. In fact, only ten per cent of the actual number

of claims were in this category, but seventeen and a half per cent of the losses paid were in the category of fraud, forgery and so forth.

It came as no surprise to anyone that although only four per cent of the number of claims were in the mechanic's lien area, sixteen per cent of the losses paid had to do with mechanic's lien claims. Twenty-five per cent of the losses paid were involving mis-taxes and special assessments, I think that came as no surprise to anyone.

An area of great interest to my committee and one we hope to explore further is in the area of closing procedures and losses resulting from closing procedures. This inadequate and small sample did indicate that eleven and a half per cent of the dollars paid and almost twenty-five per cent of the number of claims experienced by the underwriters had to do with some facet of the closing procedure.

We think that over a period of time, this study of claims and losses for our industry will provide invaluable information for all of us that we will all be able to use. We think we will be able to give you much more detailed information as to what is happening in our industry in this area of underwriting, where the losses are taking place, so that you can use this information in your own operations to improve your underwriting practices and your decision-making process in the area of claims.

And, now to turn to closing costs. This is a subject that came up well over a year ago through Senator Proxmire. As is clear to almost everyone in the room, it has come up again with a vengeance. I will not go through the details as to how Congresswoman Sullivan and others managed to keep those paragraphs in the Emergency Housing Finance Act having to do with the study of closing costs, but she did and they did and its there.

Secretary Gullidge in his speech to us yesterday touched on this subject.

To give you a little bit more information as to what FHA and VA are, in fact doing, they are using the following procedure, according to their Washington staff.

During the month of November, 1970, the FHA and VA will collect from all of their regional offices a copy of all FHA and VA settlement sheets. These will all be sent to Washington and by some mysterious process, that we are not yet aware of, they will take the data appearing on these settlement sheets and will put it on a computer and then they will manipulate and analyze that data. As Secretary Gullidge indicated yesterday, they are charged by Congress to report the results of their study by July, 1971.

Your Association, through the aid primarily of your Washington staff and the Research Committee are well aware of the activities of FHA, VA and Senator Hart. Through the urging both of the Executive Committee, a little bit on our own motion and Tom Jackson, the Association's general counsel, we

are attempting to begin a project which will assist our Association in taking positive action concerning the question of settlement costs. It seems to us that there are four or five problems that we face in this area.

First of all what are settlement costs? What items constitute closing costs or settlement costs?

Secondly, we have to be prepared to discuss rationally and cooperatively with the FHA and VA in their study so that somewhere our work has to be at least somewhat consistent with what the FHA and VA are doing.

Thirdly, our overall objective is to show that title evidence charges, be they title insurance, abstracting or whatever, connected with the activities of title insurance companies and title agents and abstractors are a relatively small portion of closing costs and in addition are an infinitesimal portion of the entire cost of the transaction—that is the relationship of our title charges say to the amount of a mortgage being taken out on a residential transaction.

These basically are our objectives in making a closing cost study. One final objective I should add, and we don't know whether we can achieve this, is to show that the relationship of title charges in the closing cost picture today is not significantly different insofar as the percentage of charges in 1965 when the study was made for the HHFA. In that study, of which there is now one copy in the Washington staff and several copies floating around my committee and others—it is now out of print in the government offices—it was apparent that there are problems in closing costs and those problems are not related to the title insurance industry or the title evidencing industry in any way.

How are we going to go about trying to meet these problems? We are basically proposing a three-step approach.

First of all, we have already gathered enough information as the result of preliminary studies made a year ago to prepare nothing more than a simple list of those items that appear on a closing or settlement statement. I have not made a count of the items, but I gather, that it is somewhere between a hundred and a hundred and fifty different specific charges that can appear on a closing statement. This depends on what part of the country you are in. I don't think I have ever seen one settlement sheet with a hundred and fifty charges, but there are a hundred and fifty different names for things that appear on closing sheets in the United States.

The FHA and VA are going to have a lot of fun trying to put this on a computer. They are going to prepare this list and indicate which few of those charges—a half a dozen or so—are connected with the title evidencing industry.

Number two. We have chosen three major metropolitan areas in the United States: Chicago, Detroit, and Philadelphia. During the month of November, 1970, an underwriter in each of those cities will collect all of the FHA and

VA settlements that that company handles. They will extract selected data from the settlement sheets and forward it to the Washington staff.

The reason for this approach is fairly obvious I think—this immediately gives us something to talk to FHA/VA about. We are talking about the same period. We are talking about the same kinds of loans. We can draw our conclusions from our statistics and we can at least argue rationally or discuss rationally with the FHA and VA concerning whatever statistics they come up with.

Step number three is we have selected twenty-three metropolitan areas scattered throughout the United States. These were selected on a number of criteria, not the least of which was to determine communities where you cover the entire gamut of ways of handling settlements. Areas where the seller pays all of the title charges or areas where the buyer pays all of the title charges, for example.

We have picked twenty-three such communities. During the month of November, we will conduct a limited sampling of residential closings in those communities. We are not going to try and get every settlement that we can get our hands on, it would just be too massive a job and we don't have a computer at our beck and call. We are going to sample these twenty-three communities, we will not limit our sample to FHA and VA, but we will include conventional loans as well, although

this will be limited to residential properties.

We think that with these three steps we will at least have begun to gather sufficient data so that we can build our own case, which we are convinced is a good one. There may be problems with closing costs—we don't think the problems have to do with the title industry.

I was fascinated by the example used yesterday by the secretary in his remarks concerning closing costs. He referred to a study which took place a little while ago and referred to closing costs in San Antonio and Baltimore. I don't know where he got his Baltimore figures, I do know where he got his San Antonio figure because it comes out of the HHHFA study, which I happen to have in my briefcase. After he spoke, I went up and checked and he was right. Closing costs ran at 1.07 per cent of the amount of the mortgage in this study. This is a good study done scientifically.

I went through that 1.07 per cent last night between libations and determined how much of that per cent had to do with title related charges. Less than one fourth of the closing costs in San Antonio during this study were title related charges. That means that the title company or the title charges involved in the government sponsored study were less than one fourth of one per cent of the average amount of the mortgages issued as a part of the study.

It would be very hard for me to see

how the staff of Senator Proxmire or Senator Proxmire or the staff of Senator Hart or Senator Hart could really make much of a case in saying that we are gouging the public when less than one fourth of one per cent of the amount of the mortgage was involved in providing the evidence of good title.

This is the type of information they have. What Gullledge was talking about yesterday was from a study that is at least five years old and from data that may be eight or nine years old. What we hope to prove among other things with our study that will go on next month is that the numbers will have changed obviously. Interest rates are higher today than they were in 1962 to 1965, but we would hope that the proportions have not changed significantly. It would be a very lovely thing for our industry if we could show that the relation of title charges today to the entire closing costs of the picture or the amount of a mortgage is not that much different from what it was back in 1965 when this study was made. If that is so, I think we have come a long way towards getting the monkey off our back and putting it where it belongs.

It is not my premise to say where it belongs although I do have an idea or two in this area, but it doesn't belong on the title industry and I think our committee can help, with your cooperation, I think we can help show that it doesn't belong on the title industry.

Thank you.

Report of Committee to Establish Liaison with NAIC

J. Mack Tarpley

*Chairman, Committee to Establish Liaison with NAIC
Vice President, Chicago Title Insurance Company, Chicago, Illinois*

To discuss the NAIC Code and its history and progress to date in the time allotted to me, I must make the assumption, whether warranted or not, that you are familiar with the ALTA Model Code which was approved by this association on March 12th, 1964.

As you may be aware, the ALTA Code was drafted as an act or an article largely self-containing, requiring minimal reference to other sections or parts of the insurance code of any state which would choose to utilize it. The NAIC Code is not so drafted but requires reference to existing insurance code provisions for such matters as deposit requirements, capital impairment provisions and investment requirements—except for providing for the investment and title plants to be considered an asset at their value thereof, for licensing of agents and for regulations of rates and forms.

Utilizing the format of the NAIC Code, such matters as qualification requirements, mergers, consolidations and acquisitions procedures, rebates and examination of company would be governed by the existing insurance code.

The NAIC Code contains definitions of the same terms as defined by the ALTA Code and while the definitions are not identical, the wording is substantially the same. I shall not attempt to enumerate all the terms defined, but so that you may better understand comments made by certain conditions of insurance on the floor of the NAIC Convention held at Cleveland, Ohio, in June this year, I should like to call your attention to the fact that the following terms are defined: premium, fee, net retained liability and single insurance risk.

The definition of premium limits, or perhaps I should say attempts to limit that term to the charge made by the title insurance company for the assumption of the risk created by the issuance of the policy.

The term fee is defined as the total charge made for the issuance of the policy, including premium as defined as well as search and examination charge.

The last draft of the NAIC Code which was made available to your committee contained in the definition of premium the phrase, "but excluding service charge, if any." Your committee ob-

jected to the use of the phrase and was particularly mindful of the red flag affect of the words service charge. The committee's thinking will be readily apparent to those of you who are concerned with the premium tax problems of your company and have examined the statutes and the regulations thereof providing for the taxation of the insurance company.

Unfortunately, and without our knowledge at the last moment, the NAIC drafting committee changed the phrase to read, "but excluding fees if any." Thus, the effect was that in a definition of a term you exclude a broader defining term which includes the term that you are attempting to define. While this is a little amusing and somewhat frustrating, I doubt that it had anything to do with the comments and objections of certain insurance commissioners which I will discuss later.

The definition of the term "single insurance risk and net retained liability" contained in the NAIC Code are identical to those contained in the ALTA. The NAIC Code contains the provision requiring that a title insurer be a stock corporation and also a single line pro-

vision. The NAIC Code contains a provision requiring the title insurer to create and add to an unearned premium reserve following the provisions of the ALTA Code with the take-down provisions identical to those in the ALTA Code.

