

1972

Title News

the official publication of the American Land Title Association

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JANUARY

1972



President's Message

JANUARY, 1972

As we have ended one year and are about to begin another, we should reflect on the good things that have transpired.

We are thankful that the year has brought the return of a healthy volume of business orders along with the fulfillment that comes from busying the idle.

We are thankful that we do business under circumstances where there is opportunity to rebut the false accusations that come through ignorance or misinformation.

We are thankful that our industry is young in spirit, born with an inquisitive mind and an unquenchable thirst to seek and find for our customer a better product at less cost and that it will use its means in accomplishing these results.

We are thankful too, that we have the sensitivity and sincere desire to maintain a professional business image, and are willing to share the results of our industry studies in the hope that an objective appraisal will be in the public interest.

What comes of an organization with these qualities—what is to be its destiny? This year 1972 will be one of challenge—it is up to each of us to make it one of achievement!

Rebecca and I will be looking forward to seeing you at the Mid-Winter Conference in Atlanta on March 1.

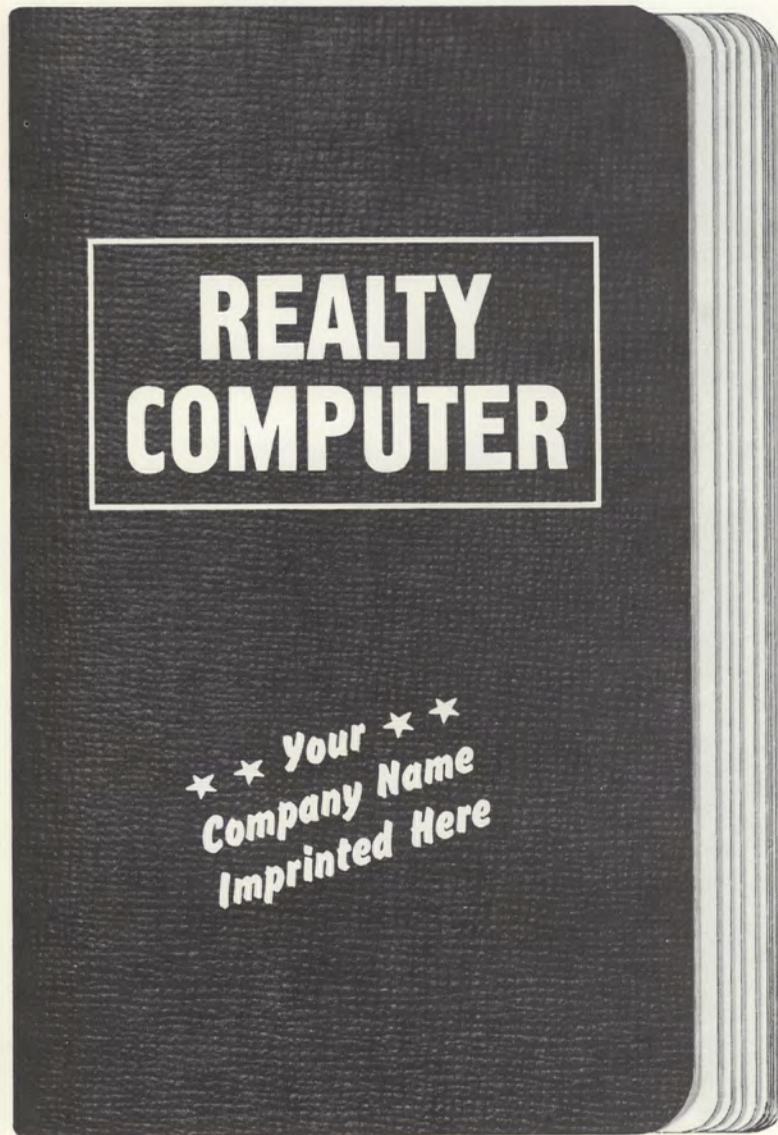
May God bless you, and may your year be one of happiness.

Cordially,

John W. Warren

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meeting timetable



March 1-3, 1972
ALTA Mid-Winter Conference
Regency Hyatt House
Atlanta, Georgia

April 16-18, 1972
Eastern Regional Convention
Seaview Country Club
Absecon, New Jersey

April 18-22, 1972
California Land Title Association
Arizona Biltmore
Phoenix, Arizona

April 27-29, 1972
Arkansas Land Title Association
Sheraton Motor Hotel
Little Rock, Arkansas

April 27, 1972
New England Land Title Association
Sheraton Islander
Newport, Rhode Island

April 27-29, 1972
Oklahoma Land Title Association
Lincoln Plaza Motel
Oklahoma City, Oklahoma

April 30-May 2, 1972
Iowa Land Title Association
Julian Motor Inn
Dubuque, Iowa

May 4-6, 1972
Texas Land Title Association
Fairmont Hotel
Dallas, Texas

May 11-13, 1972
Washington Land Title Association
The Hanford House
Richland, Washington

June 4-6, 1972
Pennsylvania Land Title Association
Pocono Manor Inn
Pocono Manor, Pennsylvania

June 9-10, 1972
Southwest Regional Convention
Broadmoor Hotel
Colorado Springs, Colorado

June 15-17, 1972
Land Title Association of Colorado
Stanley Hotel
Estes Park, Colorado

June 16-17, 1972
Wyoming Land Title Association
Saratoga Inn
Saratoga, Wyoming

June 18-20, 1972
Michigan Land Title Association
Grand Hotel
Mackinac Island, Michigan

June 22-25, 1972
Idaho Land Title Association
Sun Valley, Idaho

June 22-24, 1972
Oregon Land Title Association
Village Green
Cottage Grove, Oregon

July 6-8, 1972
New Jersey Land Title Insurance Association
Seaview Country Club
Absecon, New Jersey

August 9-12, 1972
New York State Land Title Association
The Greenbrier
White Sulphur Springs, West Virginia

August 10-12, 1972
Montana Land Title Association
Holiday Inn
Bozeman, Montana

August 24-26, 1972
Minnesota Land Title Association
Winona, Minnesota

September 8-9, 1972
Kansas Land Title Association
Ramada Inn
Topeka, Kansas

September 15-16, 1972
North Dakota Title Association
Townhouse Motel
Fargo, North Dakota

September 15-17, 1972
Missouri Land Title Association
Stouffer's Riverfront Inn
St. Louis, Missouri

September 20-22, 1972
Wisconsin Title Association
Lakelawn Lodge
Delavan, Wisconsin

September 23, 1972
Nebraska Land Title Association
Holiday Inn
Kearney, Nebraska

October 29-31, 1972
Indiana Land Title Association
Indianapolis Hilton
Indianapolis, Indiana

December 6, 1972
Louisiana Land Title Association
Royal Orleans
New Orleans, Louisiana

Title News

the official publication of the American Land Title Association

Proceedings, 65th Annual Convention, American Land Title Association, Detroit, Michigan, October 3-6, 1971

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Newkirk, Oklahoma

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1828 L Street, N.W.
Washington, D.C. 20036

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GARY L. GARRITY, Editor, ELLEN KAMPINSKY, Assistant Editor

GENERAL SESSIONS

President's Report

Alvin W. Long

*1970-71 President, American Land Title Association
President, Chicago Title and Trust Company, Chicago, Illinois*

A year ago in New York, our industry and our members were less than happy with immediate prospects.

All of our members were undergoing serious declines in their gross sales, and even more serious declines in net profits. Mortgage money was scarce and expensive—new building permits were declining. Most of our members were in the throes of cost-cutting efforts. At the same time, our industry was facing several industry-wide investigations, and possible Congressional hearings. These appeared to be quite serious.

During the past year much has changed. First, of course, the real estate market switched from a recession to almost boom conditions. The volume of business received by our members has increased dramatically. Profits as reported by our members are reaching record levels. Individual projections by our members for the full year continue to be highly optimistic.

The atmosphere regarding the attacks on our industry has also changed during the year. The Proxmire investigation is still pending. However, as a result of the efforts of ALTA's staff, our Research Committee, and the efforts of many of our member companies, most of Senator Proxmire's concerns about our industry appear to have been favorably resolved.

Certainly, specific concerns still do remain, however, as Bill McAuliffe will outline in his report a little later in the program.

The closing cost study which was required by the Emergency Finance Act of 1970 also progressed during the year.

Again, our Research Committee, with the help of many of our members, completed ALTA's own study during the past year. The results of that ALTA study have now been reviewed with the staff of HUD and VA, as will be reported. This is a pending matter as of this time, and is still a matter of serious concern.

As a result of ALTA's activities this past year, we are now in a much better position to work with HUD's staff as it prepares its recommendations to Congress which is due by the end of this year.

Again, subsequent committee reports and the report by Bill McAuliffe, will cover this investigation in more detail.

Many other federal matters have kept your officers, staff, and committees busy during the past year. The many committee reports scheduled on our program during the next several days will report on these matters in some detail.

As your president, however, I do want to report that I have been proud of the work done by our ALTA staff, by your other officers, and by the several committees during the past year.

ALTA has been an effective Association on a great many current matters which seriously affect our industry and each of our members.

In my opinion, our Association has continued to take a professional, objective, and unemotional approach to the investigations and attacks which have been and are being made on our industry.

We have taken the deliberative position of being completely cooperative with the investigating agencies, but at the same time, insistent that complete facts be presented to the investigators.

Also during the past year, significant strides have been made in strengthening our relationships with other national trade associations. This will be reported by the chairman of the MBA Liaison Committee.

Finally, I do want to mention specifically the work of our Public Relations Committee, and of Gary Garrity, during the past year.

In my opinion, the results they have obtained on a relatively modest budget have been truly outstanding.

Later in our program, you will have the opportunity of watching a new film that has been developed, which will be shown by TV stations throughout the country during the coming year. I urge you to attend.

The program that has been devised for our Convention here in Detroit is jam-packed with outstanding speakers. In addition to our own industry speakers,

you will note that we are indeed fortunate to have the opportunity of hearing well-known men of considerable stature speaking to us on matters which are of direct concern to us as businessmen, and as members of the broad real estate and financing industry.

During the past couple of days your Executive Committee and Board of Governors took several actions which will be of interest to you.

First, we accepted the invitation of Washington Land Title Association to hold our 1976 Annual Convention in Seattle; and to hold the 1977 Annual Convention in Washington, D. C.

An invitation was received from the Nebraska and Kansas Land Title Associations, for Wichita and Omaha, for subsequent years, which will be reviewed and reported at a subsequent meeting.

The Board also resolved that beginning in 1977 ALTA will pay the entire cost of the convention in 1977 and subsequent years, in lieu of having the host state pay part of the cost.

The Board also resolved to hold the 1975 Mid-Winter Meeting back at Hotel Del Coronado in Coronado, California; and, the Board finally resolved to hold the 1976 Mid-Winter Meeting at The Greenbrier in White Sulphur Springs, West Virginia.

On another matter, your Board received a report that it is probable that the U. S. will adopt the metric system. The Board therefore decided to assign to the Committee on Improvement of Land Title Records, chaired by Ivan Peters, the task of devising ways to assist our members in planning for conversion to the metric system. We will expand this committee by adding an abstractor to its membership.

Other actions by the Board will be the subject of specific committee reports during our General Sessions, and will be fully covered at that time.

I do at this time want to express my sincere thanks to Bill McAuliffe, and to each member of his staff, and to your other ALTA officers, and to the members of the Board of Governors for their efforts during the past year.

Also, on behalf of all members, I want to express my thanks to the many committees who have worked unusually hard. You will be hearing their reports later in the program; and, keep in mind, the amount of time that has been devoted by each for our mutual benefit.

It has been an honor and a privilege to serve as your president during the past year, and I thank you for the opportunity.

Mortgage Market Perspective

Everett C. Spelman

*President, Mortgage Bankers Association of America
President, Western Securities Company, Denver, Colorado*

It's indeed a pleasure to be here and say "Good Morning" to an industry without which the mortgage banker could not get very much done.

The fact is that we participate with you in every transaction that we have, although I'm sure that you have some transactions which do not require the aid and assistance of the mortgage banker. But I notice there is a great resemblance between your group and mortgage bankers. It's very apparent here this morning. That is, that none of you like to sit in the front rows!

We have that problem with our group. We have tried to correct it in every way possible. I think that I am going to suggest that we put a prize, sort of a door prize, in front of the first two rows of seats in an effort to fill up the front end of the hall. Your President refers to it as an incentive program.

No one can deny that the housing, real estate and mortgage markets have been dynamic and exciting, changeable and full of surprises. In getting a proper perspective of the environment in which we are currently operating, it's important to take a broad view of developments in the political economy of our nation over

the past decade. From this vantage point, it will be much easier to see features of potential developments in the real estate industry. Certainly the current hubbub of hectic day to day activity does not permit a clear perspective of the broad trends affecting this important sector of the economy.

In the mid 1960's the phrase "fine tuning" came into vogue among the economists and the government in Washington. With the change in the administration, the semantics changed. First, to "gradualism" and then to "the game plan" and then on August 15th, to the "new economic policy."

A common theme runs through all of the changes in semantics and the changes in personalities. This theme is: the economy can be controlled to achieve desired results by manipulation of government economic policies. Initially the concept was that using the broad tool of fiscal policy, the desired total level of national economic activity called "full employment" could be achieved and maintained. By the time of the change in administrations, however, it was clear that it was politically impossible to use fiscal restraint when total economic activity penetrated above the

full employment level and produced inflation. As a substitute for fiscal policy, the present administration adopted the concept of monetarism, and began using their ability to control the growth in the money supply as their device to maintain overall economic activity, at the desired level.

The date of August 15, 1971 has been called the beginning of a new era, and perhaps the best description is that both monetary policy and fiscal policy have been abandoned as tools to maintain the desired levels of national economic activity without producing inflation. In their place has come the "managed economy", where government economic policy applies to individual transactions and specific industries, rather than to just achieving and maintaining the target level of gross national product or national income.

Added to this, our industries have been directly affected by the obsession with specific numbers in the housing goals concept, and, furthermore, pressure on our industries has been intensified by efforts to push housing activity even higher, as the mechanism to achieve a rapid economic recovery, from what has been described as one of the mildest re-

cessions and as a "half a post war" readjustment in our economy. In addition to these efforts to maintain high levels of total activity, social programs have been expanded to make additional housing available to people of low income and moderate income. Recently, the housing programs have been pushed in the direction of achieving desired social goals, rather than simply performing the basic economic function of providing shelter in response to the basic economic demand of the market place.

This has been a long preface to the outlook for the housing, real estate and mortgage markets. Yet it's essential to understand that the housing and mortgage finance industry, perhaps more than any other industry, has been overtaken by the new concept of the managed economy. Thus, it's not possible to make a forecast on the traditional economic analysis of expected supplies of funds and economic demands for housing units.

In the new "managed economy," if government economic policy is used to push housing activity, the forecast has to be a political forecast, rather than an economic forecast. And this is especially important at this time, because the two different kinds of forecasts indicate different levels and directions of activity in the coming year.

A straightforward economic forecast for housing starts in 1972, would call for a declining trend during the year, and the reasons are quite evident: Total shelter production in 1971 is going to exceed 2.5 million units, and that's total shelter production consisting of 2 million housing starts and 500,000 mobile home shipments, which is far above the trend line of housing demands. Already builders are finding it more difficult to find buyers in many areas of the country, while developers are finding occupancy of new apartment units becoming much more sluggish. Builders' plans for 1972, in a number of housing markets, show significant reductions from 1971. If these reasons were not sufficient, the slowdown in savings flows to thrift institutions from the fantastic record levels of the spring and summer, to more normal levels, means a substantial reduction in availability of funds from these sources in 1972. To this could be added the expectation that during a normal business upturn, demands for funds by business firms increase. Monetary policy would lean against the wind by slowing the growth in the money supply and interest rates would normally rise.