You will recall that the ALTA Code provision is based upon a policy and liability count of one dollar per policy, plus fifteen cents per thousand dollars on the face amount of liability thereof.

While I have indicated to you that the NAIC Code does contain a provision that rate regulation shall be governed by the existing provisions of the insurance code, it does contain a section requiring the filing of schedules of fees with a provision that such filing shall set forth the portion of the fee which is designated as therein defined.

My comments to this point are intended to set the stage for a résumé of the progress or lack thereof of the NAIC Code to date. Without attempting to detail the inner workings of the NAIC and its maze of committees, sub-committees, drafting committees, task forces, open sessions, executive sessions and other facets peculiar to any trade or professional association.

An effort which began at the time of the last mid-winter meeting of the ALTA in Chicago, resulted in a draft of the NAIC Model Title Insurance Code reaching the agenda of the Property Casualty and Surety Committee of the NAIC at the meeting of that association in June, 1970. At that time, the progress of the draft came to a screeching halt. One commissioner, who, shall we say, was not sympathetic, read a paper of comments and criticisms. I shall not quote him but attempt to summarize his statements, adding my own comments to you, my comments were not made to him.

Commissioner: The bill seems to be making a concerted effort to define premium as something less than the entire amount paid by the policyholder. These definitions of premium and fee will cause conflicts and uncertainties in administering premium tax laws of the several states as they are presently being applied.

Tarpley: I have no comment, as I am sure that the import of these remarks

are readily apparent to all of us.

Commissioner: In the premium as so defined, what effect would it have on the extent and treatment of the unearned premium reserves specified by the code as compared to present practices?

Tarpley: If a policy and liability count is used for determining the provisions of the reserve, the definition of the term premium is of no consequence. I make no attempt to compare the extent of the reserve required by the NAIC Code with the extent of like reserves now required by the several states.

Commissioner: Suggests that a title insurer could perhaps function safely and satisfactorily as a sound non-accessible mutual organization. Further suggests that subject to adequate regulatory requirements, title insurance could be transacted along with other kinds of insurance.

Tarpley: Work a little bit fellows, you can form your own comments as well as I could on these remarks.

Commissioner: The NAIC Code provides income from the investment of unearned premium reserves shall be the unrestricted property of the company. Considering the public and regulatory sentiments on this subject, I, the commissioner, recommend that this provision be deleted from the code.

Tarpley: All of you are aware or should be aware of the growing pressure from regulatory authorities to have investment income, particularly that earned on unearned premiums and loss reserves considered as an element of rate makings.

Commissioner: Suggest the NAIC call on the states to provide their requirements for a formula, a provision and release of unearned premium reserve preliminary to any Model Title Insurance Code.

Tarpley: I have no comment as to that except that I sincerely believe and as a great many of you know, I fought for the fact that the provision to any unearned premium reserve should be based on liability count and not on a premium percentage.

Commissioner: With respect to maximum single risk limit the NAIC should consider the fifty per cent of capital

surplus on earned premium reserve and voluntary reserve including the value of the title plant.

Tarpley: Now to refresh your memory a little bit, the maximum risk that any title insurance company can retain is fifty per cent of the combined total of capital surplus, unearned premium reserve and voluntary reserve except that the commissioner missed the point a little bit. The statute specifically excludes from this computation the value of the title plant.

Gentlemen, I need make no other comment to you because those of you who do business in states like Kansas and New Mexico and remember the former problem we had in North Carolina and Wisconsin, are perfectly aware of what can happen to you with a severe risk limitation statute.

Commissioner: Suggests that NAIC carefully examine whether or not the fair value of a title plant should be an admissible asset.

Tarpley: I realize that all of you are now busy, mentally deducting the value of your title plants from your balance sheet.

At that point another commissioner arose to speak to the point of premium taxes, indicating that it was his intention to tax on the basis of the total amount paid by the insured for his contract of insurance regardless of who performed and received payment and retained the payment for such services as abstracting and or searching, examination and the like. He further indicated that he intended to accomplish this by litigation or by legislation.

Then we had a brief statement by a consumer of title insurance who had developed as a result of a later private discussion which your committee had with him that he had been abused by a profession other than the title insurance profession.

At that point the Property, Casualty and Surety Committee went into Executive Session. For those of you who have never attended a meeting of the NAIC Executive Session means all members of industry leave the room.

I later learned that the proposition of an NAIC Code would probably be referred to a task force.

How Do You Advertise An Intangible? A Case History

Malcolm Gurbarg

*Vice President and Associate Creative Director
Ketchum, MacLeod & Grove, Inc., New York, New York*

Like most big international advertising agencies, Ketchum, MacLeod and Grove creates advertising to sell a wide variety of products. Over the past forty-seven years we have created advertising for a wide variety of intangibles as well—banking services, tourism, life insurance and transportation.

Each of these has an interesting story, a problem that advertising set out to

solve, how we created that solution and the results. Most recently we were given a unique problem by a unique client for which we had to create a unique solution. This is the case history I am going to talk to you about this afternoon because it contains all of the elements of an advertising case history and yet these elements may be interesting to you even though you aren't in the advertising business itself.

Moreover, what we were charged with selling was an intangible that is perhaps even more misunderstood than title insurance.

First, let us look at the background of our client. Like ALTA, it is an association headquartered in Washington with a unique purpose. But, suppose I leave you to match the similarities as I go on.

Our case history begins with American history. In April, 1968, the shock-wave of looting, arson and outrage that swept the nation's black ghettos after Martin Luther King's murder exceeded anything in the American experience, reported *Time Magazine*. In a single week, one hundred and sixty-eight towns and cities had experienced the agony of destruction. Over five thousand fires, nearly two thousand homes and shops wrecked or ransacked. Twenty-four thousand arrests, forty-three dead.

This was the background, ladies and gentlemen, against which we launched the first advertising campaign for the National Urban Coalition a few months later. Just a year before, after Newark and Detroit blew up, more than a thousand concerned American leaders gathered together in Washington. Leaders in industry, unions, religious groups and every minority group. They gathered together to form the Urban Coalition under the leadership of John Gardner.

Ketchum, MacLeod and Grove had the singular honor to be appointed by the Advertising Council as the first volunteer agency for the Coalition, an appointment we have now held for three years. Let us look back at some of the public service advertising that ran in the spring of 1968 after Dr. King's assassination. Advertising that is done by our agency and other volunteer advertising agencies directed to people in the ghetto and to people outside.

To borrow one advertising phrase, these are "slice of life" advertising commercials, but they are ghetto slice of life. To quote Tony Isidore of Young and Rubicam who produced the "Give a Damn" campaign for the New York Chapter of the Urban Coalition: "These commercials tried to make the word ghetto mean something more to people than riot, it tried to force them to think of the real problems there."

These commercials were designed to dramatize various aspects of the urban crisis. Our agency produced two of them, the spots for Urban America which is now a part of the National Urban Coalition.

That was the approach just a few years ago—Tell it Like It Is—Get People Involved, Wake 'Em Up. But by last year, public mood had shifted. People were beginning to get plain bored with all the talk about the crises in our cities. Sure, some were frightened, but a lot just hoped it would somehow blow all over. And, when the law and order talk started, lots of people latched on to that and instead of getting involved, they actually began to withdraw.

Our problem then in creating a new advertising campaign this year for the National Urban Coalition was to do something to meet the changing temper of the public mood—our marketplace, you might say. The solution we came up with was a massive testimonial to the objectives of the Coalition and at the same time a simple plea for racial harmony. It was designed moreover to generate as much publicity as possible to give the testimony and this plea the maximum exposure in the press as well as on the air.

The idea was the brain-child of a creative team in our New York office, the same team that created the "Here, Kitty" commercial you just saw. It was a simple idea, get a lot of well known people together, people of all races standing side by side to demonstrate how they felt about racial harmony. But you can't just have people stand there, they have to do something, so we decided to have them sing.

We recalled the moving moment at the Bobby Kennedy funeral, when everyone broke into "The Battle Hymn of the Republic" and the group determination that is always obvious whenever people sing "We Shall Overcome". But for this spot, we wanted to say, in effect, that we here today *have* overcome, so we picked the rock anthem from "Hair", "Let the Sun Shine In" and we added a slogan "Love—it comes in all colors." And that was the idea.

As most of you know, getting an idea often proves easier than getting an idea approved. Since we were a volunteer agency working through an association, The Advertising Council for another association, the National Urban Coalition, there were some seventy-five different people who had to approve the idea. Any of you who might have been a party to an agency presentation to a client will recognize the sheer fantasy of what I am going to report, because in twelve different presentations to these seventy-five people, there was not one single dissent, not one objection, not one cynic saying, "I don't think it can be done." In fact, we never said it could be done, as incredible as that may seem. We merely said it was not quite impossible.

For those of you who are not in our business (and I think that is most of you) I'd like to emphasize that public service advertising is different from commercial advertising. You prepare the advertising whether it is for the Cancer Society, the Advertising Council or Arthritis Association or anything else, and then you supply it to the media—networks, radio stations, television stations, magazines, transit companies, etc.

They then select from these many campaigns what they want to show, bearing in mind the intense emotional reaction to various kinds of projects such as this. One of our problems was getting the director of a given television station, or more particularly a network, to select our commercial against one for Smokey, the Bear or one for the Cancer Society or one for any number of forty-two different campaigns that the Advertising Council alone sponsors as well as others.

Naturally the idea of having well known personalities with some "entertainment value" in the message was of prime importance in getting exposure.

The idea was born and the idea was approved, now the only problem was in executing it, and that was a bit of a problem. How do you get over a hundred statesmen and educators and business leaders and high priced entertainers to appear together at one time and in one place and to contribute their

time free, and whom should you invite? We had to make sure that all colors were represented, white Americans, black Americans, Mexican Americans, Oriental Americans, Puerto Rican Americans and American Indians. What were the odds on acceptances?

On November 11, we mailed about four hundred invitations. We had precisely three and a half weeks until our filming on December 7th. I can tell you that there were an awful lot of nervous stomachs at Ketchum, MacLeod and Grove and the Ad Council and the Urban Coalition for those twenty-five days, because unlike making most television commercials, we knew in this case that we had just one chance to shoot it—a few hours and that was that. The risks for failure were enormous.

In those three and a half weeks we mounted an intensive telephone campaign to try to persuade people to come. I should point out that the most difficult and certainly the most time-consuming part of all this was getting people, especially celebrities and their agents to understand just what we were talking about.

Ordinarily if you want "Miss Superstar" to appear in a television commercial, her agent understands that and if she is willing and available, he quotes a price and you buy it or you don't. But an agent is puzzled when you ask him to take his valuable time to persuade "Miss Superstar" to do something for nothing, for which he gets nothing. It is not only a "free-be", but she has to take a week-end off to fly to New York to appear in a single commercial in which she is just one of a hundred faces and without a credit yet, that takes some doing.

As part of this telephone marathon, I was sent to Los Angeles, where we had a chartered jet ready to leave on Saturday afternoon and return from New York Sunday evening after the filming. For three solid days I was holed up in a hotel room on the phone, starting at six in the morning with calls back East to late at night—I was on the phone non-stop, talking, explaining, reporting back to Washington.

Everybody who knows me knows I have telephitis and use the phone constantly, but this was a record even for me. The telephone operators at the hotel said they had never had a guest in their history that ever made and received as many calls.

Once we were able to get the idea across to people we had invited, most of them were eager to join in and help. Of course, most had previous commitments. They would be available if we could film the following Tuesday or later that week in Los Angeles or perhaps next month and so on. This was a critical problem in executing the idea—that all of these busy, over-committed people had to be in one place, at one time to make a commercial together. If we could have filmed in several different places at different times we could have had many hundreds of celebrities with no trouble at all.

Our jet left Los Angeles on schedule with a full compliment. From Holly-

wood, the contingent including Carl Reiner, Ray Charles, James Shigeta and others. Half a dozen stars from "Mission Impossible" and "Bonanza." From the Mexican-American community, a dozen militant Chicano leaders. It was quite a passenger list.

Meanwhile in New York, the final arrangements were being made for limousines, buses, hotel rooms, garage space, another plane load from Washington with mostly government people. On the set, six different cameras would film simultaneously. Incidentally, that is more cameras than was used for filming the burning of Atlanta, in "Gone With the Wind." Each camera had a back-up camera in case any failed. There were even some back-up cameras for the back-up cameras.

In addition, there were two other camera crews—one filming a twenty-seven minute documentary made of the event and the other from CBS for Harry Reasoner's "Sunday Night News" that evening. Also, a dozen still photographers taking publicity shots from every angle.

In advance of the filming, the cast of "Hair" had pre-recorded playback tracks so that any celebrities who couldn't sing or didn't know the words, would have something to sing along with. Their timing had to be perfect for three different versions—a one minute, a two minute and a half minute spot, precisely. Weeks before the filming, we secured the music rights to "Let the Sun Shine In" and that isn't easy when you can't pay for it and the music is from one of the most successful Broadway shows in history.

The day before the filming, there was rehearsal with a hundred high school students as stand-ins to checkout the sound and lighting levels. Josh Logan was our director and he had just completed filming a twenty-million dollar Hollywood spectacular and here he was, donating his time like everyone else connected with the project. Mitch Miller was our music director, who else? Lenny Hirschfield was director of cinematography. He had won an Oscar for his camera work on "David and Lisa." Here he had the problem of getting good footage on every single person. You can hardly ask someone to come six thousand miles, give up a weekend and appear in a commercial without getting paid and then not appear in it.

If you believe in omens, consider what happened on this particular Sun-

day, December 7th. Against all of the hundred-odd contingencies that could not have been foreseen and perhaps could not have been overcome, we filmed the commercial as planned. One out of every four celebrities invited showed up, and wonder of wonders, they arrived early, not just on time, mind you, but early. If you have ever dealt with celebrities, I think you will find that incredible.

The filming itself was an extraordinary juggling of people, cameras and the press and it went off without a hitch. In fact, we did it in two hours instead of four as planned. To let you see exactly how smoothly everything went, let us look at some footage from the documentary film we produced that day. Incidentally, this twenty-seven minute film entitled "Making Love" was an official entry at the New York Film Festival last month at Philharmonic Hall in Lincoln Center.

Anyway, let us look at a bit of the filming on Sunday, December 7th of last year.

A million dollars worth of talent. No one could watch this commercial being filmed without sensing the special message of the moment. Freaky looking kids from "Hair" next to John D. Rockefeller III. Ali McGraw making peace signs and Orson Bean spokesman for the conservatives. The chairman of LaRaza Mexican Association and the chairman of the board of Alcoa. Cleveland Amory who comes from Boston's richest and Fanny Lou Hamer who comes from Mississippi's poorest. Crew-cut basketball star, Rick Barry and Leontyne Price with her Afro. Under thirties and over sixties. Singing together.

I had chills down my spine then and believe me, every time I see this commercial I feel them.

The press was there too, and the result was the single most publicized television commercial ever made. *The New York Times* ran a story the day after the filming and so did the country's biggest newspaper on its front page, *The New York Daily News*—in odd counterpoint to a headline, on the Manson trial. *The Washington Post* ran a column in its syndicated section and it was featured in a story in the *San Francisco Chronicle* and two hundred other newspapers across the country. The *Stamford Advocate* ran an AP photo on its front page and a hundred other AP subscribers picked it up as well.

Newsday ran a story plus a column by Robert Mayer in the same issue. *Variety* carried the story on page two. *Backstage* featured it on page one and *Show Business* ran it on page three.

In the advertising trade press, *Advertising Age* gave the story a full page. Phil Dougherty made it the feature of his advertising column in *The New York Times* and even *Campaign* which has been called the "Advertising Age of England" ran a story on page two. *Time Magazine* ran a blurb after the filming and later another story on how we had to delete close-ups of Arthur Goldberg to satisfy the FCC ruling on equal time provisions for political candidates. Later *The New York Daily News* gave that story half a page.

New York Magazine gave the story of the commercial a spread and so did *Jet Magazine*, while *TV Guide* gave its sixteen million subscribers a four-page story entitled, "The Faces Are Familiar". In that very same issue, it listed the Ed Sullivan show which premiered the commercial, the first in its history and showed the commercial twice to its thirty-two million viewers.

I guess a news story becomes a classic when *The New Yorker* finds it possible to run a funny blurb as the last item in the book on a typographical error in a newspaper's report of the event.

Whenever I think back on the creating and the making of this television spot, I recall John Gardner's words to the press that day, "You'll remember," he said, "at this moment, we are virtually two nations, but I still believe in the salute to the flag. We ought to be one nation indivisible."

Well, ladies and gentlemen, for two hours in a studio four blocks south and one block east of where we are now gathered, I was privileged to watch one hundred and twenty fellow-Americans of all colors, from the most diverse backgrounds working together. That is the message of this case history of an advertising program to sell an intangible. If against the terrible odds of a divided country, polarized emotions in an atmosphere of crisis an association with no advertising budget, with the help of an advertising agency donating its time, can even begin to move forward in selling an intangible called "Brotherhood" or "Racial Harmony" or "Love thy Neighbor" or "America the Beautiful" or "Love, it comes in all colors" then nothing is impossible.

The Prospects and Problems for Housing in the 1970's

Charles E. Cain

Vice President and Chief Economist, Distributor's Group, Inc.,
New York, New York

According to your program, the assigned topic for this hour is "Real Estate Investment Trusts". While I intend to make comment on the REIT as

an investment form, it's not really the name of my game. The burden of my thoughts this afternoon are more precisely and more properly directed to the

future: "The Prospects and Problems for Housing in the 1970's" or, more specifically, "The Prospects for Housing Demand and the Problem of

Mortgage Financing in the 1970's."

At this point in your program, indeed in any such program, the audience usually feels that it has been apprised to the point of distraction with the prospect/problem theme. Nonetheless, I feel it is worth the risk on my part to restate and reinforce that theme here this afternoon, for as we shall see, it is a subject of unprecedented, almost historic proportions. As such, it will necessarily dominate your concerns and your actions in the decade ahead. Moreover, any such problem/prospect statement is always subject to differing views and various levels of interpretation and understanding. Therefore proceeding on the theory that twice told is, after all, twice learned, or at least once clarified, let us see what time it is, in terms of residential construction and housing markets in the 1970's. Could I have the first slide please?

This chart (chart 1) is the most important chart that I or anyone else can possibly show you. The developments it depicts have come to dominate our lives in the late 1960's and will continue to profoundly influence our political, so-

cial and economic affairs in the coming decade. I call it "The Adult Boom." Remember the baby boom of World War II? The first curve on the charts, the upper line represents that massive blessed event when births actually stood up on end in a two-stage advance during and immediately after World War II. Well, it is now some twenty-odd years later and most have survived. Indeed we have been hearing a good deal from them and about them lately.

Here they are, age twenty-one, the second curve on our chart, the number of persons reaching age twenty-one—chronological adulthood. In other words, we have the "echo effect" some twenty-odd years later of that historic baby boom of World War II. It is equally unprecedented. Unprecedented, i.e. without precedent, without parallel, never before in our demographic history have series virtually stood up on end in this manner. By mid-1968, the number of persons reaching age twenty-one surged ahead by some one million plus people, for a startling increase of thirty-five per cent.