But the script for 1972 must be rewritten in the form of a political forecast about how the government administrators will carry out the new economic policy in a managed economy. Thus, it's likely that political decisions will be made that high levels of housing productions are desirable, both to show progress toward achieving the housing goals and to stimulate the overall economic recovery. To achieve this end, all of the tools of housing programs and government policy can be directed toward it. The question may be raised whether this push would be able to increase housing production to even higher levels in face of overbuilding. The an-

swer is that the government does not have to face the discipline of the market place in contrast to private builders and developers who must cut back activity when new home sales slow and new apartments fail to rent.

To achieve the objectives of the managed economy, the government has a full assortment of tools available in its kit. Purchases of mortgages by the Federal National Mortgage Association and its nearly duplicate twin, the Federal Home Loan Mortgage Corporation, can support the secondary mortgage market.

A substantial increase in advances from the Federal Home Loan Bank System can support the lending activity of the savings and loan associations.

Direct purchases of mortgages can be expanded by Farmers Home Administration and the Veterans Administration.

Subsidies for housing can be increased under the Section 235, Home Ownership, and the Section 236, Rental Programs.

The new Super Tandem Plan will subsidize the reduction in points, under the below market rate ceiling of 7 per cent on FHA and VA loans.

Furthermore, if these activities are not sufficient to keep housing production at desired levels, other programs can be developed and additional emergency powers can be invoked.

In doing all of these things to stimulate housing even further, the administration faces some very real dilemmas.

First, if government agency purchases of mortgages and direct government subsidies for housing increase, this immediately increases the amount of borrowing from the capital markets by the government sector of the economy.

Second, if business demands for funds remain high and state and local government financing continues at record levels, then federal government and agency borrowing will drive interest rates up and will lead to another round of disintermediation at the thrift institutions, which reduces funds available for investment in mortgages.

And third, if the government policy makers decide to stop this process of the dog-chasing-its-tail, by expanding the money supply, then the monetization of the mortgage debt will produce additional inflationary pressures.

Then if these stimulatory policies are successful in boosting housing even higher, labor, land and material costs will also be under great pressure as the housing construction industry tries to operate at over 120 per cent of capacity for an extended time.

Finally, the impact on the real estate markets will be enormous, once all of the government-supported housing production comes on to the market. It's not unrealistic to suggest that delinquencies and foreclosures will rise, private activity will slip, abandonment of good adequate housing units will increase, (but not be counted in vacancy statistics) and eventually the entire range of government housing programs will come under attack from the backlash.

Neither of these two forecasts is the likely outcome of a reduction to 1.8 mil-

lion units of housing starts if the private market were allowed to operate, or an increase above 2.2 million units of government programs are used in an all-out effort to stimulate the housing industry. A consensus forecast is for 2 million housing starts in 1972. This means housing has about peaked and will slip a bit from the record 2.2 million unit annual rate of starts set during July and August.

Looking elsewhere on the real estate scene, many local markets are facing a glut of office building space. New York, Chicago and Washington, D.C. are examples. In some cases buildings are rising far out of the ground without a single lease, and completed buildings have only a fraction of their space rented. Thus, office building construction will be substantially lower in 1972.

Shopping center construction usually moves in the same direction as housing starts, so that 1972 should be another good year, but the anticipated slowdown in activity during 1973 will take the bloom off of this activity.

In the housing industry the total starts figure masks a number of major developments. It's not correct to say that interest rates have escaped the freeze. On the contrary, the FHA and VA interest rate ceiling was lowered to 7 per cent last February and has remained frozen at that level ever since. Thus, the mortgage banking industry got a frozen interest rate on its most important activity, six months before the freeze on prices and wages was applied to the whole economy. Indeed the reduction to the 7 per cent ceiling last winter, came just after a Bell Telephone triple A rated corporate bond reached the market with a 6.85 per cent yield. By last August, new issues of other triple A rated Bell Telephone bonds had jumped back above an 8 per cent yield, while the FHA, VA ceiling rate was still frozen at 7 per cent.

Again, the new approach of the managed economy came into operation with the introduction of the Super Tandem Plan on August 6th. This provides for subsidies to reduce the points of discount required to complete mortgage transactions. This subsidy reduces the discount to four points for new housing units and to five points for existing housing units. The subsidy, however, is not available to all FHA and VA mortgages. Within the 48 contiguous states the subsidy limit is \$22,000 for units up to three bedrooms and \$24,500 for units with four or more bedrooms. Thus, FHA and VA activity, under this program, will be channeled into a very narrow part of the housing market. The middle American who wishes to upgrade his housing accommodations has been excluded from this aid, by the political decisions of a managed economy.

In summary, in the short run, the housing and real estate financing markets will continue at a busy pace.

The problems facing this industry are those of overbuilding and those of distortions introduced by political decision making in the managed economy. Prepare now to cope with the consequences of these distortions. Thank you.

An ALTA Premiere

H. Randolph Farmer

*Chairman, Public Relations Committee
Director of Public Relations, Lawyers Title Insurance Corporation, Richmond, Virginia*

Francis E. O'Connor

*Vice Chairman, Public Relations Committee
Senior Vice President, Chicago Title and Trust Company, Chicago, Illinois*

Farmer: Al, I'm surprised you didn't recognize us as a new Huntley and Brinkley.

1971 has been another exciting year for your Public Relations Committee. Our continuing work to increase awareness of Land Title Services among home buyers, opinion leaders and market control groups, has been highly successful, and this year the federal government provided an additional test of our capabilities.

O'Connor: Early in April we knew we were going to have a busy year. That's when Senator Proxmire announced his questionnaire investigation of title insurers.

Work had already begun on the joint HUD-VA study of land title charges and other closing cost items, under provisions of the Emergency Home Finance Act of 1970. After Senator Proxmire began investigating too, it was time for public relations action.

Farmer: Your Committee decided that the best approach was to prepare for strong presentation of the ALTA viewpoint. We quickly completed a news media background sheet to explain the land title industry; what it is, how it works and why.

Director of Public Affairs, Gary Garity, personally delivered this sheet to and talked with Washington reporters and correspondents, representing more than 140 daily newspapers throughout the nation. He also took the background sheet to personnel of other publications, wire services and television media.

This action was designed to help bring better balance to news coverage of federal investigations of our industry.

Backgrounding the press in this news situation also meant taking advantage of an opportunity to interest media personnel in more detail about the land title business.

O'Connor: We equipped ALTA officers, members, and staff with industry level answers to tough questions. These would be questions asked by elected officials, reporters and others involved in federal investigation.

So if the need arises, a list of contingency questions and answers is available, thanks to your Committee with help from the Executive Committee.

Farmer: Public relations assistance is offered to the Association Research Committee in disseminating accurate data about the industry to the public.

O'Connor: The ALTA Public Relations Program exists to create a better climate of public opinion; and regular use of ALTA messages by television radio, newspapers and other publications helps us do our job. It helps us to project an accurate picture of the land title industry before a national audience throughout the year.

Farmer: By emphasizing home buyer education in our material the Committee has made Association messages highly acceptable to news media, for use in free public service air time and print space.

A good example of our success is found in our 60-second television public service film clips. A clip distributed this spring, so far has been seen by an audience of more than 123 million in 37 states. This clip, which emphasizes the importance of protection against land title hazards, recently won a 1971 Audio Visual Achievement Award, from the American Society of Association Executives. A second clip is now in nationwide distribution.

O'Connor: So far this year ALTA television public service slide announcements have been used by 56 T.V. stations in 28 states, and national television continues to use ALTA's full length film, "A Place Under The Sun."

Also, an American Society of Association Executives Audio Visual Award was won this year by the 1971 ALTA Home Buyer Education radio spot announcement.

These spots feature Senator John Sparkman of Alabama, Chairman of the Senate Committee on Banking, Housing and Urban Affairs. Other spokesmen include two well known television stars, Lloyd Nolan and Beverly Garland. ALTA Executive Vice-President Bill McAuliffe serves as a spot announcer too.

Farmer: Print media also are important in our activity. For example, a news release based on the familiar Lincoln Lost His Home story was published by daily newspapers in 12 states.

Another release on federal income tax deductible closing costs, was used by dailies in 17 states and in the District of Columbia.

Home buyer advice columns bylined by your officers and staff, appear monthly in suburban and rural newspapers in every state, and are regularly used by more than 300 papers. Other ALTA print media activity takes place at well-timed intervals.

O'Connor: Your committee and staff have been busy in other areas too. More than 12,000 ALTA educational publications have been sent out so far this year, in response to requests from the public, and ALTA members bought an additional 5,000 for their own use.

Next month for the third consecutive year, ALTA will present its Home Buyer Education Awards to outstanding real estate journalists. They will be the winners of the National Association of Real Estate Boards Creative Reporting Contest.

Two more ALTA affiliated associations, Washington and Wisconsin, recently used the ALTA model award program to recognize contributions to the protection of real property rights by persons outside the land title industry. Of course, ALTA public relations help is always available to requesting members.

Your Committee continues to develop communications material for local use by ALTA members. A recent example is the model speech for realtor audiences, sent to members earlier this year.

Farmer: Needless to say, all this would not be possible without the cooperation of Association officers and members, and one of the finest combinations of Public Relations Committee and staff ever organized by a trade association.

Frank and I are privileged to serve on your committee with Marvin Diefendorf, Bill Robinson, Jim Robinson, Ed Schmidt and Bill Thurman. Completing our capability are the staff contributions of Bill McAuliffe and Gary Garrity.

O'Connor: There's one more ALTA public relations activity that should be mentioned. We've saved this one for the windup because it's particularly important.

A short time ago work was completed on a new 14-minute ALTA Home Buyer Education Film. It will be used for national television distribution and by Association members. In keeping with our public service approach, the film tells the land title message in a home buyer education format. Using the film, we'll get much better television pickup in free public service time than would otherwise be available.

Farmer: Members of your Committee are very pleased with this new film and we'd like now to share it with you, in its first public showing. We call it "Blueprint for Home Buying," although you won't see the title on the screen because of the film's unique design for television. Join us now for an ALTA premiere.

Address

Donald Rumsfeld

Counsellor to President Nixon, Washington, D.C.

I'm sending my greetings to everyone here; the people from the whole state of Michigan and you Mr. President, my friends from my home state of Illinois, and I guess everyone else is from a state that I've traveled to in the last seven months. My secretary told me I'd been in 25 states in the last six months, so I guess I've hit most of your states, for one reason or another.

It's as you mentioned, I also feel a closeness to the people here, I think, because of my father's almost 50 years in the real estate business, having just retired this year. We've lived in so many houses over the years, I imagine we've kept most everyone here in business.

You know first I've got to explain this cane. My wife told me I shouldn't come today. She said everyone would get the impression that the Nixon administration was all beaten up and battered, and I want to assure you it's temporary. I wasn't doing anything very brave, or noble, or even important. I wasn't fighting bulls or jumping out of airplanes, or even serving my President. I was playing tennis with a couple of women, and I wasn't even going for the ball; I was just trying to get in position.

I must say though, one of the women was Pauline Betz and she is quite a tennis player, former Wimbledon Champion and so I'm not quite as embarrassed as I might otherwise be. Actually it was the first time I had ever played tennis before an audience, wouldn't you know it. I'm kind of a hacker and there I was out with umpires and ball boys and people in the crowds, and sure enough I sprained an ankle last week. As a result, I'm just a shell of my regular self.

You know I've got a young man working for me, who just recently came to work for me, and he's been telling me about what's going on in the world today, and one of the things he told me is that the American people, as a result of television, and the professionalism that we see in films and theater shows and all of our normal eye intake, are making it very difficult for politicians and government figures and speakers, such as myself.

He explains that people today expect the very best in professionalism and performances and I would have no trouble at all today, coming before this group and appearing after a speaker, but to have to follow that film, where the man looked like Rock Hudson and had a voice like Orson Welles and sounded like Moses and had all the Walt Disney overlays on it, why it makes it very difficult. I'm just here to bring you back to reality.

As it's been suggested for the last year or so, I've been roaming around with the title of Counselor to the President as a member of the President's cabinet. It's been an interesting time.

The President, as you know, established this post for the first time, because he felt that he wanted some people who were not involved all the time in a narrow line of responsibility, and as a result Dr. Burns and Pat Moynahan, Rice Harlow are the three previous counsellors and it's given me a chance, of course, to see a wide range of activities that the federal government is involved in; a very unique experience.

It's kind of like being a middle line-backer. You end up doing things that he wants done at a given moment, or things that you personally feel require some attention or things that are brought to his attention, that he feels he wants top level consideration or handling of.

I was asked about one thing, driving in today, that was in the paper recently. Recently, in addition to my other responsibilities, I was named Chairman of a thing called the Property Review Board, which is an institution that's been alive only about two years. The President created it.

It's not a public body in any sense; it's not well known. There are only five or six members, but the President felt when he went into office, that the subject of how the federal government handled its real property was not good enough. That in fact the investment of the taxpayers is estimated very loosely because it can't be done precisely, really.

Valued at something in the neighborhood of a trillion dollars, the federal government's real property holdings have not in the past always been put to their highest and best use. Indeed, possession has tended from time to time, with various departments and agencies, simply to mean possession in the future regardless of whether or not some other agency or level of government, or indeed even the private sector, might make better use of that property.

So the President created this board to review federal land holdings and to see to the extent we're able to see that the investment that the American people have in that property is in fact put to its best use.

So a great deal has been done already. The Property Review Board has completed work on some 40 properties totalling about 9,000 acres, as I recall, and about \$40 million that has been moved from what it was being used for, or underused for, to a considerably bet-

ter use in many cases for part of his Environmental Program and his Parks for the People Program. I mention that just simply because it's a business that the federal government is very deeply involved in, as you know.

Let me take a few minutes though, to trace back over the last two or three years and some of the things that have happened. Events are taking place and have taken place, some of which have passed almost unnoticed, some have been publicized, but I think taken together they can show a thread, or a theme, or a pattern, as to what lies ahead.

We think back beyond the last few months; we can see that draft calls are down substantially, the difficult Okinawa situation has been handled and disposed of in a very responsible way, chemical and bacteriological warfare has been addressed and handled, the Nuclear Non-Proliferation Treaty is signed, budget priorities have been reordered, we've had the longest period of peace in the Middle East, however tenuous, in recent memory, the historic joint announcement with the Soviet Union, concerning the progress in the Strategic Arms Limitation talks with the possibility of developing controls over both offensive and defensive weapons has been made, the recent announcements concerning Berlin have been heard.

No one of those really was a drama. No one captured the public imagination. No one was, in fact, even a heated battle or controversy, which would be the kind of thing that would focus public attention on them.

Some months ago, the President took his first steps with respect to the People's Republic of China. After two years of preparation, dating back to his very first days in office, he eased travel and trade restrictions with the thought of carefully, cautiously, not euphoric or fuzzy headed in any way, thoughtfully attempting to find ways to bring about more normal relations between this, the largest nation in the world, the People's Republic, a nation that is still in isolation, three decades after the outbreak of World War II, and the rest of the world.

More recently as you know, he made his announcement that he intends to visit China; a next careful step towards his goal of peace for a generation and as a step towards peace beyond.

On the domestic side, there have been a number of things that have taken place also. There have been a number of reforms within government, some of

the more dramatic being postal reform and government reform.

Many proposals are now under consideration in the Congress: government reorganization; revenue sharing; broad proposals concerning the environment and health.

The President, in effect felt, after traveling the country extensively, that a great many people were convinced that government costs too much; that the solutions that were being imposed down from Washington, while they might be well intentioned and they might in fact be sound for the majority, say 50 or 60 per cent of the people, were resulting in solutions in a local community that weren't well tailored to those problems, that they missed the mark somehow. And third, that an awful lot of people felt that they couldn't affect government, to the extent they as human beings wanted to, to help guide and direct. As a result a series of very revolutionary proposals went forward.

One thing that the President felt was that the economic situation was not coming along well enough. You know that's a subject that there are all kinds of views on.