This is a development of immense

significance for all of us. The female of the species marries at age 20.8, the male at 23.2. Roughly, twenty-one and twenty-three respectively. We are there now. To the economist, this means family formation. In my second chart, we have projected the population age twenty-to-thirty-four—the family forming ages. This age group is expected and projected to increase by approximately sixty per cent over the next decade, or more than twice as fast as the growth in general population.

Commenting on this development recently, George Brown, the director of the Bureau of the Census, stated, "The meaning is clear, the next fifteen years is the era of the young married." He added, "We had better get ready for them." Get ready for them indeed! I often like to remind people in this connection that the marriage license among many other things can be viewed as a license to go bankrupt. Think of the chain reaction that sets in at this critical point. Think of the demands that are generated as a result of this critical contract. "They" need furniture, carpeting, draperies, refrigerators, stoves,

Chart # 1

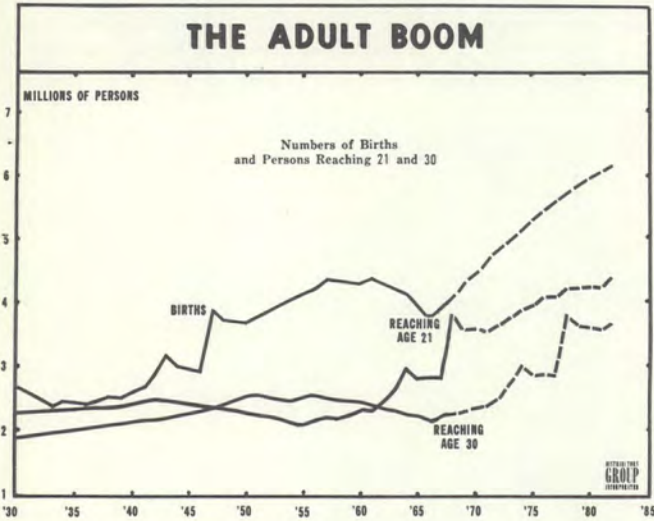


Chart # 2

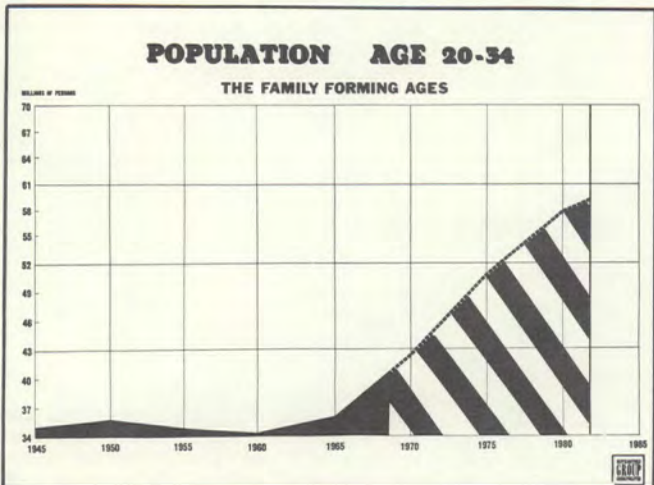


Chart # 3

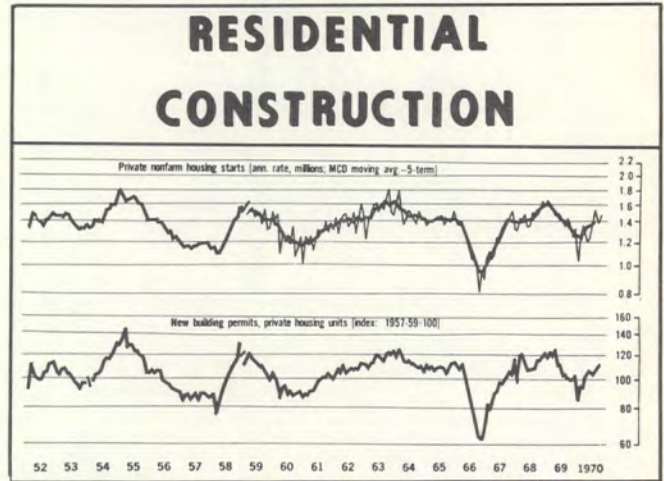
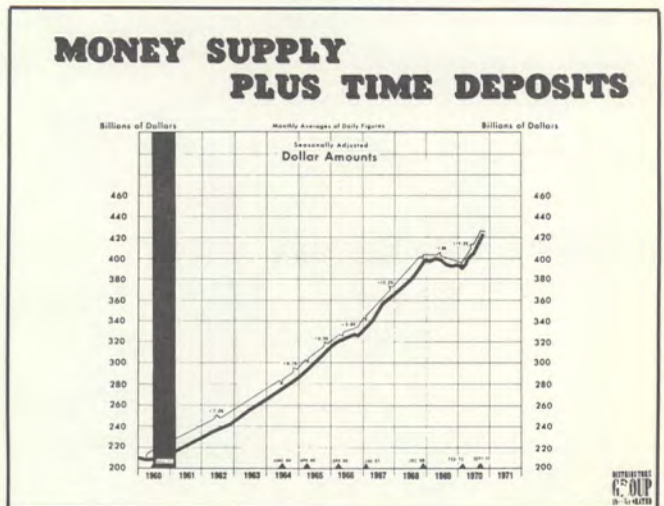


Chart # 4



washing machines, clothes dryers, color T.V.'s, stereo sets, automobiles, etc. But before all else they must be housed!

How are we doing in this regard? As you probably have noticed, not too well at all recently. Under the weight of an extremely tight money program designed to curb inflationary excesses in our economy, private housing starts—shown in chart 3—touched a low of approximately 1.1 million units in January of this year and during the first half of 1970, averaged out at roughly 1.3 million units started. In short, our current recession in residential construction has returned activity to the lowest level seen since 1966. Moreover, if we exclude the 1966 experience then we are near the lowest levels witnessed in

almost a decade. Indeed, it has been variously estimated that against the background of the adult boom, residential housing needs may be as much as one and a half to two years in backlog as we move bravely into the 1970's.

I think despite the magnitude of this problem, we can move bravely, at least confidentially, towards that future. My analysis convinces me that our general recession in economic activity is currently drawing to a close. That residential construction activity has already turned the corner and is in the very early stages of a strong advance which promises to lead the process of general recovery next year. By the end of 1971, I confidently expect private housing starts to reach a sustained level of 1.7

to 1.8 million, for an increase of some roughly twenty to thirty per cent over current levels. They could go even higher, possibly as high as 1.9-2.0 million range.

Too optimistic? Too bullish? Not at all and let me show you why. This measure (chart 4) money supply plus time deposits is a fairly good index of the tone and the direction of monetary policy. Notice the tract of our anti-inflation program, you can hardly miss it! During 1969, money supply plus time deposits declined sharply, very sharply. Indeed, by this measure, it was one of the most restrictive monetary interludes in the entire post-war period. Notice, too, what has happened since February of this year. Monetary ease has set in with a vengeance. On the basis of this measure, at least, we have turned abruptly from the most restrictive to the most expansionary monetary policy of the post-war period.

Reinforcing and complementing this easing monetary policy has been a major turn in interest rates. As you can see in chart 5, rates in the short end of the market actually peaked out in the December, 1969-January, 1970 period. Long term rates, however, have been more resistant to the decline due to the number of special pressures relating to the structure of debt and to inflationary expectations, which are much more prominent at the long end of the market than the short end.

Now long term rates have finally come around. Updating the interest rate story to last week (chart 6) we can observe that the erratic decline in interest rates is continuing across the board currently in the long, intermediate and short end of the market. I expect that interest rates will continue to ease over the balance of this year and into early 1971 at least. This will provide another very important, positive dimension to mortgage credit and housing activity on a short term basis.

Beneath the surface of broad monetary aggregates, we can see more specific developments which foreshadow recovery in residential construction activity over the months ahead. The flow of funds into the more traditional savings intermediaries are depicted in chart 7. The first panel illustrates the monthly rate of change in deposits of mutual savings banks. You can see the very sharp turn-around which has been taking place over the spring and summer months. In the middle panel, time deposits at commercial banks has been in an even more vigorous and dramatic turn-around. And, finally the last panel represents the recovery in the capital of savings and loan institutions. Here we have nothing less than an across-the-board portrait of a dramatic and massive re-liquidation of savings-mortgage institutions, which in my opinion indelibly underscores the developing process of recovery in housing.

But even the lofty heights of 1.7 to 1.9 million starts next year is but one leg up on our longer term residential housing requirements. This chart (chart 8) prepared by the Departments of

Chart # 5

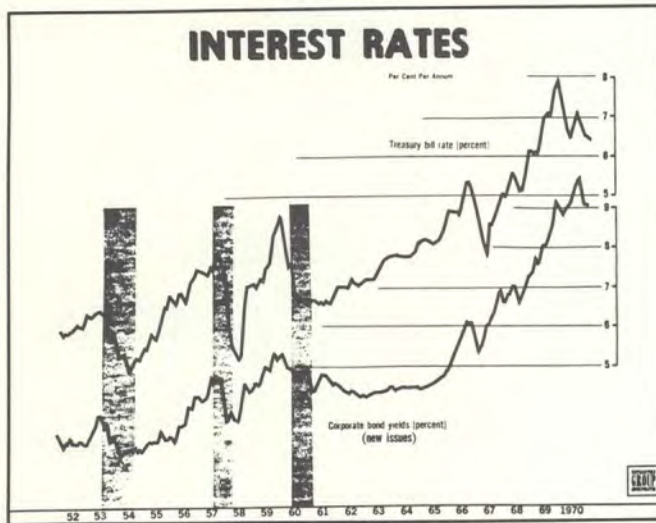
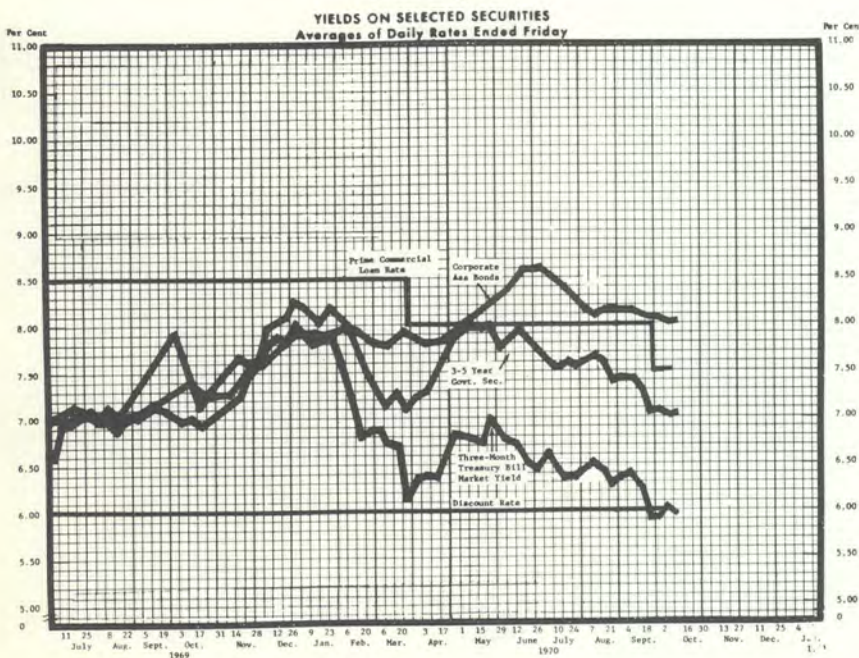


Chart # 6



Commerce and HUD for the Council of Economic Advisors, which appeared in the President's Economic Report of this year, is an illustrative projection, not a precise forecast with respect to pattern and timing, but an illustrative projection of the massive housing requirements which we face in the 1970's. It suggests that the unprecedented demographic forces at work in our economy today require housing starts to advance from the recent recession low of approximately 1.3 million—I alluded to before—to 2.6 million by the 1974/1975 period. A doubling in activity, a one hundred per cent increase!

Notice also, that this illustrative projection implies that residential construction, which is a traditionally cyclical activity due to its relationship to money and interest rate conditions, must advance to the 2.5-2.6 million range by 1974 and sustain that level for five years, if we are to meet our national housing goals in the late 1970's. This, then, is the challenge we must face if we are to exhaust the demands which are currently building up as the result of this adult boom—this unprecedented development which is now upon us.

The challenge implied by the demands of the seventies, I am sure, is not lost on this audience. Building activity on this scale, of course, requires a proportionate expansion in mortgage credit. In fact, an expansion of one hundred per cent in physical volume requires more than a proportionate increase in financing due to the rates of inflation which will be obtained in this sector over the next ten years. Indeed, the same government sources estimate that the realization of

a 2.6 million start level would imply an expansion of mortgage loan requirements from an estimated twenty-one billion dollars in 1970 to almost the fifty billion dollar level by the 1975/78 period, or an increase of approximately one hundred and forty per cent.

The problem immediately presents itself—can we raise funds of such magnitude in the open market over the years ahead? The immediate question, as usual, is the wrong question. I feel we can and will raise mortgage credit of this magnitude simply because we must! The demands implied by the adult boom are urgent and undeniable. Such projected requirements are based not on theoretical concepts, or abstract relationships, they are based on the hardest evidence we have—people. They are here now in unprecedented number, they won't go away, they must be housed and they will be housed one way or another.

That phrase one way or another poses both a challenge and a threat to us this afternoon. In my opinion, if we cannot meet the credit requirements of this surge through the operations of our current money market structure, then I can assure you we will have further, more extensive formalized credit controls placed on the market to force a re-channeling of capital into this critical area.

Therefore, I have long been convinced that the challenges of the 1970's require new, imaginative, innovative responses across the board for the private sector. We must for instance, build homes differently than we have in the past. Recent developments such as mobile homes, the

whole concept of prefabrication and modular construction, represent but the beginning of such an attempt to apply advanced technology and advance production techniques to the residential construction sector.

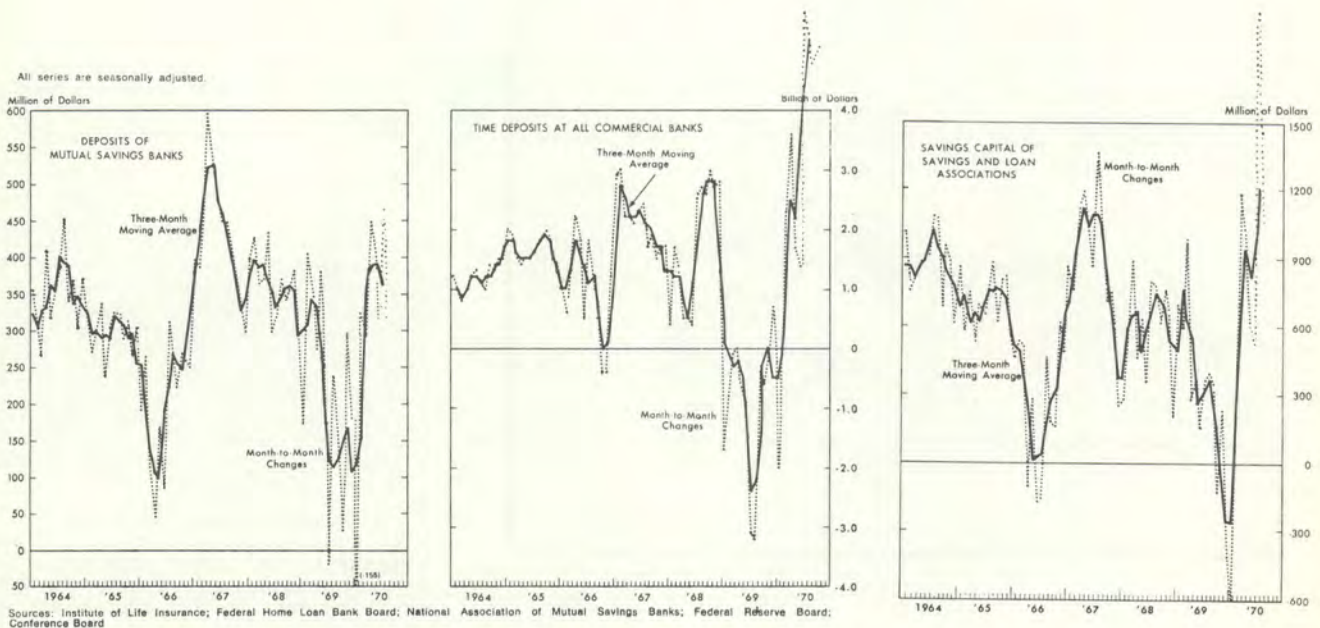
In the area of financing, we also must find and apply new techniques and new instruments. We may be forced to develop new institutions or at least improve existing ones, if we are to service the massive credit demands of this nation smoothly and efficiently in the decade ahead. It is precisely in this context and against this background that we should attempt to place and evaluate the real estate investment trust as an investment form.

A series of questions occur to me and they seem valid in any such evaluation. Firstly, what is the probable overall impact of the REIT on savings rates, capital flows, interest rates and the availability of mortgage credit? Secondly, what if any, are the dangers involved in the developing character of this newly popular investment form? And finally, how much of a contribution might the REIT development make in the years ahead?

I wish I had the full and complete answer to all of these questions, but let me offer some observations for you this afternoon, brief and cryptic though they may be. In answer to the first question, on the overall impact of the REIT form, I doubt, as an economist, whether the real estate trust or any other single investment form could significantly increase national savings rates—the level of capital formation over any sustained period of time. Overall levels

Chart # 7

FINANCIAL FLOWS AND THE HOUSING MARKET



of capital accumulation in our economy are complex functions of such things as consumption, inflationary expectations, relative rates of return, etc.

On the contrary, the major contribution or function, as I see it, of the REIT will be to shift or to re-channel significant amounts of credit towards the mortgage market. To the extent that such funds are lured away from traditional savings intermediaries—savings banks, savings and loan associations, time deposits of commercial banks—the movement of funds by definition would reflect an increase in effective interest rates. The total availability of capital in the mortgage related areas would not be affected at all. The movement would merely be a substitution effect at higher rates of return. Only to the extent, and I think the considerable extent, that funds are attracted from such sectors as the stock market, traditional bond markets and other non-traditional sources, would we have a real net addition of fairly sizeable proportions in mortgage credit availability.

This kind of movement would be at the expense of somewhat higher interest rates generally, and somewhat lower stock prices than might otherwise have been the case. The overall effects in these areas, I think however, would be negligible over time. The real point would be the shifting and re-channeling of funds in terms of a higher availability of mortgage credit. Thus, the real estate investment trust can and I believe in the fullness of time, will make a contribution to these massive requirements through its impact on savings patterns and flows rather than overall savings rates. The attraction of higher yields and the possibility of capital gains in effect is a form of institutionalized re-intermediation, the kind of thing that we have just seen in terms of the short term savings flows.

The potential dangers in the REIT form, however, can be considerable and I think it might be well to dwell on them at least briefly. The attraction of a sizable number of more performance oriented investors, the call for open

ended investment forms, the use of leverage and the growing rush to registration, all conjure up in my mind the ghost of speculation. And not merely speculation, but speculative excesses!