Eric Sevareid, the other night on television, told the story about the man who had a great deal of money. An American went over to Switzerland and he asked the head of the bank there, "Who are the two people in the world who know more about this subject than anyone else," and the banker said: "Well there's a young fellow in the exchequer, and then there's one in France." He got their names and then he said, "What did they say," and the banker in Switzerland said, "They disagree."

I suppose that's like the story of the three economists going into the room and coming out with four theories.

It is a complicated subject. The President felt that things were coming along, but not fast enough and as a result he made his announcements in August of the new economic program which affects very dramatically not only the domestic situation which you're particularly concerned about, but also our relationships with other nations of the world.

The situation today, of course, is that Phase II will be announced soon, and I won't attempt to even go into that since that's for him to announce, but I think that there are two pieces of this economic question that serve as a useful backdrop for what will be announced in the coming days.

One thing the American people, all of us I think, tend to forget is that it does not take a genius to have prosperity with war. That is easy; that can be done. You can develop a strong superheated, overheated economy if you wish, with war anytime you want to. It is a considerably more difficult task to achieve prosperity with peace.

Some critics have called for a return of the strong economy of the sixties. Part of that I think is a poor memory and part of it is a failure to recollect that a portion of the sixties, half, were a result of the fact that this nation was deeply involved in a war. But I think what they also forget is that unemployment aver-

aged 6 per cent a year in the early sixties and was reduced only when this nation was plunged into war.

As a part of the transition from a wartime economy to a peacetime economy and the reordering of federal priorities, some 2 million Americans in the military and in defense and in space-related industries, are not in the military and defense and space jobs they were in three years ago. That means that the economy has grown—and indeed it has, for the gross national product is up, the number of people employed is up and is at the highest level in the history of this country—but it means that as the economy is expanded to absorb the normal growth, it's had to, in addition, absorb that transition from a wartime economy to a peacetime economy.

The President's goal obviously is prosperity, but it's prosperity with peace.

If those 2 million Americans were in their positions related to the war and defense industries that they were three years ago, the unemployment level today would be 4.3 to 4.5 per cent. So what I'm saying essentially is that, internally in this country, indeed some of the indices are not where we would want them.

The President wasn't satisfied and he came forward with his new economic message last August, because he wanted the pace to be more rapid, because he recognized the difficulty of absorbing the difficulties that accrue to a society during that kind of a transition. But I think it's important to realize why these steps were necessary. It's not that the economy of this country is weak, it's that we are going from a situation that had buttressed the economy during war, to a period when we want prosperity with peace.

Beyond the domestic situation, there is a second aspect of it that I think is worth mentioning, and I think it's important that it be a part of the dialogue on the general economic situation.

Twenty-five years ago the United States of America was producing more than 50 per cent of all the world's goods. Today instead of this country being number one from the standpoint of being the economic power, the preeminent power, and instead of there being just two great economic powers, it's rather clear that we have at least potentially five great economic powers, obviously the United States is still the richest nation in the world, second, Western Europe.

Britain's being in the Common Market means some 300 million of the most advanced people in the world, with all their creativity and capacity that they will have and the new strength they will have in that union, will be acting in concert through the Common Market, and certainly that's a new factor in the world economic scene.

Third, Japan: it's certainly a miracle, the first of two countries that were devastated after World War II. Twenty years ago producing about 5 million tons of steel, this year 100 million tons. The unparalleled growth in that country says a great deal about the people, their industriousness, the creativity of their

system. It's certainly again a very potent competitor; allies, but economic competitors to be sure.

Fourth, the Soviet Union. We're attempting to move from a period of confrontation to a period of negotiation. We're entering a period where only really time will tell how successful we will be in creating a new relationship with that country. We have to recognize that if we are successful in our efforts to achieve limitation on arms, to find ways to avoid confrontation in other areas, work out a mutual agreement with respect to force reductions in Europe, the problems of Berlin, that this country will, indeed, be a powerful competitor in the economic area.

Finally, the fifth potential great economic super power, the People's Republic of China. It's certainly in a very different situation today, not as strong as any of the others. Japan, of course, with 100 million people produces far more than China, with close to 800 million people. But nonetheless, when you look at the Chinese people, all across the major cities, in Bangkok, in Singapore, in Hong Kong, and when we look at their history, we know that they are creative people, they are capable people, and that potentially that's an enormous power. And I guess what I'm saying is that looking down the road we could have effective agreements, hopefully, that will help preserve peace, and the circumstance of this country and its economic situation domestically will very directly depend on our economic relationships with these other great economic powers of the world.

I think that when one adds that to the equation, and when we think back to the elements of the President's announcements on August 15th, the fact is that in many of those points we're directly relating to the United States' position relative to other powers, economic powers in the world as opposed to exclusively looking inward to our own domestic situation. I think when we see that we can understand the reason why the President, with his new council on foreign economic policy, feels so deeply about seeing that some of the things that had tended to drift for these past 20, 25 years since World War II be corrected, and that the relationships between these countries, still today, these many years later, tend to be those that were erected and designed for a situation that was very very different, when this country was preeminent militarily with the exclusive hold on nuclear weapons, and preeminent economically, neither of which is as clear today.

It seems to me that it's very difficult today to be a responsible and informed citizen. I know that you're all gathered here to look at your industry and to discuss it and to deal with it and you know how much more information you have about it than others not directly associated.

It takes a good deal more time today, for one reason or another, more effort, more information, more perspective, more self-discipline, I think to fill the role of a responsible citizen.

Today the problems are greater and they are more complex and, frankly, the stakes are higher.

The most basic duty I would submit to a good citizen, is ironically the most difficult, and that's the duty to be informed. I know that it doesn't seem to make sense. Here we are living in a big global village, bound together by the most extensive, sophisticated communication techniques and technologies imaginable.

Here we are with hundreds of able and perceptive men and women all across the country and across the world, whose only job is to keep us informed about what's going on in this country and elsewhere in the world.

In 1961, Professor Bornstein wrote a perceptive book called *The Image*. A decade ago he talked about the necessary simplification and dramatization in modern communication techniques. You saw it in this film. The film had some punch because it was simplified, it was dramatized and that's modern communication, but that does tend to make, from time to time, the image of the event, how it's perceived by others, more important than what the content actually is.

You know on any half-hour newscast, after taking time out for commercials and sports and weather and human interests and local items, there are about six or seven minutes for the news. And it isn't news to anybody that controversy makes better drama than agreement; so what do you do about complex, complicated problems like the questions that are being debated at the meetings of the I.M.F. in Washington now, concerning international monetary exchange rates or for example, the questions of regional defense pattern configurations in the next five years. They're tough.

So it's important I think, to keep a sense of proportion. I think we all have to especially fight against the widespread tendencies to simplify and to dramatize some very very complex and often intractable problems which face us today.

I recall when Pat Moynahan was leaving the White House, he made the comment that, "What the American people need today are not more great simplifiers, but some great complexifiers," and I think that point is an important one when one looks at the quality of the national dialogue on many of the issues that are being debated.

Programs have been proposed and plans have been formulated which stop a little short of revolutionizing American government. And beyond these proposals, like the ones for government reorganization, welfare reform and revenue sharing, there is a large and solid list of accomplishment, but I don't think that's the impression many people have. I find it interesting that some of the supposedly informed people today seem to turn off some of those complicated subjects and the people proposing them with an easy and uncritical acceptance of the simplest exterior type. We'd all, I guess, wish for more perceptive analysis and more sophistication.

In business it's what gets done, and this government is in the business of governing and the stress has been on performance, not on performing.

James Reston, in the *New York Times*, made this point not too long ago. He wrote about the subject of reform. He said, "For more than a year now, the President has sent to Capitol Hill one innovative policy after another, on welfare reform, revenue sharing, government reform, postal reform, manpower reform, social security reform, reform of the Grant-In-Aid System and many others." He continues saying, "It's not necessary to agree with these proposals in order to concede that taken together, they add up to a serious and impressive effort to transform the domestic laws of this nation."

All the more remarkable coming from a conservative administration and that they deserve any more serious and coherent response than they have so far received in the Congress.

I suppose what I'm saying is this: if someone wants the war in Vietnam ended, and the President is ending that war; if you want to reform the draft, and this government has reformed the draft, the uncertainties, the inequities as well as the inequitable pay schedules; if you want to deal with the tragedy of hard drug addiction, and this administration has put its full weight behind the boldest proposals, on this subject, in the history of our country; and if you want a generation of peace in this world, as a step towards peace beyond, and this administration has reversed two decades of drift by making some sound, cautious, but very bold, initiatives towards the People's Republic of China; now if one wants these things and finds that they are actually being delivered, then I think at a certain point one has to decide that the fact that someone once said they wouldn't buy a used car from him doesn't make a heck of a lot of difference.

I think we've got to be willing to go behind the clichés, behind the stereotypes, to the substance of action and achievement. Let me just take one or two examples.

In January of 1969, the administration inherited a bitter and controversial war with 545,000 American troops in Vietnam, and the number was still increasing. Casualties reflected the size and nature of that commitment. In December, two months from now, there will be less than 188,000 troops in Southeast Asia.

I think this is testimony to the President's determination to end the longest war in our nation's history.

People can argue that it should have been faster, that it should have been slower, that it might have been done this way or that way, but the fact is, it's been in one direction and that's out, and it's been at one speed, and that's been fast.

Look at the case of the volunteer army and the draft reform. For decades our Selective Service System has been operating on millions of young men in a way that created a period of six to seven years of uncertainty, where they

couldn't make judgements about marriage, or about employment, or about travel, or about their lives and their futures. Today that period of vulnerability has been reduced to one year.

For years our Selective Service System has been operating under a patchwork of special preferences and deferments for certain people. They were treated differently from the rest of the people in this country. Today the Selective Service System is operating equitably and equally and the same on every young man in this country, as it should.

For decades this country has used compulsion in the draft, which is proper in a free society to raise military manpower that we need for national security purposes, but it's been using it as a crutch for poor pay for people on their first tour. So in addition to being told, you're going to serve while the other four or five don't, they have been told, you're going to serve at 50 to 60 per cent of what you'd normally be making in the civilian manpower market. Today those wage scales have been corrected. Today a person who serves will not be taxed, the way he has been during the previous decade.

Now what about those three things, Not one has been written about, or dramatized, or discussed extensively, but they're important. They're important because in a free society, government ought to come down with programs and approaches to dealing with human beings that are equitable and sensible. And that major exciting, and I think indeed marvelous, reform with respect to the Selective Service System was passed last week, just last week, and I would venture to say it's something that is little known in this country because it is not dramatic. I mention this because of the earlier point that I made.

I would close by answering what people ask me is the danger that America faces today. Is it pollution or overpopulation? Is it the crisis in the cities? No I think they're all problems and they're important problems that we have to deal with, but I don't think of them as real dangers.

The real danger, it seems to me, is that thing called middle level leadership in a society; that the nation conceivably could, like a confused swimmer, change direction so many times it just doesn't reach shore.

It's been said that the worst failure that can affect a free society is the breakdown of middle level leadership and the resulting drift, the most debilitating affect.

I can recall when I was in the Navy. When I was a midshipman, I was on a battleship for a summer and it ran aground. Not everyone can make that statement.

And I must say it was not my proudest moment of my career in the Navy. Everyone kind of pointed at you, because it ran aground, not on a small island in the Caribbean, but rather in New York harbor.

That big hunk of metal, three football fields long, settled its tail end right up on the New Jersey shore and was stuck. Well the skipper had protested mooring.

He told the Navy Department we shouldn't park there, it's a bad place to park, but they went right ahead and did it anyway. The Navy said you've got to stay there, it's perfectly all right, it's going to be okay, you park that thing right there. So they moored it that evening and the next morning it had pulled mooring and was just sitting on the New Jersey shore.

And I can remember that morning I went out on deck and there were about 14 tugboats kind of bashing up against the side of this battleship, this great big hunk of metal, and each one would just kind of bounce off . . . didn't do anything except dent their bows and put some dents in the plating on the battleship, but the ship didn't budge. And the Captain came on board and he finally got the tugboats organized, and all 14 of them snubbed their noses up against that ship, and it wasn't 15 minutes before it was off the New Jersey shore.

I guess the point is a hokey one, but it's useful to think about. When 14 tugboats push together, an awful big achievement occurs and when each one individually just goes popping around loose, not much happens at all.

I had dinner the other day with the Chief of Naval Operations, Admiral Zumwalt, and I told him about that, kind of kidding him, and he said: "Don, do you know who was on that ship?" and I said: "Sure I was." And he said: "Do you know who else was?" And I said: "No." He said: "I was."

And I said: "Do you mean to tell me that the Navy of the most powerful nation in the world is in the hands of one of the men who ran that ship aground and that you made Chief of Naval Operations with that on your record. And he said: "Indeed." It turned out that he

was the navigator that had protested mooring five times and told the Navy Department they shouldn't park it there. And I said: "Well Admiral, tell me something, is the way I just told that story accurate?" And he said: "Absolutely." He said: "When we came up there and got those tugboats organized, that thing went off the shore," but he said: "There is one thing you don't know, the tide came up."

I guess what I'm saying is it takes a little organization, it takes people working together and it takes a little help from the Lord, too.

But the kind of leadership I'm talking about is not at the top or at the bottom. I've got a lot of confidence in the American people, and the basic center of gravity of the American people. I'm talking about incremental acts of leadership in the middle, in the churches, in the businesses, in the unions, in associations, in the family.

People who, when they see someone buffeted unfairly, stand up. People who are informed and when they hear nonsense, ask the tough questions.

There is a fascinating example in today's newspaper about an independent private society of operations research people, that a year ago looked at the testimony that was provided on the anti-ballistic missile system in the Congress of the United States before a Senate committee, and the society, imagine this, the society decided to study that testimony, because they felt that some of it might not have been up to professional standards.

The president of that society, the national society and the board of directors, commissioned a study which was completed today and it's announced in the paper today, that they're critical of some of the people in their own profession

who were offering testimony on the ABM as being unprofessional and inaccurate.

Think about it, that's hard to do. That didn't make those people popular. It would have been a lot easier not to have that study; a lot warmer and nicer just to have everyone like you, but they have done it and it's published and it's available. And it's not a big thing but I'll tell you one thing. Anytime someone in that profession is fixing to give some more senate testimony, he's going to take a little more care and a little more time and be a little more professional, and the whole society will be better off for it.

I guess then when we ask the question, what is the future for this country, the short term and the long term? The answer is that it depends on us. Whether you and I, individually, in both our private and public lives, are successful in building a nation, a healthy nation, with healthy people and a healthy government, and healthy environment, but also a country that's healthy from a moral standpoint. And I think we should not let our faults and our problems obscure the basic values and the basic goodness of this country.

For myself, I thank you Mr. President, and all of the people associated with your association, for doing me the honor of letting me join you today.

As we gather and as you'll conclude, great things are taking place in this country. Great tides are flowing and my answer to those who ask, where will it all come out, is simply this: that that's for us to determine and I believe I know, because I believe very deeply in the basic human decency and good common sense of the American people. Thank you very much.

Washington Report

William J. McAuliffe, Jr.

Executive Vice President, American Land Title Association, Washington, D.C.

It is indeed a pleasure for me to follow Don Rumsfeld, because when Don Rumsfeld first started to run for Congress, from the 13th Congressional District in Illinois, I was privileged to push a few doorbells for him. In a small way I was one of many people who worked for Don Rumsfeld's election, quite a few years ago. As a former Skokian from Illinois, I am very proud to know Don Rumsfeld and I am very pleased that he is here. Thank you very much, Don.

I'm here today to report to you on a few of the activities that might not otherwise be reported by your various committees. I am very proud to talk to you about some of the Association accomplishments since the 1971 Mid-Winter Conference.

Of course, at the top of my list, is the Association's concern with federal matters. This means not only contact with the Congress, but also with the various federal agencies.