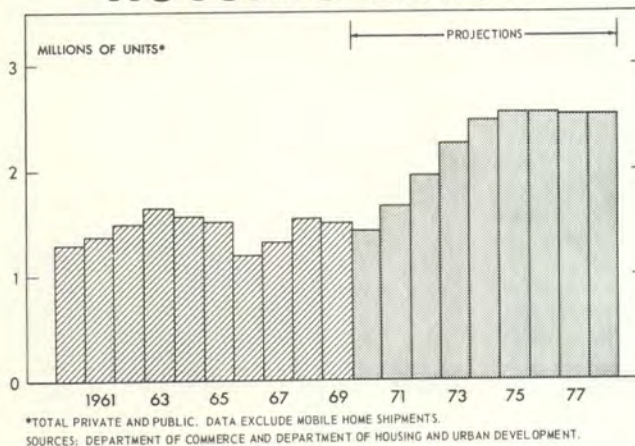
I can speak with some authority on this topic and so can anyone who has survived the last year and half on Wall Street. If we do not exercise good judgment, caution and requisite prudence, the developing degree of competition for the performance-minded investor would gradually force managers over the years ahead further and further out in the risk spectrum. With an open ended forum under such performance pressure, the stage could be set for a mini-liquidity crisis among REIT's which could be a rather harrowing experience.

However, if sanely and prudently developed, none of these particular characteristics need be objectionable. Under such considerations I think we could expect a very rapid and a very constructive advance in the REIT form. The government figures that I have seen suggest that year end mortgage holdings between 1969 and 1978 could increase by well over 200 per cent in support of our massive credit requirements. Indeed, I think that increase may very well turn out to be conservative.

In conclusion, I think I can sum up my thoughts this afternoon by saying that we have a very interesting and profitable decade shaping up for all those involved or associated with home building. It will not be without its headaches, its pressures and its strains. In fact, that is by definition the name of the game—the price of progress. All of the evidence that I have, the hard evidence as well as the projections and conjectures seem to point undeniably in this direction. You have seen some of that hard evidence here this afternoon. You have seen my charts, my sign posts of the future and I think that I can leave you in confidence with one final inspirational message—in *hoc signo vinces*—"in these signs you shall conquer".

Thank you.

Chart # 8 HOUSING STARTS



Report of ALTA Liaison Committee with the MBA

Robert C. Bates

Chairman, Liaison Committee with the MBA
Executive Vice President, Chicago Title Insurance Company, Chicago, Illinois

At the ALTA Mid-Winter Conference held earlier this year in New Orleans, I gave a brief report on the formation of the ALTA-MBA Liaison Committee.

Since this is a relatively new committee, and since some of you may not have been in New Orleans, a portion of the information that I will cover in my remarks today will be a repetition of some of the material covered by my first report. At this point in the life of the Liaison Committee, it seems to me that the disadvantages of a moderate

amount of repetition are outweighed by the advantages of gaining a perspective on the organization and work of the committee.

The ALTA-MBA Liaison Committee was formed following the annual conventions of each of our associations held in the late fall of 1969. By that time, it had become apparent to the Executive Committees of each association that there were many problem areas with which each association is faced that could probably be dealt with more effectively if an avenue were

to be created by which MBA and ALTA could communicate and negotiate on a basis that bears the formal approval of each organization.

The plan for an ALTA-MBA Liaison Committee was then approved and implemented. At that time, it was decided that the Liaison Committee could probably be more effective if the group were held to a small number of members. Accordingly, three people were appointed from each association to be members of the Liaison Committee.

The MBA members are:

Raymond A. Jensen—Chairman
Vice President
Dovenmuehle, Inc.
Chicago, Illinois

Murry D. Kennedy
Executive Vice President & Counsel
Mortgage and Trust, Inc. of Houston
Houston, Texas

John E. Krout
Senior Vice President
The Philadelphia Saving Fund Society
of Philadelphia
Philadelphia, Pennsylvania

The ALTA Members are:

Robert C. Dawson
Senior Vice President
Lawyers Title Insurance Corporation
Richmond, Virginia

Bruce M. Jones
Vice President, Secretary and Chief
Counsel
Security Title Insurance Company
Los Angeles, California

Robert C. Bates—Chairman
Executive Vice President
Chicago Title Insurance Company
Chicago, Illinois

At the time the Liaison Committee was being formed, the subject of the 1970 ALTA policy forms was very much on the minds of the members of both associations. It was therefore emphasized that the mission of the Liaison Committee was *not* to provide a forum to debate the pros and cons of the 1970 forms but to provide a somewhat permanent forum for exploring a multitude of subjects, some of which we view from a common position. We believe we have been successful in not losing sight of our general assignment, even though the 1970 forms have been discussed in a limited way.

Since the formation of the Liaison Committee, the ALTA members have held one meeting, and the full Liaison Committee of both ALTA and MBA members has met twice. In addition, Ray Jensen and I, as chairmen of our respective groups, have met informally on several occasions, primarily for coordination and planning purposes. Bill McAuliffe has participated in all meetings of the Liaison Committee and has been most helpful.

The first full meeting of the ALTA-MBA Liaison Committee was held in Chicago on May 4. Since each member of the committee was not personally acquainted with all other members, the initial portion of the first meeting was devoted simply to getting to know each other. However, this did not take long and we were soon hard at it in our discussion of subject matter appropriate to our general assignment.

As the meeting progressed, several interesting and significant situations became apparent. The most important of these were the following:

1. Communications between ALTA and MBA have room for improvement. No cases could be cited in which ALTA representatives have participated actively in the programs of MBA conventions and conferences. MBA members have actively participated in ALTA programs but on a somewhat limited basis.
2. The effort by ALTA and its individual members to communicate to MBA members the significance of and reasons for many of the changes in the 1970 policy forms had not, by May of 1970, been as effective as would be ideal.
3. Members of MBA feel that since policy coverage is our product and therefore to a substantial degree, a marketing problem, the people who buy and the staff members who sell our product should have more influence in determining what coverage should be available. They feel that extending ALTA membership to MBA Counsel is a step in this direction as is the Liaison Committee itself.

At our first meeting, we agreed that there were a number of problem areas in which ALTA and MBA can work together. Some of these are:

1. Evaluation, refinement and adoption of Uniform Transaction Code.
2. Federal legislation pertaining to closing costs.
3. Legislation pertaining to housing and assurance of availability of mortgage funds.
4. Communication of availability of various forms of coverage and coverage changes, as they occur, to MBA membership through
 - a. Participation in MBA conventions, conferences, schools, etc.
 - b. Preparation and distribution of booklets, pamphlets, etc., explaining new and existing forms, coverages and services.

We agreed that we would normally not get involved *jointly* in local legislative matters.

We agreed that improvement in mechanics lien laws in most states is highly desirable but that achieving desired changes through the joint effort of our two associations will be extremely difficult, if not impossible.

The second meeting of the Liaison Committee was held at MBA national headquarters in Washington, D.C. on September 22. Prior to the meeting, Ray Jensen and I had had several conversations and had developed a list of proposed agenda items for consideration at the September meeting, as well as future ones.

The constraints of time preclude me from reviewing these items and our discussion of them in more detail. However, they range from the discussion of a plan for ALTA to furnish speakers and programs to MBA for its conventions and meetings—and for MBA to do the same for ALTA—to the closing

cost study authorized by Congress—to matters of coverage.

The most important results of our September meeting were as follows:

1. Each of our two associations will undertake to provide speakers and programs for the conventions, conferences and schools of the other association. Coordination of this effort will be through the full-time Washington, D.C. staff of each association.
2. The Washington, D. C. staff of each association will work together to develop facts and background information on the current closing cost study authorized by Congress and suggest to the Liaison Committee possible joint courses of action.
3. We agreed that although modification or repeal of state usury laws would be beneficial to the members of both associations, there is little our two associations can do jointly to achieve such changes.
4. Closing services offered by title companies are valuable to members of MBA but much needs to be done to communicate to those members the nature and extent of the various closing services available in different parts of the country.
5. MBA members would like to have title insurance coverage broadened to include zoning and protection as to building and occupancy violations.
6. There is much diversity of opinion as to the significance of survey coverage in mortgage policies. This matter is being referred to the Standard Forms Committee through Bruce Jones for clarification and will then be discussed again by the Liaison Committee.
7. The subject of how subordinate matters should be treated in mortgage policies is still not dead. This will be discussed at future meetings and help from the Standard Forms Committee will no doubt be sought.
8. There is much interest, as well as diversity of opinion concerning both the practical and the philosophical aspects of construction loan disbursement and guarantee of completion by title companies. This will also be discussed further at future meetings of the Liaison Committee.

All of us on the Liaison Committee feel that although our committee has only been in existence about ten months, significant progress has been made in carrying out our assignment. We are convinced that the capability of initiating and maintaining free exchanges of ideas and information between our two associations is very much in the best interest of our respective members and that the Liaison Committee provides that capability.