Over the past seven months a great deal of attention has been focused on Senator Proxmire's investigation of the title insurance industry and title insurance. This particular investigation began when in April Senator Proxmire, as chairman of the Senate Subcommittee on Financial Institutions, sent an extensive questionnaire to some 89 title insurers.

At that time I was informed by Martin Lobel, one of Senator Proxmire's legislative assistants, that the Senator was interested in closing costs, that he

considered title costs to be a significant part of closing costs, and that through this questionnaire, he sought to determine whether title costs are too high or too low.

Senator Proxmire's questionnaire requested data on title company expenses, income, investment gains, liability losses, cash balances at financial institutions, amount of title insurance business done with affiliated financial institutions, commissions and outside payments for production services and inter-connections between title companies and financial institutions, real estate brokers, builders, developers and law firms.

The American Land Title Association, as an Association, encouraged title insurers to cooperate with the Senator, be-

cause we felt that if the Senator had the correct information, he would have an accurate understanding of the nature of this business. Something that very few Senators and very few of their staff members understand is that title insurance is a loss prevention type of business, rather than a loss assumption type of business, and, therefore, it is quite proper and desirable that losses be low, be very small.

As the returns to the questionnaire came in, Senator Proxmire's staff found that a substantial amount of income was being furnished pursuant to a question entitled, "All Other Income." Accordingly a second questionnaire was sent out requesting a breakdown of responses to this particular question.

After analyzing 58 returns to the first questionnaire, and 35 responses to the second, Senator Proxmire's staff came to the following conclusions.

In 1970, 35 title insurers had a total gross income of more than \$223,000,000.

The four largest title underwriters accounted for nearly 50 per cent of the 1970 market.

Title insurer loss ratios averaged about 4 per cent of total expense in 1970, 1969 and 1968.

Personnel expense was about 43 per cent of total expense.

Net title underwriter income, after taxes, was about 12 per cent of gross income.

Senator Proxmire's staff concluded that these percentages did not seem unjustified in view of the nature of the title business. They acknowledged that the title business is a risk preventive business and not a risk assumption business.

The staff of Senator Proxmire did find a couple of things that they objected to: namely, the interlocks of officers, directors and employees of financial institutions with title companies, and the variation of coverage found in the owner's and lender's policies.

Members of the staff of Senator Proxmire have discussed their findings with the Senator. Last Friday when I talked to Martin Lobel, Senator Proxmire's legislative assistant, he advised me that Senator Proxmire had left it up to him and Kenneth A. McLean, a professional staff member of the Senate Banking and Currency Committee, to determine what, if anything, should be done with the results of this investigation.

Martin Lobel has stated that in his opinion title insurance companies came out a lot better than he thought they would, and that the only purpose hearings would serve would be to dramatize that which they already know.

He has led me to conclude that hearings will not be held by the Senator on title insurance.

Can the title industry relax, confident that it will not be involved in Congressional hearings in the future? No, but why?

In 1970 the Congress passed the Emergency Home Finance Act of 1970. In this Act, Congress directed the Department of Housing and Urban Development and the Veteran's Administra-

tion to study jointly and recommend to the Congress, by July 24, 1971, legislative and administrative actions that should be taken to reduce settlement costs and to standardize such costs for all geographic areas.

In connection with this study, HUD has let a contract to two American University professors with the charge to develop more simplified land recording and guarantee methods. These American University professors have visited title insurers, in Chicago and in Denver. Perhaps they have been elsewhere too. Their report was due on October 1.

On July 24 of this year, a preliminary report of the HUD-VA Mortgage Settlement Costs Study was released. This study focused on the settlement practices in the following 12 geographic areas: Boston, Chicago, Denver, District of Columbia, Indianapolis, Jacksonville, Los Angeles, Newark, St. Louis, St. Paul, San Antonio and Seattle. Settlement sheets on closing costs in these areas on FHA and VA loans in the month of March of this year were the basis of this study.

Unfortunately for title insurers, HUD-VA has defined settlement costs as the sum of closing cost items, loan discount points, prepaid items and sales commission. Thus, two of the largest items in land transactions, namely loan discount points and the sales commission, are not considered to be closing costs. And, as a result, this makes title charges a larger percentage of closing costs than would be the case if these items were considered part of closing costs.

Last year, when we became aware of this study, the ALTA Research Committee was directed to make a closing cost study of its own. The Committee has compiled settlement data based on over 1,500 closings in some 28 geographic areas of the United States. Mr. Rumsfeld had just suggested that people be informed your Association is becoming informed about its own industry through the Research Committee.

This information, which has been collected by the Research Committee, was released to the staff of HUD-VA just a week ago. Our data and the HUD-VA figures are not too different. But the way they have presented their figures makes them susceptible to misuse or misinterpretation.

Last week the American Land Title Association Research Committee met with the HUD-VA staff. They advised us of some of their preliminary conclusions, involving title insurance.

They indicated that they are unhappy with the long and short term rate charges of title companies—that generally, whether a house is sold in a year or five years, the title charges are the same and they don't think that's right.

They are unhappy with the "bulk rate" versus the individual rate, that is used—that is, they're concerned about the amount an individual must pay for title insurance as compared to the developer of a large tract of land.

They are unhappy about the difference in cost between owner's and lender's insurance. They are unhappy about the

difference in coverage. They point out that the loss experience of title companies does not support a difference in coverage.

The HUD-VA staff has shared with us some of their unofficial conclusions and some of the thoughts they have concerning recommendations that they might make to the Congress in connection with this study.

First, they indicated that they might suggest to the Congress that a subsidy be given to local clerks, so that they can modernize their record keeping facilities.

Second, they might suggest the adoption of a uniform land identifier system, which has been under consideration by the American Bar Foundation.

And third, they might urge the adoption of a uniform closing cost statement.

When we heard these particular proposals, they did not disturb us greatly, but their fourth proposal did concern us deeply, because this involved a possible suggestion that a maximum percentage of say 3 or 4 per cent of the mortgage or the sale price be placed on closing costs. And when they talk about closing costs, of course, they are talking about closing costs as they define it, which includes the title costs, the survey, the attorney's fees and many other items.

When we talked to them, they didn't seem to believe that much could be done about the lawyer's fee, nor did they disclose what they might do, if anything, concerning the real estate broker's fee, and as to the point problem, they felt that a bill before the Congress, HR 9331, might well resolve it because this bill would establish a free floating interest rate, and thus in effect eliminate points.

They did make it very clear to us that hearings, in their opinion, will be held next year on their study, and these hearings will probably be held by the Senate Banking, Housing and Urban Affairs Committee, or a Subcommittee of that Committee. Senator Sparkman is the chairman and Senator Proxmire is the number two Democrat on the Committee. So I don't think that all of the information that Senator Proxmire has gathered will collect dust very long in his office.

This morning, there was an article on closing costs and title insurance which appeared in the *National Observer*. If you are still not convinced that we face problems in the future, I hope that you will buy this copy of the *National Observer*.

The headline is: "Unsettling Closing Costs, Kickbacks and Fees Raise Home Costs." It's a rather long article, appearing on page 8.

I'm not going to read this entire article to you, but I would like to read a few paragraphs from it.

In the fourth paragraph it is stated: "One Congressional investigator estimates that Americans are overcharged at least \$150,000,000 a year for title insurance charges alone, with kickbacks accounting for a large share of it."

Where did the newspaper reporter get that figure? I haven't talked to him, but I can guess.

About three or four years ago, Dean Sharp, an attorney serving on the Senate

Committee on Antitrust and Monopoly, made a speech in Philadelphia, before the Philadelphia chapter of the Society of Chartered Property and Casualty Underwriters and said that the American public was being overcharged for a number of things, including \$50 million annually for title insurance.

A few days after his talk I asked Mr. Sharp about the source for his remark in the speech. He said he obtained the figure by applying a fixed base formula of his own to figures filed with state insurance departments by title insurance companies doing business in the District of Columbia area. In addition, he stated that title insurance companies may not be the only organizations involved in the alleged overcharge, and that an investigation might show attorneys to be among those connected with the situation. He also said that, "I know that your industry doesn't have any statistics or data." And he called upon us to prove that he is wrong. I had to acknowledge to him that at that time we didn't have any data or statistics.

Dean Sharp's speech was picked up by Senator Hart of this state, and used in a speech which he gave about a year and a half ago.

Sylvia Porter a few months later quoted Senator Hart in her column.

Well, Dean Sharp's speech may be the basis for this story—I cannot account for the fact that his estimate has been multiplied by three.

On the plus side, in this article they do quote our Research Committee, and our Research Committee's closing cost data, as a result of a discussion with the newspaper reporter, and a representative of this Association. The reporter does quote us to the effect that in our study we show that closing cost charges for seller land title and escrow closing charges average between .74 per cent to 1.66 per cent of selling price and that in our study total settlement charges range between 5.24 to 15.85 per cent of the price. So we've got that information in, but that's down a little bit.

But there is following a little statement in here—you can see what happens when people start to use data that perhaps they don't fully understand or appreciate—"A title examination can cost anywhere from \$6 in Los Angeles County to \$269 in Newark, New Jersey." Now how much title work can you get done for \$6, in Los Angeles?

Well you can see, that's kind of ridiculous. Again it's a question of misuse of the figures.

Now there's a paragraph in here that quotes Martin Lobel which disturbs me. A few moments ago I stated that Martin Lobel has led me to believe that we came out pretty well in the study by Senator Proxmire. As a result I told you that I don't think we're going to have hearings on title insurance and I still believe that, but nevertheless I'd like to read this paragraph to you.

"Most major mortgage lenders have come to insist on title insurance, with the result that the volume of such coverage tripled since World War II. Yet title challenges are rare. Last year 41 titling companies—including the largest ones—grossed \$299,000,000 in insurance premiums and paid out about \$680,000 in losses, according to a survey conducted by Lobel. 'We've pretty well concluded that title insurance is a pretty expensive luxury and consumers aren't getting their money's worth,' Lobel says."

I think that it will be a difficult period for not only title companies but others, when the hearings are held on the HUD-VA study. I thus believe that the fees of attorneys will come under scrutiny at these hearings. As far as I know, in spite of information that I have forwarded to the ABA about these developments I don't think the ABA is doing much about this study. As a member of the American Bar Association, I am sorry about that. I would like to see them do more.

There is another development which occurred during the past year that I would like to discuss rather briefly.

Since the Mid-Winter Conference we submitted a resolution to the FHLBB opposing regulations permitting service corporations of S & L's to enter the title insurance agency business. In May the FHLBB authorized service corporations without prior Board approval to engage in certain activity including *abstracting* and other kinds of insurance agency activities, but the FHLBB specified that service corporations had to first obtain Board approval before beginning mortgage insurance or title insurance broker agency business.

The entry of S&L service corporations into the land title insurance agency business could result in the elimination of several existing title insurance agencies.

The ALTA also expressed concern to the FRB concerning proposed regulations that would permit one bank holding companies to enter the title insurance agency business. We urged that regulations be adopted to insure that qualified title companies be insured of a chance to compete fairly for the title business of the bank holding company.

Here again the big threat to existing title companies is the possibility of a tie-in between a lender and its title insurance agency whereby the issuance of a loan is tied to the purchase of a title policy of the S&L service corporation or this one bank holding company title insurance agency.

These are potential serious threats to existing title insurance agencies.

I hope that in this short talk, I have conveyed to you some of the concerns that we have for federal legislation and federal matters involving this industry. As Don Rumsfeld has said, . . . we should be informed. We at the staff level are attempting to keep you informed. If you have any matters that affect you, involving the federal government, and you think your Washington office can be of assistance to you, I trust that you will give us a call. Thank you very much.

ALTA and ABA: Problems and Progress

George B. Garber

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

The Conference with the American Bar held a meeting in the spring. At that Conference, our prime consideration, was a study of a survey that was made by the American Bar, with its bar associations, state, county, and local, and our own state association representatives, with regard to the practices regarding the drafting of documents, the existence of certain treaties, and the possibility of negotiation of certain treaties with the local bars, and other matters.

We studied the results of this survey, and we found there were a number of

areas of conflict, as to the reports of the representatives of the bar association, and the representatives of our own state associations, and so we are trying to resolve those conflicts to determine what the actual situations are.

Now you will recall that I reported at the mid-winter meeting the actions of the American Land Title Conference in presenting to the Conference a resolution regarding the sponsorship of the National Attorney's Title Fund, the organization that the Bar intended to extend into a national organization. You

recall that that resolution eventually ended up with the Board of Governors of the American Land Title Association, and as a result of that resolution, a policy was adopted by the American Bar, substantially as follows: 1) the American Bar Association does not sponsor any title insurance company or fund, and has no financial interest in any such enterprise; 2) no committee officer, or agency of the American Bar Association is authorized to state that the American Bar Association does, or will engage in such sponsorship; 3) and no committee, officer

or agency of the American Bar Association has any authority in its or his official capacity to participate in a stock solicitation drive of any such company or fund.

We were very pleased with the results of that resolution. However, since that time, there have been certain activities by the special fund of the Lawyers Guaranty Funds of the American Bar, that have been disturbing us. For example, in the June 15th newsletter of the American Bar Association Special Committee on Lawyers Title Guaranty Funds, after referring to the progress of the National Attorney's Title Insurance Fund, the following statement is made:

"The Special Committee has given its unqualified support to the purposes and activities of the National Fund, in the belief that the National Fund presently offers the most feasible means of making our related Title Insurance Facilities available to Lawyers in those States, where the capitalization requirements for Title Insurance Companies have prevented the organization to bar related companies."

That was the statement in the newsletter of June 15th, of the Special Committee. And then again, in the report by the Special Committee on Lawyers Title Guaranty Funds of the American Bar, made at the 1971 American Bar Association Convention in Chicago, after referring to the policy that I read to you,

of the American Bar, and the three points of the policy, the following statement is made: "This Committee considers however, that it is entirely within the scope of its authority to publicize and assist the National Fund, and all other bar related insurance organizations, and to promote the concept of bar related insurance to the public, and to the legal profession."

Last Sunday morning, the American Land Title Conferees held a meeting, and discussed these statements, and the activities of the Special Committee. And we passed a resolution which has since been approved by the Board of Governors of our Association, which resolution challenges the activities of the American Bar Special Committee, in the light of these statements, and others, as being in violation, in letter and spirit, of the American Bar policy, that such activities of the special committee are a serious threat to the successful continuation of the Conference, and calling for the dissolving of the Special Committee on Lawyers Title Guaranty Funds of the American Bar Association.

This is a paraphrasing of the resolution which has not yet been officially worded. But we intend, at the next meeting of the Conference, to present such a resolution, in the hope that it will also be favorably considered by the official bodies of the American Bar.

At the time of our discussion by our

Conferees, we considered the fact that there are lawyer title guaranty funds, with apparent official sponsorship, of state bars, operating in eighteen states throughout the country. These are in various stages of progress. They have various types of corporate structure, various types of restriction on stock ownership, various types of relations with members of the bar. There has been no recent study in depth, as to these funds, or bar related companies. There has been no determination of the volume of business that they do, the penetration of the title insurance market, and their tie-in with the controlled business of the lawyers. So our conferees, at that meeting, also adopted a resolution recommending that the Board of Governors of our Association appoint a special committee to study the corporate structures of these funds, their impact on the title insurance market, their relationship with members of the bar and bar associations, and particularly with respect to controlled business, and to review these activities in the light of anti-trust laws, and determine if any or all of them may be subject to challenge under these laws. A recommendation as to appointment of such special committee was approved by the Board of Governors at its meeting on Sunday. And we hope that as a result of these two resolutions, we can make progress with our problems with the bar.

Your Employee Relations Are Showing

Sidney F. McKenna

*Office of Vice President Labor Relations
Ford Motor Company, Dearborn, Michigan*

As your chairman has indicated, Mr. Denise was supposed to have addressed you this morning, and I have been asked to relay his regrets at not being able to be with you, and to deliver his remarks in person.

And as you can gather from the introductory remarks, my position with Ford Motor Company gives me the responsibility for helping establish and maintain sound and harmonious labor relations with the UAW and its Ford members, including some 100 local committees.

We also work with eleven other unions representing tradesmen, guards, and some salaried draftsmen. This group might be called the labor production and maintenance force of the company. They are associated with building the components, and assembling the vehicles. We also have to pay some attention to our labor relations in the many other countries that Ford Motor Company operates in.

However, today I would like to share with you some of our thoughts on labor relations with the sixty thousand white

collar workers in Ford U.S., the employees who keep the books, administer the complex supply system, assist our dealers in selling our products, and perform a host of other necessary jobs. And in particular, about those employees below the management level.

These people play an important role in the success, or lack of success, of each and every operation. With very minor exceptions, they are not organized, that is, they are not represented by a union.

Our employee relations with the group I am talking about show particularly, when they are the target of a white-collar unionization attempt. But there are other ways to tell how we are getting along, and that is what I want to talk about now.

It is not my intention this morning to present a short course in personnel management, so I'll make some assumptions. I'll assume that your firm's salary and benefit structure is competitive with other firms in your industry. That your employees work in reasonably comfortable and pleasant offices. That the firm's personnel policies are fair and equitable.

And, with due regard to careers and pride in personal accomplishment, that your employees are typical office workers whose main reason for working is to get the money necessary to satisfy the needs and desires of themselves and their families. With those points in mind, I would like to discuss a few situations that have led to white collar personnel problems at Ford in recent years and what we have learned from those experiences. The principle sources of information that I will draw from are a study of twenty five incidents of salaried employees, acting collectively, to protest on the job problems, an analysis of individual complaints over a two year period, and from six recent attempts to organize groups of Ford salaried employees.

I am sure that what we have learned, is relevant to your situation. For, employee relations are basically the same, whether your firm has one secretary in a single office, 200 people scattered around the country, or 425,000 people around the world.

How an employee feels about the firm for which he works depends primarily

on the relationship between him and one person, his immediate supervisor. The supervisor is the key. If he cares, the company or the firm cares. Few Ford employees complain about personnel policy or the compensation structure. They do complain, however, about how those are administered. And here are some of the things that upset employees: arbitrary decisions and overly strict rules. Employee morale went down in a hurry in one of our offices when a new supervisor decided office conduct was too relaxed. Without warning, he posted new rules on the bulletin board. He proclaimed that henceforth employees must sign out and in with his secretary, anytime they left their desk, to go to the next office on business, to go to lunch, even to go to the lunch room. His notice also forbade non-business conversation during business hours. And you can imagine how popular that rule was on a Monday morning after a big football weekend. You can imagine also the effect that these and other rules had on morale and productivity in that office. This supervisor punished the entire group, instead of dealing with a few employees who were taking advantage of the situation.

Another supervisor required his employees to take only one week of vacation in any one quarter of the year. That was fine for running his office, but a bit rough on the people who like to take vacations in the summer with their school age children. An office has to have some guidelines, some work rules. But they should be fair, and their administration should make due allowance for employees. Employees should not feel they are machines—something to be turned on in the morning and off at quitting time regardless of any other considerations.

People fear abrupt or unexplained change, even when the change is intended to improve an existing arrangement. We had a near revolt among a group of draftsmen, when a supervisor went through the room and literally pulled drawings off the boards while tersely explaining that the project had been cancelled and that another job was coming in. There was a good and reasonable explanation. But this supervisor aroused confusion and anger because of his actions and because he didn't explain until later why the project was cancelled and how much more important the new work would be. Resentment probably still lingers among those employees.

In another plant, and unexpected production scheduling change meant a temporary drop in one department's work load. On a Friday afternoon, the busy manager told his clerk to inform the employees that they would have to take their vacation the following week, regardless of what they had planned. Changes and rumors of changes in historic relationships with other employees can also cause trouble, unless properly explained.

Change in status or job title and, yes, even in parking privileges, will start some people wondering about their status. Explain such changes before rumors start, whenever possible.

Inequities in the administration of personnel policies and compensation practices are surefire ways to create morale problems and insecurity. We constantly guard against the supervisor showing favoritism in the assigning of overtime, or in the giving of promotions or raises. Long service employees naturally wonder when they see younger, unproven employees moving faster than they are.

A union organizer in the aerospace industry said he won a representation election recently, because the company was laying off salaried employees, without regard to length of service. He cited as a horrible example the termination of a woman with twenty-one year's service, while a one year man, doing the same work was retained.

Now, I'm not suggesting that the key to good relations is a deadening uncritical adherence to seniority, regardless of capability and performance. What I am saying is that deviation should be perceived to make sense, based on objective factors related to the business and its needs.

In a manufacturing firm like Ford, there is constant pressure to get out the production. This pressure sometimes leads to an atmosphere in which the sole concern is to get units off the line or those invoices in the mail. And there appears to be little or no regard to the needs of the employees. A personnel relations audit revealed an incident in an accounting department that was under an extremely heavy workload. The supervisor, feeling great pressure, only reluctantly and with ill-tempered words let one of the employees go home to take an injured child to the hospital. When the employee came back two hours later, the supervisor tersely pointed to the work that had piled up. The employee told the interviewer he didn't mind the extra work; in fact, he's many times handled extra work caused by the supervisor's poor scheduling. But, he said, "the boss never even asked about my kid."

The effectiveness of that department went downhill rapidly under that kind of management.

I've talked only about the bad experiences. We have many fine effective supervisors. If we didn't, we wouldn't stay in business. The point I hope I have made is that the best personnel policies in the world, pleasant work surroundings, competitive pay scales and benefits, talented employees, all these things won't get the job done if supervision is weak. None of the incidents I have mentioned would have occurred in the way they did if supervision had been alert and sensitive to the needs of employees.

Such incidents as these, however, can serve as early warning signals of serious personnel problems ahead. In the course of our studies, we have determined that we can pretty well identify the good supervisors by giving them what we call the three-way attitude test.

In an informal conversation, we seek to determine the supervisor's attitudes toward management and the company. Through his comments, he reveals his attitudes on such items as job satisfac-

tion, local personnel practices, delegation of authority, and so on.

Almost invariably, the good supervisor gives positive answers. He likes to come to work, and he is confident in himself. The poor supervisor gives negative responses.

We then probe his attitude toward his employees. And again, the good supervisor is positive. He likes his employees, believes they are working up to their ability. The poor supervisor shows less respect for his people and for their abilities.

Then comes the third question, and the real clincher. We ask the direct question, "What do you think your employees think of you?" Again, the good supervisor's answer suggests that his employees feel free to come to him when they have job problems, that they think he treats them fairly. Many times the poor supervisor is stumped. He doesn't know how to answer because he never has bothered to concern himself with what his employees think of him. He doesn't care. It is a good question, if you want to evaluate your supervision. You also might want to ask yourself: what do my employees think of me?

It follows, then, that businesses must exercise more care in naming supervisors. That these members of management must not only be knowledgeable of the business, but must be skilled in human relations as well. The good supervisor administers policies fairly and firmly. He listens to employees, tries to see their problems from their viewpoint. When change is necessary, he explains why and makes sure employees understand and respect the reasons, even though they may not always agree.

There is another piece to this, of course, in organizations of any size, where there are layers of supervision. The way a first-line supervisor treats his people tends to be heavily influenced by the way his boss treats him, and so on up the line.

I'd like to leave this final thought with you. In our society today most groups of people have someone looking after their interests. Through contracts negotiated with employers, unions handled the affairs of the production employees. Numerous government agencies and private organizations are concerned about the minorities, the very young, the elderly, and, more recently, women. Generally speaking however, the white collar group—the administrators, the office workers, the technical and professional employees—the people who make your company go—prefer to deal directly with their employers, to make independent decisions best suited to their individual needs and desires.

I dislike closing on an ominous note. But, it is up to management, up to you, to see that these people are treated fairly and equitably at all times. If you don't, as we have found out, somebody else will. The most difficult kind of policing is self-policing, but when it is done well, it's the very best kind of all. Thank you.

Housing: The View From Congress

The Honorable John Sparkman

*United States Senator from Alabama
Chairman, Senate Committee on Banking, Housing and Urban Affairs*

Thank you. Thank you very much ladies and gentlemen. Thank you Mr. Chairman. I want to thank you especially for that very fine, generous introduction. You know I have had a lot of introductions in my lifetime. I just happened to think of one that I received one time; I think I'll tell you about it.

I was the keynote speaker at the Democratic Convention in the state of Wyoming. I suppose in speaking to an audience like that I ought not tell what party I belong to, maybe you had guessed. I was introduced by my good friend, the late Senator Hunt. He said all of these nice things that you like to hear in an introduction. He was just ready to launch me on that audience, and I was about to get up to start speaking. And then, he had an afterthought, and he said, "By the way, ladies and gentlemen, I want to tell you something else. I frequently play golf with Senator Sparkman, I've walked behind him when he has had on his golf shorts, and I want to tell you that he has the biggest calf on his leg I've ever seen on any person". I said, "Ladies and gentlemen, I've been introduced in many different ways, but this was the first time I was ever introduced by the calf on my leg."

It's good to be with you this morning. I welcome the opportunity to come out and talk to you, in this, I believe your Sixty-Fifth Annual Convention. And I am very glad to meet with you at this time. I don't know that I can tell you anything that you don't already know. It may be that I can express some ideas, some of which you may agree with, and some you may not. But I want to say that I am glad to have this opportunity.

You are in a unique business, handling the world's basic commodity, land. And let me say, you do it well. I commend you for the great job that you have done over the years. I have always had a deep respect for the precision and thoroughness of the American system in handling land transfers and transactions of various kinds. And this is largely due to the expertise of members of your profession.

When we speak of our national policy, the goal of the decent home and the suitable living environment for every American family, we often neglect to consider the numerous disciplines and professions which play a part in contributing to that goal. Yours is surely one of the important cogs in the wheels of progress towards meeting this goal. Without the safeguards to a secure and dependable title to property, the housing

goal could be an elusive and frustrating search in futility. But I am sure you are aware of the level of housing starts at the present time. I must say that I am highly pleased with it. The last quarter has been at an average annual rate of well over two million units a year, with August hitting a historic high of two million two hundred thousand, over an annual basis. The predictions are that the year of 1971 will end with a record-breaking two million starts, not counting mobile homes. And by the way, let me say, they are playing a more and more important part in housing American families.

Provided President Nixon's post 90 day freeze is effective in holding down interest rates, and maintaining a continuous flow of mortgage credit, the current housing production of two million two hundred thousand units a year, an annual rate of that, is a little better than the target level for this year, to reach our ten year goal of 26 million units, new and rehabilitated, between 1968, when that goal was written into the law, and 1978, the ten year period, in which 26 million new units, and rehabilitated units, are supposed to be brought into use.

However, to make up for past deficits, the level will need to be increased considerably, above the current two million two hundred thousand level. According to the original goal schedule, housing starts were scheduled to meet a level of over three million units by 1978. Of course, that naturally anticipates an increase each year. Because of the number of new family formations, the number of houses that become worn out, the number of houses that are destroyed, by fire, tornado, and public building purposes, I supported the establishment of the ten year housing goal target, when it was considered by Congress in 1968. But I believe we would be making a mistake if we permit numerical goals to be our sole guide in carrying out a national housing policy.

Our experience with federal programs leads us to more conclusions that our efforts should be directed to the construction of liveable communities, not just brick and mortar shelter. A smaller number of homes, built in a community which provides public and private services, and an environment attractive to family living, can provide multiple and long lasting benefits which far outweigh a larger number of homes constructed under poorer conditions.

That sounds like a truism, but you would be surprised how difficult it is to

move our housing programs in this new direction. There has been a gradual increase in emphasis of federal legislation toward this objective. And this year's legislation will place even greater emphasis on the use of federal funds to support the development of good and attractive environments within which to build homes.

Speaking of legislation, there seems to be an unending stream of new ideas and new proposals popping up in Washington these days. And I don't say that critically. That's the way it ought to be. All of these do not end up as legislative proposals. But even at that, with 11,000 bills introduced in the House of Representatives and 2600 bills in the Senate so far this year, Congress is swamped with a proliferation of requests for new legislation.

I do not know of any far reaching proposals now, before us, directly affecting your industry. Like any industry, however, you must be ever on the alert to keep up with times, and not rest on your laurels of past achievement. Improved communications in education, and a more affluent large middle class of American citizens, have contributed to the development of numerous outspoken consumer groups, which, I believe, will become more active and vocal in pressing for updating our institutions and political systems.

Land, the use of land, the political systems overseeing the use of land, and its accessibility to larger numbers of citizens are institutions up for review and reconsideration by an ever increasing sophisticated citizenry. I know these matters are of interest to you, because they are vital to your livelihood. Let me cite a few developments on the national scene, which you may or may not be aware of, which I believe, will, over time, have some effect on your business.

There's been a gradual growing belief, in recent years, that our traditional hands-off policy, relative to land use and the growth of our cities and our urban environment has been a failure. Urban sprawl, pollution of air and water, congestion of traffic, over-crowding of land, and the general deterioration of our environment are often traced to the traditional hands-off policy on land use and a too-strict adherence to profit motivation as the prime factor in determining urban growth and patterns of land development.

A sharper conflict seems to be emerging between the free enterprise concept of property rights, and the sovereign power of the state representing the

rights of all of the citizens relative to our environment and how that environment is to be used. Recognizing the need for developing a national policy on the use of land, and the growth of our cities and communities, our committee last year passed a bill proposing that the President develop a national Urban Growth Policy. This provision was agreed to by the Senate and the House of Representatives and became a law, as part of title 7 of the Housing Act of 1971.

The statutory language of this provision is very broad, calling for the President, through his Domestic Council, to develop a policy which will "Encourage the rational, orderly, efficient, and economic growth, development, and redevelopment of our states, metropolitan areas, cities, counties, towns, and communities in predominantly rural areas, the conservation of our natural resources and assure communities of adequate tax bases, community services, job opportunities, and well balanced neighborhoods, in socially, economically, and physically attractive living environments".

A report is to be submitted to the Congress on this, by the President, every two years, beginning 1972. The same title 7 of last year's Housing Act established new and all-encompassing community development programs, under which the federal government, will underwrite the development of new communities, or new towns, as they prefer to call themselves.

The law will support three types of new communities: satellite cities; free standing self-contained new cities far removed from existing cities; and new towns in town. The last may turn out to be the popular one as a way of rebuilding vast areas of existing cities. These new concepts involve changes in typical state laws, relevant to the taking of land, under eminent domain rights. And I suspect much work needs to be done, before the new community development will be acceptable in all of the fifty states.

You know of course, that this idea of new towns was written into the law several years ago. But little progress has been made throughout this country in developing and building new towns. I believe that the number one obstacle is that of land. It's most difficult to accumulate and bring together a sufficient amount of land, privately owned, for a new town.

I visited new towns in England, where perhaps the greatest progress has been made in this field. However, England has a unique situation in that they can decide where they want to build a new town, and that's it. They have the power of eminent domain. They can take the land over, and then I believe it is true, a certain part of the land is designated only for the purpose of developing new communities. They are able to move industrial plants into that area, so that the people who want have a job at hand. They see that adequate transportation, rapid transportation, is provided, so that those who want to go elsewhere, may do so, and carry on their job. It is hard for

us to envision that in the United States, certainly under the present system, whereby some industrious individual must work long and hard to pull together enough acreage upon which to build one of these new towns.

Another development in Congress which should be of interest to you is the proposal to develop a National Land Use Policy, and a federal plan to subsidize the state in carrying out state-sponsored land use policies. A great deal of the interest in such a proposal comes from the environmentalists who are concerned about maintaining the quality of the national environment and protecting the natural resources. Equal support comes from the enlightened public and private urban planners, and others who decry the makeshift urban sprawl with which we are all surrounded, and who know there must be a reorientation and strengthening of state and local planning processes if we are meeting our national housing goal.