ELECTION OF SECTION OFFICERS

By proper nomination and second, the following officers were unanimously elected to serve for 1970-71:

Chairman—JAMES O. HICKMAN,
Denver, Colorado
Executive Vice President, Division
Manager, Transamerica Title Insurance Company
1837 California Street, 80202

Vice Chairman—JACK W. McANINCH,
Dallas, Texas
Regional Vice President, Pioneer National Title Insurance Company
1600 Pacific Avenue, Suite 1505, 75201

Secretary—D. P. WADDICK, Minneapolis, Minnesota
Senior Vice President, Title Insurance Company of Minnesota
400 Second Avenue South, 55401

EXECUTIVE COMMITTEE

ROBERT C. DAWSON, Richmond, Virginia
Senior Vice President, Lawyers Title Insurance Corporation
3800 Cutshaw Avenue, 23230
CHARLES H. MANN, JR., Jacksonville, Florida

President, Title and Trust Company of Florida
200 East Forsyth Street, P. O. Box 1438, 32201
CHARLES D. MURRELL, New York, New York
Vice President, Inter-County Title Guaranty and Mortgage Company
125 Maiden Lane, 10038
RICHARD SHRAMM, Los Angeles, California
Vice President, Chicago Title Insurance Company
616 South Westmoreland Avenue, 90005

COMMITTEE REPORTS

Report of Finance Committee

Hale Warn

*Chairman, Finance Committee
President and Chief Executive Officer, Title Insurance and Trust Company,
Los Angeles, California*

Our Treasurer, Jim Schmidt said he was not going to bore you with financial statistics and I'm going to try and follow the pattern and do likewise. There are just three areas in the financial area of the operation of our Association that I will very, very briefly summarize because I think that all members should know what the present status of these three areas are.

First, just where we stand in relation to our cost of the operations of the Association this year compared to our approved 1970 budget. Secondly the end result of the 1971 budget as proposed by the Finance Committee and approved by the Board of Governors on Wednesday of this week and then very briefly a summarization of the present status of the portfolio of our reserve fund trust which you know is what we call sort of our "rainy day fund" and has yield from those funds which is not used in the operation of the Association on a current basis.

Our 1970 budget had projected that we would have income of \$425,189.00 expenses of \$422,184, which if we had been exactly on the button in both categories with no changes, we would have come out at the end of this year with an excess of income over budget of \$3,005.00.

As against those figures looking at

it as of the end of September and estimating the balance of the calendar year it appears that we are going to come out in this manner: Our income will be \$443,722, which is an increase of \$18,533 over our budget projection. Our expenses should come out \$408,016, or \$14,168 less than forecast in the budget which, with an excess of income and reduction in expenses, should give us a differential over our budget of \$32,701.

If this comes out fairly close then, it would mean that we will wind up 1970 with an excess of income over budget of \$35,706.

As to the 1971 approved budget, the forecast on income is \$389,400, which you will recognize as a reduction over 1970 which is an obvious projection due to the formula we use based on income. Our budgeted expense is \$380,200, which means that if we follow that all throughout the year we should wind up the year with an excess of income over expenses of \$9,200.00.

As to the Reserve Fund Trust which is held in trust with the Title Insurance and Trust Company as a trustee is as follows.

As of September 30th, the total funds are \$208,352, which is made up Treasury Bonds at par, units of the Common Trust Fund of the Title Insurance and Trust Company which is a corporate bond fund and units in the

Common Trust Fund A of that company which is a common stock fund which investments were authorized by the Board of Governors.

Those items total \$200,238 and we have \$8,114 in cash which makes it \$208,352. That relates as against the cost. It relates to a cost figure of \$214,061, which means that the market value of the trust as of the end of September was \$5,709 less than cost.

It is yielding an annual yield of \$9,567 that is from the portfolio which is a current rate of return of 4.78 per cent.

As to the mix of the portfolio, as you know the new trust agreement which was executed not too long ago provided that not less than fifty per cent of the total should be in government's and as of the end of September fifty-nine and a half per cent were still in government's. The trust agreement provides that not more than fifty per cent should be in common stocks and as of the end of September the common stock fund amounted to 20.4 per cent of the total.

The balance of the portfolio then, becomes 18.1 per cent and is in corporate bonds authorized for investment by the state of California which is in accordance with the trust agreement.

That is roughly the financial picture of the Association at this point.

Report of Standard Title Insurance Forms Committee

Richard H. Howlett

*Chairman, Standard Title Insurance Forms Committee
Senior Vice President, Secretary, and General Counsel,
Title Insurance and Trust Company, Los Angeles, California*

If you will recall, the Title Insurance and Underwriters Section at our meeting a year ago recommended the adoption of a Single Form Policy, a Loan Policy, and an Owner's Policy, which recommendation was approved by the General Session, of the Association. At our Mid-Winter meeting, certain amendments were made further clarifying the contract.

These new policies resulted from the project of the Committee to devise a single form of policy that could be used to insure either an owner or a lessee or a mortgage on the estate or interest of an owner or lessee. The Committee was further instructed to conform existing policies and as far as practical to eliminate ambiguities and clarify coverages of the existing forms.

Since the adoption of these forms, questions have been raised by some customer groups as to some of the provisions, and the Committee has attempted to answer these questions so that our policies will be generally accepted by the real estate and lending industries. We are of the opinion that the policies are fair and meet the basic

needs of both the insured and the insurer.

Paragraph 6(a) of the Conditions and Stipulations of all of these policies provides that the liability of the insurer would in no case exceed the least of certain enumerated items: (a) actual loss; (b) the amount of the insurance afforded under the contract; (c) the amount of the debt; or (d) the actual value of the estate or interest covered by the policy.

It is the opinion of the Committee that, by the adoption of these specific provisions, the coverage of the then existing 1962 and 1969 forms was not changed and the Committee did not intend that there be a change. The provisions were approved on the basis that such changes were being made for the purpose of clarification and certainty.

Some of our customers have questioned whether or not the intent was met or if there was in fact, under some conditions, a possibility that the coverages were changed. The Committee has analyzed the questions and, to avoid there being any doubt in this area, recommends the elimination of the limitation to "actual value" of the estate or interest covered by the policy at the

time the loss occurs undiminished by the defect, lien or encumbrance insured against by the policy. By the elimination of this provision there will be no doubt that the coverage of the 1970 policies will be the same as to this subject matter as the coverage afforded under prior policies.

I move that the Title Insurance and Underwriters Section recommend to the General Session of the American Land Title Association that the 1970 policies be amended as follows:

American Land Title Association Single Form Policy—1970

Delete subparagraphs 6 (a)(iii) and 6 (a)(v) and renumber the remaining subparagraphs to reflect this change.

American Land Title Association Loan Policy—1970

Delete subparagraph 6 (a)(iv)

American Land Title Association Owner's Policy—Forms A and B—1970

Delete subparagraph 6 (a)(iii)

That as so amended, the policy designation (caption) would be followed by (Amended 10-17-70).

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ALTA Prepares for 1971 Mid-Winter	December
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American Title Buys St. Petersburg Agent	October
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National Audience Views ALTA Clips	August
New Financial Tools for Housing	September
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Riverside Operation Extends Transamerica Title Business to Southern California	April
Room Rates Limited at 1970 Convention	November
Rosenburg Named PLTA Executive	October
St. Paul Completes Burton Acquisition	February
St. Paul Publishes Employee Handbook	April
Sales and Customer Relations	January
Security Title Moves to New Quarters	July
Seltzer Heads Connecticut Board	September
Senate Housing Subcommittee Chairman Comments on Emergency Home Finance Act	November
Settlement Cost Concerns Outlined for Bankers in ALTA Article	October
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Title Insurance Company of Oregon Completes New Office	May
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Titleman Explains Water Line Law	November
Titleman Honored	September
Titleman Retires After 46 Years	May
Titleman Sinks Ace	September
Titlemen, Attorneys Attend Ohio Seminar	October
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Underwriters Hear Panel Discussion	June
USLIFE Acquisition of Dallas Title Set	October
Utah PR Program Reaches Students	May
Watson Elected	February
West Jersey Stock Purchased by SRC	May

names
names in the news
 names



DAWSON

Lawyers Title Insurance Corporation has announced the election of **Robert C. Dawson** as executive vice president. He also has been elected a member of the company's board of directors and executive committee.

Dawson has been with Lawyers Title since 1955 and has been at the home office in Richmond, Va., since July, 1968.

He previously has worked in the construction loan department of the company's Coral Gables (Fla.) office, in the abstract and legal departments of the Miami office, and in the Florida state office at Winter Haven. He was made a title attorney in 1957, assist-

ant title officer in 1959, Florida state manager in 1963, vice president in 1968, and a senior vice president in 1969.

* * *



IPPEL

Gerald L. Ippel has been elected president, The Title Guarantee Company, New York. He succeeds **David T. Griffith, Jr.**, who has moved to Los Angeles to become associate general counsel for Pioneer National Title Insurance Company.

Title Guarantee also has announced the following elections: **Purcell B. Robertson, James M. Pedowitz, and Howard J. Missbach**, to the newly-

created posts of first vice presidents; **John C. Conroy**, vice president, Westchester-Hudson Valley Region, and **Jean Alexander**, vice president—personnel administration, both to senior vice presidents.

* * *



STATTON



PAPENFUS

Security Title Insurance Company has announced the appointments of **Robert L. Statton**, vice president and director—title and escrow operations, and **Karl E. Papenfus**, vice president and director—personnel.

* * *



BLACKSTONE



WOODHAMS

First American Title Insurance Company has announced the promotions of **William C. Blackstone**, vice president and manager, Riverside County (Calif.) office, and **C. H. Woodhams, Jr.**, manager, San Mateo County (Calif.) operations, to regional vice presidents of the parent company.

* * *

James M. Costello, manager, professional training and development for Chicago Title and Trust Company, has been appointed assistant training officer, in addition to assuming responsibility for administration of certain supervisory and management programs.

Chicago Title also has announced the promotion of **Stuart S. Payne** to manager, systems control department.

* * *



SPOERL



GALLOWAY

Arthur G. Spoerl has been appointed manager of Pioneer National Title Insurance Company's Milwaukee office. He succeeds **Larry Galloway**, who has been named manager of Pioneer National's Detroit office.

* * *

Wilbur A. Barrett, division vice president of American Title Insurance Company's New York-based Guaranteed Title Division, has been named manager of the Newark, N.J., branch office. He will succeed **Reginald Dugdale**, who is planning to retire.



POLLACK

Michael Pollack has been appointed manager, Milwaukee branch, Title Insurance Company of Minnesota.