Early this year, the President sent a message to Congress outlining proposals that would help preserve certain land and water areas, and other areas of critical environmental concern. Also, areas impacted by key facilities, areas around large scale developments of more than local significance, and areas affecting the interest and welfare of more than just one local government. His plan would call for state involvement, with the federal government helping to develop policy and to finance the cost of such a program. No action has been taken on this matter as yet this year, but I believe that it is inevitable that some such legislation will eventually be written.

The current proposals are primarily for the purpose of developing a procedure for state and federal cooperation in land use planning, and do not come to grips with the ultimate issue, which will match the rights of individual property owners, on the use of their property, with the rights of the state to designate the use of that property for the public good. This is the issue which is behind land zoning and the taking of property by the power of eminent domain.

The fifth amendment of the constitution guarantees just compensation for the taking of private property for public use. This authority has been clarified by the recent passage of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, which recognizes certain other rights for which compensation must be paid under a government taking. However, no compensation is indicated in the exercise of state powers to classify land and hold it off the market in development of perpetuity, or for other classification which results in depriving the owner of future profit. I am sure some of you know of the Green-Belt around London. It is the belt of undeveloped land, in which a permanent prohibition prevails against the future development of construction in that area. Exceptions to it have been made, but only in extreme emergency situations. It can be said that the owners of that land are being denied the opportunity for a big profit, in view of the potential expansion of the city of London.

The British have a similar land use scheme in connection with the lands to be acquired for new towns, as I mentioned a moment ago.

In this case, just compensation paid to the land owner does not include the incremental value added to the land as a result of the governmental action in that area. I don't believe our theory and position of land ownership will permit us to do what the British are able to do. To accomplish our purposes, it may be necessary to purchase the land outright, or perhaps owners could be entitled to keep titles to the land, and be compensated under permanent easement to hold the land permanently, as open space or whatever use the land use plan may call for. Several states have under consideration land use plans which call for state level decisions rather than local decisions, in certain circumstances, for land use classification. The so called anti-snob law of Massachusetts, gives a citizen the right to appeal a local zoning ruling to a state body. New York has given wide powers to its Urban Corporation to acquire land through eminent domain powers for public purposes, under a very broad definition of public purpose.

The courts have been active in this area, particularly in relation to restrictive zoning in connection with the old open occupancy clause, or other civil rights statutory requirements. As in many other areas of public concern, land use law will gradually evolve over time, to the combined efforts of state and federal Courts, as well as state and federal legislation. In the long run, however, if our democracy means anything it will be the people, in their combined judgment, who will make the final decision.

A study currently under way in Washington on the subject of mortgage settlement class should be of great interest to your industry. This study was authorized by a provision of the Emergency Home Act of 1970, which called for the Secretary of Housing and Urban Development, and the Administrator of Veterans Affairs, to undertake a joint study of closing costs and settlement charges and to develop recommendations for legislative and administrative action to reduce such costs and to standardize them. The statute required that the report be submitted to Congress within one year, that is, July 24, 1971. For a number of reasons, the agencies found it impossible to complete the report by the date and instead sent us a preliminary report. As you can imagine, with all the differences in state laws and customs, and the many complexities of the subject when considered on a nationwide scale, the study turned out to be a tremendous undertaking. The genesis of the statutory mandate for the study came from the report from the Commission on Mortgage Interest Rates, which referred to high costs associated with mortgage transactions and property transfers, and urged special attention to the problem. The Senate report accompanying the legislation on this subject indicated the hope that the study would develop a simplified method of locally controlled recording and guaranteeing of real estate titles, in order to

speed up and reduce the cost of transfers.

There is an amazing amount of popular interest in this subject. Rightly or wrongly, practically everyone who buys a house these days complains about the high costs involved in the transaction. Much of the cost involves prepayment of taxes, sales commissions, and discount points, paid in connection FHA, and VA financed homes. Well when all of the costs are added up, total settlement costs for FHA and VA transactions, involving both buyer and seller, range from ten per cent to fifteen per cent of the sales price, and from \$2,000 to \$3,000 for the typical transaction, according to the preliminary report sent to Congress. Although it is a preliminary report, it contains an interesting amount of data on settlement costs, closing costs for various areas, and price levels in the FHA and VA programs. A corresponding study for settlement costs for conventionally financed homes and purchases is under way.

We have a small supply of the preliminary reports in the Housing Subcommittee office, but I believe the Department of Housing and Urban Development has a larger supply which could be made available, I am sure, to any one of you who might be interested in receiving a copy.

The second part of this study, which calls for recommendations to increase the efficiency and to reduce the cost of property transfers, is a difficult assignment. Property transfer procedures and title recording methods have a lot of history behind them, varying, of course, from state to state. Part of the study presented to the committee is a bibliography, which lists nearly 300 different publications on this subject, some of which are extensive analyses of historic systems, as well as contemporary viewpoints on how the systems can be improved. I cannot predict what will develop from this study. Real estate titles and transactions are basically under the province of the individual states, and it is unlikely that any federal action will be taken to try to supercede state authority.

There are several points, however, which should be kept in mind. First of all, we are in the electronic age and our people will not be long satisfied to use forms and procedures which our grandfathers used when the matter can be handled so much more quickly and cheaply by electronic data processing machines.

Secondly, we are in a period of consumerism, and I expect strong pressures from that source to smooth out existing practices.

We are just beginning to develop a national market for mortgages, which demands the maximum of uniformity with every instrument and procedure in connection with the mortgage transaction. The pressure for uniformity can bring about major changes in local and state procedures. The evidence of this is the current debate on standard forms for conventional mortgages to be issued by the Federal National Mortgage Association, which as you know now is a

private corporation, and the newly created Federal Home Loan Mortgage Corporation, which is a corporation formed by government in conjunction, more or less, with the Federal Home Loan Bank Board and the savings and loan industry. I had a draft of these forms in my office last December, and recognized immediately that the drafters of the forms had failed to provide for the fundamental rights of the borrower. And that no such standard form, with federal backing, could be issued until the inequities were corrected. Later on, consumer groups became involved and put in suggestions and recommendations. As a result, the forms have not yet been approved. But I may say this, I am quite certain that forms will be approved that will be bringing up a high degree of uniformity. I expect the same continuing degree of participation by consumer groups on this subject.

Another major development of widespread interest to those involved in real estate transactions is the involvement of the courts in HUD housing programs. Most conspicuous of these are cases dealing with integration problems, but recently a new rash of suits have been filed in connection with FHA insurance of substandard buildings. A Federal District Court class action suit is seeking FHA reimbursement to buyers of FHA Section 235 homes with major defects. It is alleged that the FHA has failed to make proper inspection of homes and to advise buyers of defects before insuring the mortgage.

A Philadelphia suit, brought by a community legal service against the FHA could cost the government millions of dollars if the court were to rule that the FHA must reimburse the owners for serious defects. FHA has denied liability in these cases, under the assumption that FHA insures the mortgage, and that the liability rests with the seller and the mortgagee, not the FHA, when the financing is for an existing home. Federal law requires the FHA to assume responsibility for the structural soundness of new housing, but only to a limited extent with existing housing.

Last year, after investigations turned up serious defects for existing housing financed with the benefits of FHA interest subsidies, a new law was written requiring the FHA to compensate home owners for serious structural or latent defects in homes which an FHA inspector should have recognized if properly performing his duty. After this provision became law, the FHA clamped down hard on inspections, but it is too early yet to see what the effect will be on the FHA insurance program for used housing. The significance of these court suits, reflects the growing responsibility of government to insure the fair treatment of citizens receiving benefits under federal programs.

Apparently, caveat emptor is not a defensible practice in connection with government practice. And by the way, in that connection, I remember something that President Roosevelt said, very soon after he became President. I believe it was in connection with the establishment of the Exchange Commission. He said,

"Down through the ages, the warning has been caveat emptor, let the buyer beware. But I say we have got to change that policy, to one of caveat venditor, let the seller beware". And of course, you know, there has been considerable change in that direction since that day. And certainly it has been well applied in the field of securities, under the supervision of the Securities and Exchange Commission.

The FHA proved endorsement that is given, for example, should carry with it a guarantee that FHA not only insures the lender against loss, but also stands behind the quality of the house which has been inspected by its inspectors and given this final approval before the home was purchased by the buyer. I believe that many of the decisions that affect the rights of the home owners and consumers are appropriate, but I believe that the nature of the issues is so complex, and so specialized, that I would much prefer to see the issues handled at the legislative level rather than by the courts. I am afraid that some of the courts will find themselves contradicting each other, and it will be necessary for the legislative bodies to rearrange the legislation, in order to straighten out the courts. I'd rather they would study the legislation and do the rearranging beforehand.

I've given you a few thoughts on some of the issues of today, involving property and property rights. Most of these issues are not new, and I would predict that they will be with us for a long long time. Now let me say this. I practiced law, before going to Congress, down in my little rural town, which it was at that time. It has spread out pretty well, though, in recent years. For instance, in 1937, I bought a farm eight miles out of town; today that farm is two miles inside the city limits. And I still grow cotton on it. But nevertheless, practicing there, in that small town, in the capacity of young lawyer, I used to do a great deal of title searching. I used to prepare a good many abstracts. I used to consider abstracts, and report on them, and sign them. Probably I didn't know just how much liability I was assuming, or I wouldn't have done it. So I know some of the problems that are connected with your industry. An industry that goes far beyond the simple things that I did.

I believe that among the things that I have thrown out at you this morning, you may very well look ahead to—I was about to say more confusion, but I won't use that term with you people who are experts but with a greater number, I'll put it that way—a greater number of problems that you are going to have to handle, in connection with our land use programs. Not only as they exist now, but as they are going to be programmed in the future, a future that we can't nearly see at this time. We recognize the fact that with the tremendous urban growth that we have, with the decreasing availability of land to be used for housing American families, that we are going to have to develop new land use policies and programs. You will

have to wrestle with them. I wish you well in that undertaking. And I am sure that you will handle it well without difficulty, because you have developed the experience, the expertise, and the right to have the confidence and the reliance that the American people place in you in looking after the knotty problems that can arise in connection with land transfers.

And by the way, let me say this, because this matter has been brought to my attention from time to time by some of your members throughout the coun-

try. And that is a proposal that the way it was first put out, at least, was that title insurance companies were gouging the public. I want to say to you, I have two homes, one in Washington and one in Huntsville. Each one of them has a land title insurance policy on it, and I count it as a very valuable asset. I keep it with my deed. And my conception of it was that it didn't represent just a single transfer that was made, but that it continues to protect me and my title, and my heirs, and my assignees, I suppose, right on into the future. I have

never felt that I have been gouged. And I don't feel that generally, and I just wanted to express that feeling to you.

By the way, there is no legislation pending before our committee. I think there have been some people under the conception that there is some legislation. There isn't. And I doubt very seriously that there is going to be. I think I can predict clearly that the federal government will not be regulating the fees that your various state laws make available to you, based upon the services that you render.—Thank you very much.

Financing the Real Estate Market

Comments By

H. N. Finney

President, Citizens Mortgage Corporation, Detroit, Michigan

The next time I accept an invitation to speak anywhere, I am going to be sure to check the program in advance. Following a prestigious speaker like Senator Sparkman, the man who literally wrote the book on housing legislation there is no way that an inarticulate mortgage banker like myself can look good... no way!

Other than that, I am very pleased to have the opportunity to participate in a discussion session with this distinguished audience. We at Citizens Mortgage Investment Trust—and I am certain I speak for every other organization engaged in real estate financing when I say this—are very cognizant of our dependence on the services performed for us by the title companies. Not only do we rely on you to assure ourselves of the validity and propriety of our liens and titles, but the many ancillary services you provide are extremely helpful to us so many ways.

Since I want to take advantage of this opportunity to find out what you are thinking about these days, my remarks are going to be very brief, to allow as much time as possible for a free wheeling discussion session. And because I often tend to get carried away and ramble on extemporaneously, I am, as you can see, working from a prepared text. This will assure that I finish within a reasonable time frame.

The assignment as it was given to me was to look to the future—and I will do this to the best of my ability. But as a preliminary, I think it would be appropriate to talk briefly about the past insofar as real estate investment trusts are concerned. In its present form it is a relatively young industry, and is not widely understood even by many people involved in the various aspects of real estate financing.

Although real estate investment trusts have been on the American scene for more than 100 years, until very recently they served primarily as vehicles for small groups of affluent people em-

ploying their own resources to develop income from mortgages and equities. The situation changed in 1960 when Congress approved special tax rules designed to stimulate the formation of real estate investment trusts—in effect, according to the trusts, tax treatment similar to that given to mutual funds.

The purpose was to enable small as well as large investors to participate in professionally managed real estate investment portfolios. The idea was a bit slow to catch fire and only two mortgage trusts of any note were organized in the first eight years. But with the advent of the tight money period starting in the latter part of 1968, the value of the trust concept as a means of financing the building industry which was starving for funds became widely apparent, and for a time it seemed like a new trust was being organized every week. The great majority of these engaged in making mortgages as opposed to equity investments, and for the most part they were designed to operate in the short term market providing land development and construction loans with maturities of one to three years. A few did engage in a combination of short and long term lending.

The initial thrust in sponsorship and development of the new generation trusts came by and large from groups identified with the mortgage banking industry. Securities designed to raise both equity and long term debt were offered to the public and enthusiastically received by a broad cross section of investors. I would suggest that the warm welcome was attributable to three basic factors:

- 1—The potential yield on the investment was higher than the average on comparable investments
- 2—The risk on the down side was below average
- 3—The opportunity for possible capital gains was present

It didn't take the financial fraternity too long to recognize that a new dimen-

sion had been added to real estate financing by the real estate investment trusts. We found many of the big commercial banks such as Chase Manhattan, Bank of America, Cleveland Trust, American Fletcher and others organizing trusts of their own; as did a number of the large life insurance companies like Connecticut General, Mutual of New York, Massachusetts Mutual and others.

In the course of just three years, more than 80 new trusts have been organized. They have floated equity and debt securities in excess of \$4 billion and further support the construction industry with substantial sums of money generated by means of short term bank lines of credit and commercial paper.

So in a very short period, real estate investment trusts have become an integral part of the real estate financing industry. I think it is interesting to note that trusts which are recognized as pioneers in our industry in its present form—First Mortgage Investors and Continental Mortgage Investors—are only about 10 years old.

First Mortgage Investors was organized in 1961; its initial offering of shares to the public totaled \$16.5 million. Continental Mortgage Investors was organized in 1962; its initial offering of shares to the public totaled \$25.5 million. As of today, First Mortgage Investors has assets in excess of \$300 million; Continental Mortgage Investors has assets in excess of \$400 million. In each case, one cannot fail to be impressed with the outstanding performance of these two trusts. I should add that a number of the so-called new generation mortgage trusts give every indication of enjoying comparable growth.

Now one might think that inasmuch as these trusts proliferated and grew tremendously during a period of tight money, they might outlive their usefulness when money becomes easy. Not so! I am firmly convinced of that. When money becomes easy, the implication is

there will be more activity in the construction business and the demand/pull for construction funds will outstrip the supply available. So the trusts stand to do well in a stabilized situation that is referred to as an easy money market. In further support of that premise, historically the spread between the cost of money to the borrower and prime rate has been in the range of 3½ per cent to 5 per cent. Obviously as prime rates decline the ratio of spread increases to the advantage of the lender.

So much for the past and present; now let me spend a few minutes looking into the future. I do this with some hesitancy, because crystal gazing is at best a chancy business. I am always mindful of something I once heard, and that is, that among the more important prognostications people make in a lifetime is in the selection of a spouse; yet the bulging dockets of our divorce courts attest to the hazards involved in attempting to predict the future.

Nonetheless, I see three very strong factors that support the prediction of an accelerating volume of construction activity in the 1970's—this in turn will more than likely create a continuing shortage of construction funds—in other words the demand/pull for construction funds will outstrip the supply in the 1970's.

Obviously, number one relates to our cities—they must and will be rebuilt. Usable land is becoming more and more scarce—and the land in our cities is much too valuable to lie fallow. This one area of activity alone will require vast amounts of new housing, modernization of our industrial plants and additional commercial facilities of all types.

Two—there will be the need to provide housing and service facilities to accommodate our expanding population. The suburbs will continue to flow outward and satellite urban areas will have to be developed to provide housing, educational facilities, recreational areas and

the hundred and one services that the public has come to expect. Megalopolis could become a reality.

Three—the increasing affluence and leisure time of the American public is going to make the second home as common as the second car came to be in the 50's and 60's.

As to government's role in this growth—we may see the beginning of a restructuring at the local level—particularly in high density urban areas in which city, township and county government will ultimately be merged into one body—a movement towards the metropolitan concept if you will—thus eliminating much of the duplication and waste of tax dollars that so often prevails in local government today. This should result in improved services to the public at less cost to the taxpayer. I refer specifically to public transportation systems, police and fire protection and the host of other services the community requires.

At the federal level we could be witness to less direct subsidy and greater activity on the part of the government as an insurer and guarantor. The federal government's role as an insurer and guarantor as it applies to housing has stood the test of time and this concept can gradually be broadened to include many other types of commercial and industrial construction. However, I do not want to leave you with the impression that subsidized housing as such will disappear from the scene.

Historically, as the pendulum has swung from easy money to tight money the first victim has been the construction industry. The cause—the construction industry's almost total dependence on institutional lenders for its mortgage funds—institutional lenders that traditionally have diverted their funds from time to time particularly during so-called tight money periods to other forms of investment that seemingly offer better yields, greater marketability and hence a greater degree of liquidity.

Here of late, we have witnessed the introduction of a mortgage-backed security guaranteed by the federal government as to the timely payment of principal and interest due thereon. Currently it is limited to the housing sector of the construction market and then only mortgages that are insured by the FHA or guaranteed by the VA. It represents a dramatic breakthrough in form and can ultimately be adapted and utilized for many other types of construction which require mortgage financing. Mortgages have long suffered as a competitive investment because of form rather than substance.

A properly underwritten first mortgage has always been recognized as an excellent investment, but unfortunately the technicalities involved in originating and administering an investment portfolio comprised of mortgages requires specialized expertise and knowledge, and has thus suffered in its appeal to a wider range of potential investors. I would suggest that because of this the construction industry has suffered undue discomfort during periods of tight money, and I feel that the introduction of the mortgage-backed security can do much to flatten the peaks and valleys.

Regarding any changes in the contributions of the trusts three to eight or 10 years from now, I certainly cannot forecast their exact nature. It will depend almost entirely on the need that develops. In the early 60's there was no apparent need for vehicles like the real estate investment trusts. That need later became apparent and the trusts filled a very important gap in the late 60's. Having stepped into the breach once, I can foresee that the trusts would be in the forefront of stepping into other future breaches that might arise because of changes in money markets, investment attitudes, mortgage attitudes or other such developments. I think we have the viability, the latitude, the flexibility and the vitality to meet any challenge.

Thank you for your kind attention.

Comments By

James Aliber

President, First Federal Savings and Loan Association of Detroit, Detroit, Michigan

I always feel a little sorry for the participants and the speakers on the third day of any convention, after all the speeches, committee meetings, cocktail parties, hospitality suites, and so on. The third day can be tough.

But I am pleased to be here to participate in this discussion of what to look forward to. Looking ahead to the next three to five to eight years cannot be a precise business, certainly, but on the basis of what has happened in the savings and loan business over the last several years, I am confident that there are going to be substantial and constructive changes in the nature of our participation within the financial structure of our economy.

I think the best way to appreciate what might come in the future, as far as

our business is concerned in the participation in the real estate market, is to take a look at what has happened in the recent past.

Within the last few years, through legislative and regulatory changes, the horizons and the prospects of the savings and loan business have been greatly broadened. As we entered the so-called soaring sixties, we were pretty fat cats, and happy with the tremendous growth we had experienced since the end of World War II. Certainly, we talked about making changes in our business, but business was so good that we weren't too concerned about it.

We got our awakening during the tight money squeeze of 1966. And by 1969, when tight money revisited us, we

were ready, willing and anxious to promote changes.

We had to diversify both the asset and the liability sides of our balance sheet. It was a well known fact that the chronic problem within the savings and loan industry was that our assets were long-term commitments, and our liabilities were short-term.

In the latter part of the sixties, we began to do something about this structural problem. Legislation and regulations were issued permitting us to convert from share-type institutions to deposit-type institutions. It also gave us the ability to depart from the reliable old passbook-type savings accounts. Both state chartered and federal associations were permitted to issue fixed term deposits known as Certificate Savings Ac-

counts. These accounts could be established with a variety of maturity dates, ranging from three months to ten years, paying interest up to six per cent depending upon the maturity period.

Furthermore, we were authorized to issue a special type of certificate for accounts in amounts of \$100,000 and over and to pay interest up to 7½ per cent. These larger accounts were designed to give our business the tools to compete in the same market place with commercial bank C. D.s, commercial paper, treasury bills, bankers acceptances and other types of money market instruments.

Although many of us were a little slow to use these new savings instruments, the tight money period of 1969 brought most institutions into the market, as well they might have, because at long last they had the opportunity to extend the maturity of the liability side of their statements.

The mortgage market sure did suffer in 1969 and in early 1970 because of a lack of funds. But certainly the market would have been in much greater trouble without the savings and loan associations, and the S & Ls were only able to stay in it, I believe, through the use of the new types of certificate accounts.

Even after nine months of unprecedented savings growth this year, savings and loan associations continue to use the certificate-type savings accounts. The supply of funds derived from these special types of accounts has been, and will continue to be, a significant source of funds for mortgage lending in the future.

Another important factor on the supply side of our business is the new attitude within the Federal Home Loan Bank system with respect to loans to associations from the Home Loan Bank. For far too long, the Home Loan Bank had a very conservative attitude about loans to associations. Generally, these advances were for periods of one year or less, and were not aggressively encouraged.

Now the system offers a wide variety of loans with terms of from 30 days to ten years. The system is in the process of perfecting its mechanization of financing its own obligations to secure funds for associations at the lowest possible cost. Where a realistic mortgage demand exists in excess of associations' cash flows, the system has encouraged the associations to satisfy this demand and to support the mortgage market by borrowing from the system. I predict this will continue to play an important part in our future.

The lending process within our business has also undergone a remarkable change in direction and support. During this period of the late sixties, our business recognized the need to change our thinking with respect to the loans we were making. Our business was well known as the largest source of single family, conventional home loan financing. Of course, we still are, but what we began to recognize was the need to diversify into new lending areas to meet the changing shelter needs of the Ameri-

can people, and, at the same time, to improve our earning capacity. We began to perfect our underwriting techniques, and to acquire personnel with a specialized understanding of the procedures involved in apartment lending, lending on shopping centers, land development loans, motels, factories and office buildings.

While it is still true that some S & Ls are reluctant to move into these new lending areas, more and more are preparing themselves to take advantage of these opportunities. Strange as it may seem, many S & Ls have been very slow, even at this late date, in getting into the FHA and VA fields, particularly in the special assistance, urban renewal, and multiple housing programs. This is also now changing because of the great investment opportunities some of these loans offer, and the realization on the part of the associations that they must offer these services to their customers.

Most recently, our business has been exposed to several new types of lending. I am referring to the so-called HOAP loan program, the 95 per cent conventional home loan program, and mobile home lending.

The HOAP loan program, more properly called Housing Opportunity Allowance Program, came out of the Emergency Housing Act of 1970. It recognized that a substantial number of moderate income families in this country could not qualify for a typical conventional home loan due to their present income, and yet earned too much to qualify for home ownership assistance under Section 235 of the National Housing Act. Designed specifically for savings and loan associations, the HOAP program authorizes loans up to \$25,000 for a maximum of 30 years. The borrower receives a \$20 per month subsidy for up to five years. The program has not gained wide acceptance within our industry as yet, mainly because of administrative and practical problems. It will, I think, in the future, with some changes, play a significant part in the financing of homes.

Just recently, we were given permission to make conventional home loans of up to 95 per cent of our appraisal, with the maximum loan set at \$30,000. Of course, there is no subsidy attached to the interest rate on these loans. However, we believe that they will begin to offer great competition to FHA and VA loans. We expect that the 95 per cent loan, cautiously offered until some experience has been gained, will be playing a significant part in the real estate financing markets of the future. As you know, private mortgage insurance will be available, as it has been on our 90 per cent loans. Given the speed with which conventional loans can be processed through the appraisal and underwriting stages, we see significant inroads by the 95 per cent loans into the area previously served by the FHA and VA.

Mobile home financing, new for federals, is going rather slowly up to date in our industry, and, rightly so, because this type of financing is vastly different from mortgage lending. But with 20 per cent

or more of the new housing starts each year represented by mobile homes, our business must and should play a part in this field. These types of loans have decided advantages to our institution. They offer a high degree of liquidity because of their short maturity. A significant portfolio of these short-term loans will mean a great deal to our associations in keeping pace with the long-term trend toward higher interest rates. This type of financing will flow very naturally to some of our institutions because of their participation in the financing of mobile home parks.

If I were to pick out just two of the fastest developing trends in our industry for the years ahead, I would suggest (1) a higher degree of activity in the secondary market, and (2) an increasing use of service corporations.

We see great promise in the use of the secondary mortgage operation. My own institution has had some success in this area. We are servicing loans for over 20 investors, which include savings institutions, commercial banks, pension funds, Ginnie Mae, Fannie Mae, and most recently, Freddie Mac. Freddie Mac is the Federal Home Loan Mortgage Corporation, a product of the Federal Home Loan Bank system. In operation for about one year, it is making a significant contribution through its efforts and activities in the secondary market through the purchase of FHA and VA loans, and participations in conventional home and apartment loans. We see its role in the mortgage market growing in importance and size each year.

You, no doubt, are acquainted with the fact that savings associations have been authorized to make investments in service corporations, which may engage in a broad range of activities. Some of these activities, such as taking equity positions in improved and unimproved residential real estate, offer attractive possibilities, as well as the possibility of entering into joint ventures with builders. Although we are limited by statute to an investment of no more than one per cent of our assets, we think the regulations will be liberalized as we learn more about using the service corporation, and this, in turn, will turn out to be a significant part of our activity in the future.

By telling you some of the things that have happened to our business through changes in laws and regulations, I am indicating, I believe, the shape and thrust of our business for the years ahead.

Just to summarize, you will see us continue to diversify the kind of lending we do. We will be more active sellers. By the same token, probably some of us will be more active buyers of loans, not only in our own lending area, but throughout our state and the country. Our diversification will come not only in the form of mortgage loans, but in broader participation in shorter-term consumer-type loans, such as mobile home, home improvement and education loans. And we will certainly be a part of the broadening government role in housing.

Louis G. Allen

Executive Vice President, Manufacturers National Bank, Detroit, Michigan

I'm sort of in the enviable spot here, because most of my predecessors are both customers and competitors of the commercial banking industry, and I like that very much. My subject this morning, will be the role of the commercial bank, with regard to the real estate financing industry, both present and future. And I think I would like to set the tone of my remarks by stating that I, and I am sure I speak generally for the commercial banking community, view the future with great optimism, with very much excitement, and challenge. And consequently, the inherent results of these views, will be change, innovation, to meet the needs of the future.

The role of the commercial bank in the picture, I believe, can be better understood if we quickly look at what he has done, and what he is doing today. Historically, the banker has been involved with real estate banking for many years, both on a direct and an indirect basis. Directly, by making mortgage loans for his own portfolio, but not being enthusiastic about it, to be perfectly honest. And providing some construction money, when the actual occasion arose. And occasionally if he got real venturesome, he made a land development loan. But not very often, as many of you know.

Perhaps one of the most significant roles played by the commercial banker, years ago, was providing warehousing lines of credit with the mortgage banking companies, which grew so rapidly after World War II. These firms in turn, made the mortgages, and placed them with various investors throughout the country. This was called the indirect method of handling funds into the mortgage market, or real estate field.

Then along about 1963 or so, banking regulations were amended to permit the commercial banks to compete more effectively with my good friend, Mr. Aliber, in the savings and loan industry. From that point on, it was a new ballgame.

The deposit mix, and this is a key factor with regard to the commercial banking industry, the deposit mix drastically changed from 1963, and continues to change today. From one of being primarily a demand deposit type of institution with checking accounts and so on, to one of being primarily a savings and time money institution, as most of us are today. And I think I am safe in saying most commercial banks are in excess of 60 per cent of their total deposits, in savings or time funds. The natural use for these longer term deposits is in longer term assets, and this consequently allows them into the mortgage and big business.

Banks rapidly increased the allocation of funds for real estate purposes, and this trend continues today.

At the same time, while we were increasing our direct lending, we continue

to provide mortgage warehousing companies with the funds necessary to expand their businesses, and more recently, we also provided the funds necessary for the real estate investment processes Mr. Finney outlined.

The net result of all these factors was to channel additional funds into the real estate and mortgage field. The banker's role in the future will be a changing one, which of course, most businesses face, yours included. Whether by law, or regulation, or legislation, or just good business sense, the banker will be more consumer oriented. There is no question about that. And I think the Senator made a very definite point this morning commenting on that.

Housing is, and will continue to be, the critical basic need to be met, and the banker will definitely play his role in this regard. This need hopefully will lead to the finding of better methods of providing a steadier supply of funds for the mortgage market, and reduce the ill effects of the turn it on-turn it off approach that has been used up to date. However, much work remains to be done in this area providing a steadier stream of funds.

I believe one basic change has occurred which should be a very positive factor, and that is, there is a different breed of commercial banker today. For better or for worse, he doesn't remember too much about the thirties, and in most cases, doesn't turn a chalky white when somebody mentions land development loans. We made our share of them, and we are quite pleased with them.

In addition, commercial banks are expanding their scope of operation. They are forming holding companies, acquiring mortgage banking firms, providing lines of credit, and supporting commercial paper activities, real estate investment trusts, and mortgage bankers. In addition, of course, their own mortgage portfolios are expanding, as well as their increasing their servicing portfolios, that is, loans that are being serviced for various investors.

This is what has happened and what is happening now. The future, in my opinion, should continue to see the commercial banker expanding his role. Historically, the bank has been a major source of construction money for residential developments, multi-family projects, shopping centers, office centers, and other commercial developments. This role is a proper one. For providing a short term fund for construction, and being repaid by long term lenders, such as insurance companies, savings and loan associations, pension funds, real estate investment trusts, the bank continues to roll over these short term funds, and has them available for additional projects as they come along.

I see a great expansion in this area, as banks allocate more of their deposits

to this type of loan, which provides two important reasons for a bank—good profits, and liquidity of its loan portfolio.

The banks will play an increasing role in providing land development funds. This type of loan is perhaps the riskiest for the real estate portfolio for the bank. However, as more larger and financially sound corporations become involved in this type of activity, and I am referring to local companies, such as Ford and Chrysler, the risk is lessened, obviously, and consequently, the willingness to lend is more enhanced.

There will be more joint ventures, and participations with other commercial banks, real estate trusts, savings and loan associations, mortgage bankers, and all types of loans—restructure loans, land development loans, as well as some long term financing. This will enable the better use of the expertise available, in the various financial institutions, and provide the ability to handle large projects, which are beyond the financial capabilities of any one financial institution.

In recent years, the so called country or smaller state banks, have become much more active in the mortgage lending field. This trend will continue at a very rapidly increasing rate. And the necessary funds for these institutions, will probably be provided, in great part, by their big city cousins, such as our selves, who will either buy some of their loans, or participate with them in their real estate development activity.