* * *



McKEE

Thomas R. McKee, manager, The Title Insurance Corporation of Pennsylvania national department, has been elected assistant vice president of the firm.

Florida Insurance Unit Elects Martin

Melbourne L. Martin, senior vice president and general counsel, American Title Insurance Company, Miami, has been elected president of the Florida Association of Insurance Companies, Inc., a Tallahassee-based association of insurance companies licensed to do business in the state.

Membership includes life, fire, casualty and title insurance underwriting firms, as well as associate and subscriber companies. The association has as its purpose the improvement of underwriting procedures for the benefit of the public; education among members and policy holders; and recommendation of legislation which will protect the interests of the public as well as association members.



Realtor **Bill N. Brown**, Albuquerque, N.M., has been elected 1971 president of the National Association of Real Estate Boards at the NAREB 1970 Convention in Chicago. Brown has been active in both New Mexico and national real estate associations since beginning his real estate career in 1955.

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meeting timetable



1971

March 3-5, 1971
ALTA Mid-Winter Conference
Hotel Del Coronado
Coronado, California

April 29-May 1, 1971
Oklahoma Land Title Association
Camelot Inn
Tulsa, Oklahoma

April 29-May 1, 1971
Texas Land Title Association
Holiday Inn
El Paso, Texas

May 2-4, 1971
Iowa Land Title Association
Hyatt House
Des Moines, Iowa

May 6-8, 1971
Arkansas Land Title Association
Sheraton-Little Rock Motor Hotel
Little Rock, Arkansas

May 13-16, 1971
Washington Land Title Association
Salishan Lodge
Glenden, Oregon

May 20-22, 1971
New Mexico Land Title Association
Palms Motor Hotel
Las Cruces, New Mexico

May 20-21, 1971
Utah Land Title Association
Tri-Arc Travelodge
Salt Lake City, Utah

May 21-22, 1971
California Land Title Association
San Jose Hyatt House
San Jose, California

June 4-5, 1971
South Dakota Title Association
Sioux Falls, South Dakota

June 5-8, 1971
Pennsylvania Land Title Association
Pocono Manor Inn
Pocono Manor, Pennsylvania

June 10-12, 1971
Land Title Association of Colorado
Ramada Inn
Pueblo, Colorado

June 23-25, 1971
Illinois Land Title Association
Drake Hotel
Chicago, Illinois

June 23-26, 1971
Michigan Land Title Association
Boyne Highlands
Harbor Springs, Michigan

June 24-26, 1971
Oregon Land Title Association
Bowman's Golf & Country Club
Wemme, Oregon

June 24-27, 1971
Wyoming Land Title Association
Idaho Land Title Association
Ponderosa Inn
Burley, Idaho

June 30-July 3, 1971
New York State Land Title Association
The Otseaga
Cooperstown, New York

July 8-10, 1971
New Jersey Land Title Association
Seaview Country Club
Absecon, New Jersey

August 12-14, 1971
Montana Land Title Association
Florence Hotel
Missoula, Montana

August 26-28, 1971
Minnesota Land Title Association
St. Paul Hilton
St. Paul, Minnesota

September 15-17, 1971
Nebraska Title Association
Villager Motel
Lincoln, Nebraska

September 17-19, 1971
Missouri Land Title Association
Downtown Holiday Inn
Kansas City, Missouri

September 17-18, 1971
North Dakota Land Title Association
Tumbleweed Motel
Jamestown, North Dakota

September 17-18, 1971
Wisconsin Title Association
Racine Motor Inn
Racine, Wisconsin

September 23-25, 1971
Ohio Land Title Association
Sheraton-Columbus Motor Hotel
Columbus, Ohio

September 24-25, 1971
Kansas Land Title Association
Holiday Inn Towers
Kansas City, Kansas

October 3-6, 1971
ALTA Annual Convention
Statler Hilton Hotel
Detroit, Michigan

October 24-26, 1971
Indiana Land Title Association
Indianapolis Hilton
Indianapolis, Indiana

1972

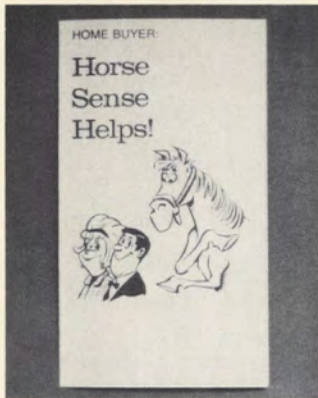
March 1-2-3, 1972
ALTA Mid-Winter Conference
Regency Hyatt House
Atlanta, Georgia

October 1-2-3-4, 1972
ALTA Annual Convention
Astroworld Complex
Houston, Texas

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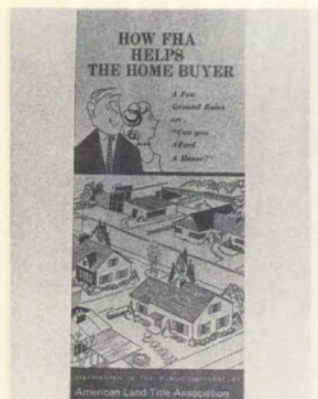
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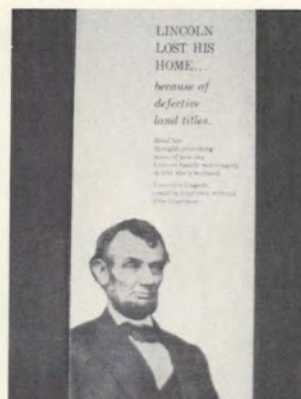
CLOSING COSTS AND YOUR PURCHASE OF A HOME. A guidebook for home buyer use in learning about local closing costs. Gives general pointers on purchasing a home and discusses typical settlement sheet items including land title services. 1-11 dozen, \$2.25 per dozen; 12 or more dozen, \$2.00 per dozen.



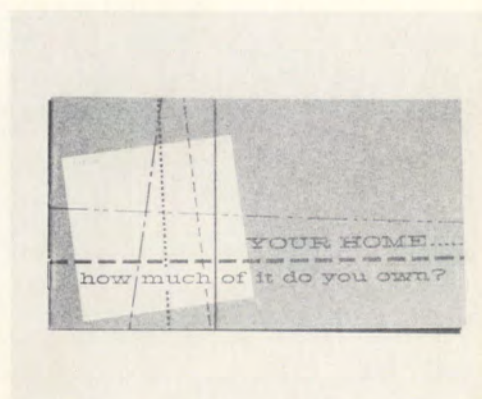
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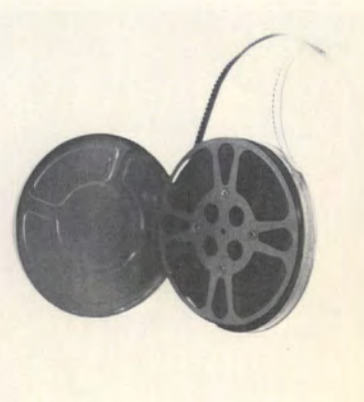


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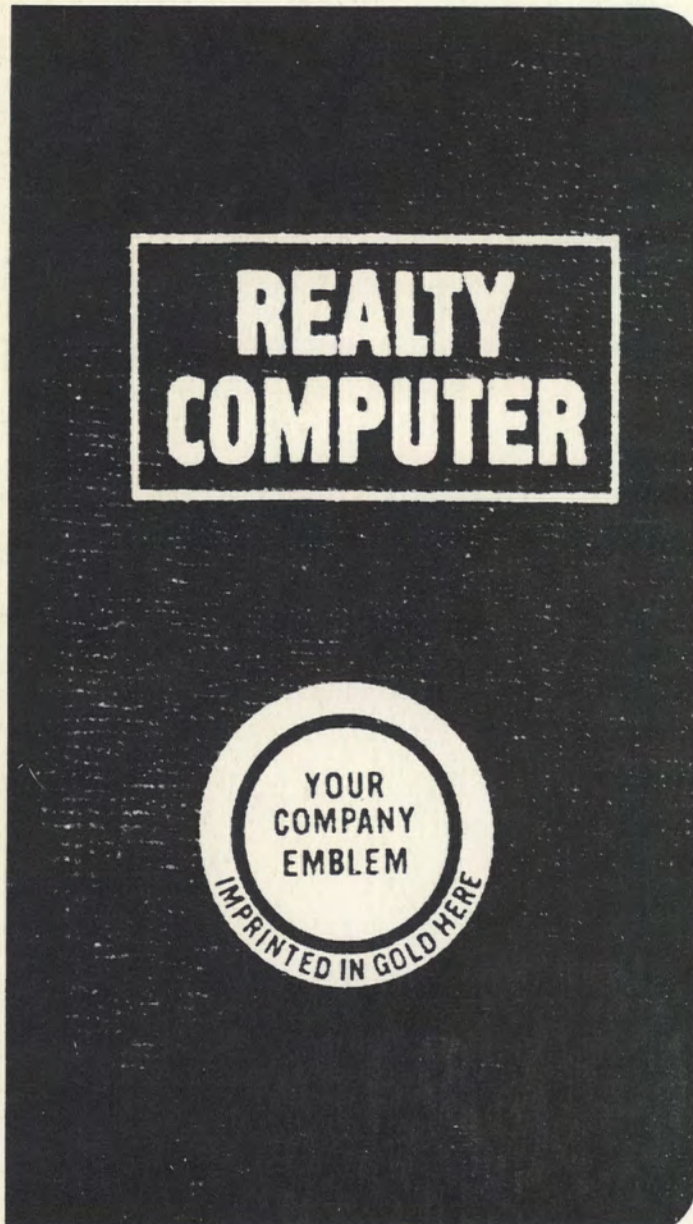


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