There are many other areas which will receive the attention and obviously the money and the funds from the banks, but one in particular will be the major one, that of our cities, and I think every speaker has commented about this this morning. I for one, also agree that in the years ahead, vast sums of money will be required to rebuild and rejuvenate our cities. Whether this will be in the form of office building developments, apartments, shopping complexes, is not clear at this point. But whatever form, money will be required. And as commercial bankers, and as savings and loan associations included, we are usually headquartered in the core areas of these cities, and our responsibilities therefore, are rather obvious.

I would like to touch on one other major factor in the field of real estate finance, and that is the role of the government, federal and state. Federal government in particular, will continue to be most significant through HUD, Fannie May, Jennie May, and perhaps, what I would like to call, Connie May, or perhaps a conventional mortgage association, that will create a secondary market for secondary mortgages.

Obviously, the expanded HUD program in cooperation with Jennie May and Fannie May, are playing a leading role in the resurgence of the construction activity during this past year. These

agencies will continue to be a major influence in the years ahead. Perhaps, however, an even more significant factor will be the development of a strong secondary market, for conventional mortgages of all types.

The strong emergence of the real estate investment trusts has helped greatly in channeling investment funds into the real estate area.

Great assistance to this concept could be achieved by the help of the federal government, as the Senator indicated this morning, by developing standardization in mortgage forms necessary to transfer funds from surplus areas of the country to under supplied areas, through the vehicle of either certificates or the sale of mortgages. And I am speaking of conventional mortgages.

Before I conclude my remarks this morning, I would like to divert somewhat from my thoughts, about local or domestic activities, and perhaps look at what is happening outside of our borders. Among my other responsibilities at

the bank, is that of being in charge of international banking operations. Not really related to real estate, but that's the way it goes. In this regard, I have had the opportunity to visit several nations around the world in the past couple of years, as well as discuss with my contemporaries mutual problems.

I find it most surprising that housing, or lack of it, or the need for it, is among the major topics of discussion among the other financial institutions around the world. As many of the other under developed countries become developed, priorities change, and one of the priorities is the requirement for better and improved housing. As a sidelight, and a thought which may be worth nothing at all to many of you, banking has, and will continue to expand internationally. As a matter of fact, it is one of the greatest and fastest growing areas of the commercial banking system in our country.

And I am sure that all of you are aware that the public accounting firms

are spreading internationally, through merger, joint ventures, participations with other foreign public accounting firms. And perhaps your industry should explore this area of possible expansion.

I'm sure that American or overseas branches of American banks would be delighted to work something out with title insurance companies, for developing real estate activities in foreign countries.

What does all of this mean for the future? Namely, the role of the commercial bank will continue to expand in the over all real estate field, directly and indirectly. All of our analyses and prognostications indicate that the next ten to 20 years will be unprecedented in our history, where it pertains to the construction industry.

This leads me back to my opening comments, that we in the commercial banking industry look to the future with great optimism, and of course, we hope that commensurate awards are available to all of us. And that is in the form of good profits. Thank you very much.

Standard Forms and What's New

Richard H. Howlett

*Chairman, Standard Title Insurance Forms Committee
Senior Vice President and Counsel, Title Insurance Company, Los Angeles, California*

I doubt if such a challenging subject can hold your attention for the ten minutes allotted to this report. However, to let you be at ease, the Committee has no new forms to recommend for approval at this Convention, and I also report no changes for existing forms.

A question was raised concerning the definition of the term "insured" in our current policies. Previous policies included within the definition of "insured" persons acquiring an interest "by reason of the dissolution, merger or consolidation of a corporate named insured." The current policies provide that the insured, in addition to the named insured, includes those who succeed to the interest of such insured by operation of law as distinguished from purchase, including corporate or fiduciary successors. In making the amendment, the Committee did not believe it was restricting in any way the previous definition. The term in the current policies, "those who succeed by operation of law", includes transfers by way of dissolution, merger or consolidation, whether or not such successor is a corporation or fiduciary. It is the opinion of the Committee that the policy is clear as to this question and no amendment need be made.

The current loan policies require that unrecorded subordinate matters be shown in Part II of Schedule B, or a statement be made in Part I that such subordinate matters are not being shown. The Committee has been asked if it would redesign the policy to eliminate this requirement. We are aware of the fact that this coverage was designed at the specific request of a majority of the institutional lenders, and therefore

the Committee is of the opinion that unless directed to do so by the Board of Governors or the membership of the Association as a whole, the policy should not be amended so as to make unnecessary the showing of such unrecorded subordinated matters.

The Committee reaffirms its report made to the Mid-Winter that the issuance of policies of title insurance, commitments to insure or binders, full reports of title and full abstracts of title, in the normal course of business, are not used or expected to be used in establishing the consumer's eligibility for credit, insurance, employment or other purposes specified in the Fair Credit Reporting Act, and therefore are not within the purview of the Act; that certain specialized reports or other forms of title evidence might be so used and therefore would be within the purview of the Act, and members of the Association should consult with their counsel for advice as to procedures to be followed in the issuance of such specialized title evidence.

The Committee receives requests to interpret the policy from customers and from members of the Association. The Committee is of the opinion that the present by-law provision, Section 19, "neither the Committee nor any subcommittee shall render formal written opinions to members of the Association, to policyholders or prospective purchasers of title insurance", should not be amended. It is the opinion of the Committee that the present reporting requirements—that recommendations or reports of interpretations of the policy be made to each Convention and Mid-Winter for

approval or disapproval—are proper and should be continued.

By action of the Executive Committee, the Association has invited various trade associations to designate persons from their industries, all related to the real estate industry, to discuss proposed changes in our standard coverages with the Standard Forms Committee prior to submission to the Convention or Mid-Winter for adoption. We are pleased that all have accepted this invitation, and the Committee looks forward to working with them.

There will be submitted to the membership and to these liaison groups, shortly, a leasehold policy, endorsements affording coverage as to zoning, and, hopefully, extended coverages as to survey matters, and present violations of CC&R's. You should not shake your heads, these are only standard language for what you, or a majority of you, are now doing.

I am sure you are aware that this is the hardest-working committee of the Association, but it is not all work:

The obscure bard from Minnesota
Has talents far beyond his quota.
Here's just a few which I could mention,

His antics at the last Convention,
His sparkling wit and repartee
On just one double martin-i.
I hope I speak for all the rest
When to STIF chairman I suggest
In any answer made to Gus
Use Mack's advice for all of us
And name clause 5 A on the cover
For Minnesota's poet—and lover!

ALTA and MBA: Productive Teamwork

Robert C. Bates

Executive Vice President, Chicago Title Insurance Company, Chicago, Illinois

The ALTA-MBA Liaison Committee has met twice since the ALTA Mid-Winter meeting in San Diego. On June 2, we met in Chicago and on September 15 and 16, we met in Colorado Springs.

In addition, Ray Jensen, Chairman of the MBA group, and I have had several informal meetings.

All members of the Liaison Committee were present in Chicago and Colorado Springs, except John Krout, President of Germantown Savings Bank in Philadelphia. We understand that Mr. Krout has resigned because of other business demands on his time and that his replacement has been selected. However, we will not receive official notice of this change until after the MBA Annual Convention in Chicago during the week of October 11.

In our last two meetings, the Liaison Committee continued to discuss such subjects as:

- a. The HUD-VA Closing Cost Study
- b. Construction Loan Disbursement Service by Title Companies
- c. Banking Reform Act HR 5700
- d. Uniform Land Transaction Act.

We will continue to have some or all of these subjects on our future agenda for the purpose of keeping each other informed and searching out areas in which a common effort on the part of our two associations might be helpful to either or both.

At the June 2 meeting, the ALTA-MBA Liaison Committee agreed that the following recommendation should be made to the Executive Committee of ALTA:

The Liaison Committee recommends that the Executive Committee of ALTA authorize the President to send a letter to the presidents or other appropriate officers of the trade associations listed below, inviting each such association to appoint a committee to serve as the official group with which the ALTA Standard Forms Committee can communicate while developing new forms and changes in existing forms. The Liaison Committee further recommends that each committee not exceed three members and that at least one member be a lawyer.

The trade associations which the Liaison Committee believes should receive the recommended invitation are as follows:

- Mortgage Bankers Association of America
- United States Savings and Loan League
- National Association of Mutual Savings Banks
- National League of Insured Savings Associations

Real Estate Investment Trust of America
American Bankers Association
FHA
FNMA
FHLMC
VA

Such other associations as the ALTA Executive Committee deems appropriate

This was done. Acceptances have been received from all groups, except the Federal Home Loan Bank Board, and most of them reflect strong approval of the plan.

These acceptances have been communicated to the Standard Forms Committee which has in turn established a procedure for conducting reviews and discussions of proposed forms with the named groups.

All of us on the Liaison Committee consider this to be a major step forward in the effort of our industry to serve our customers, as well as ALTA members in ever improving ways.

The subject of the treatment of unrecorded subordinate matters in Part II of Schedule B of the 1970 ALTA mortgage policy has been under discussion since the Liaison Committee was formed.

In cases in which the 1970 ALTA mortgage policy form is issued with the inclusion of Part II of Schedule B, it appears clear that the wording of the policy requires that unrecorded subordinate matters be shown. The MBA members of the Liaison Committee have formally requested that at such time as any effort is made to revise the 1970 mortgage policy form, the language be amended so as to not require the showing of unrecorded subordinate matters.

The ALTA-MBA Liaison Committee has now had five formal meetings. In addition, Ray Jensen and I, as Chairmen of our respective groups, have had numerous informal meetings. During these meetings, it has become increasingly apparent that with the general acceptance by the mortgage lending industry of the 1970 ALTA forms, a need has evolved for ALTA to provide a means by which interpretations or clarification of the provisions of these forms can be formulated and recommended to its members.

The ALTA-MBA Liaison Committee has therefore recommended to the Board of Governors that a capability be created by which this Association can recommend interpretations and clarifications of ALTA policy provisions to the members of this Association. The Liaison Committee has further recommended that the creation of this capability be achieved by expanding the responsibilities of the Standard Title Insurance Forms Committee to include policy provision interpretation and clarification.

In this connection, the Liaison Committee has further recommended that:

1. A procedure be established by which requests for interpretation or clarification can only be referred to the Standard Forms Committee by the Executive Committee of ALTA.

2. The Executive Committee establish guidelines for processing requests for interpretation or clarification of policy provisions of general concern and that such guidelines prohibit the submission of matters for interpretation by any person or organization other than an appropriate representative of a customer trade organization.

3. Such guidelines include a prohibition against the submission of frivolous matters or requests known or judged to be aimed at resolving specific disputes between an insured and an insuring company in connection with an outstanding policy.

4. Such guidelines include a procedure whereby each member company shall have clearly defined avenues by which to accept or reject any interpretation or clarification which may be recommended so that each company shall be free to issue its ALTA forms without being expressly or impliedly bound by such recommended interpretations or clarifications.

The Board of Governors has taken this recommendation under advisement. Obviously, the Liaison Committee is not suggesting that an immediate decision be made with respect to the foregoing recommendation. We recognize that this proposal requires careful consideration and that the Board of Governors will not want to respond until it has been so considered.

In previous reports on the activities of the Liaison Committee, I have stated that we expected meaningful results but that such results would be more evolutionary than revolutionary. I now suggest that the evolutionary process is clearly underway.

I think it is also clear that rapport between ALTA and MBA is excellent. It is interesting to observe that about fifteen mortgage banker counsels, who have become associate members, are attending this Convention and held a luncheon of their own on Monday followed by a meeting that lasted most of the afternoon.

This is encouraging evidence that the counsel for MBA are beginning to show active interest in our Association.

I continue to be convinced that the ALTA-MBA Liaison Committee, which was only created less than two years ago, has become a very worthwhile project.

A Statistical Profile of the Land Title Industry

John E. Jensen

Chairman, Research Committee
Senior Vice President, Chicago Title and Trust Company, Chicago, Illinois

The American Land Title Association has learned a great deal about itself in the past three years. In 1968, about all we knew was that we were growing. We also knew that we provided a service to the public. However, we were aware of increasing criticism by academicians, government representatives at the state and federal levels, real estate editors and other groups. Few of these critics understood the title industry. Some of them compared our business to other types of insurance, which is something like comparing Walter Cronkite to Tiny Tim because they both appear on television.

Certain detractors picked statistics out of the air arbitrarily and without substantiation. They misinterpreted the figures and misrepresented the land title industry to the public. And this isn't something that happened a long time ago, this is something that happened as recently as this week, as pointed out to you by Bill McAuliffe, in the article that appears in the current *National Observer*.

When these criticisms started, we were virtually unarmed and unable to defend ourselves. That's why, in 1968, a research committee was formed to develop and interpret information on ALTA's behalf. And now that we've got the facts—or some of the facts—we're in a much better position to respond to critics.

The Research Committee's first project in 1968 was to develop national financial data on underwriting companies. As source material, we used NAIC Form 9, a reporting blank that is prepared by most of the underwriters in our industry. To those underwriters who are not required to use Form 9 in their states we mailed questionnaires directly from ALTA headquarters in Washington.

Underwriter participation in this project has been excellent. An average of 85 per cent of all member underwriter companies have submitted data to the research staff for analysis during the past three years. Now let's take a look at some of the data which have resulted from this project.

In 1968, operating income of participating underwriters was nearly \$317 million. In 1969, income increased to nearly \$331 million, an increase which was not anticipated by many industry people if you think back to that year.

In 1970, on the other hand, income declined 2.3 per cent from '69 which came as a surprise to very few.

Operating expenses continued to climb in our industry at an annual rate of about 5 per cent per year. Expenses, ex-

cluding those for losses and loss adjustment, rose from \$261,500,000 in 1968 to nearly \$289 million in 1970, an overall increase of 10 per cent. This is one of the facts that will enable us to respond to some of the material that has appeared in newspapers and elsewhere.

For example, in the *National Observer* article which was described by Bill McAuliffe in Monday's session, we heard the claim once again that the American public is being gouged by the title industry to the tune of \$150 million per year in the form of kickbacks or referral fees or what have you. Now let's just examine that figure of \$150 million.

Our total expenses, as an industry, in 1970—the year of greatest expense in our industry's history—was \$289 million. Included in those expenses were our staff and salary costs of \$155 million. A little simple arithmetic leaves as the remaining expenses, other than salaries, \$134 million. Out of this \$134 million, we pay all of our other operating expenses—rent, supplies, equipment, travel and entertainment, and what have you.

We also, many of us, show in our reporting forms, in this \$134 million, the amount, or fee, that goes to our title insurance or underwriting agent.

Out of this \$134 million is also supposed to come \$150 million in the form of kickbacks—a patently ridiculous idea.

Industry salaries and related costs have gone up during the last three years, but interestingly, they have not gone up at the rate of some union contracts we've all read about.

Employee related costs have risen at about the rate of 6.3 per cent per year since 1968—the three years on which we have data. This helps refute some industry critics who claim that salaries in the land title industry are too high. Our salaries are not going up as fast as those in related industries and anybody who says we're paying our people too much should talk to my boss.

We are pleased to find that losses and loss adjustment expenses, as reported in Form 9, in 1970, dropped nearly 9 per cent from reported losses in 1968. We recognized that there are many inadequacies in Form 9 reporting, but these figures do give some indication of our loss experience over a three year period.

In the same *National Observer* article, the reporter talked in terms of a \$680,000 loss experience for the title industry. I think I know of one company that does business in Chicago alone that has losses in excess of \$680,000 and, as you can see, our industry loss experience was \$13 million.

Bad reporting, bad facts, but we now have the material to refute the material that appears in the newspapers.

Now let's take a look at what happens to our operating income dollar.

In 1968, we received \$317 million. We paid out 4½ per cent of that total in losses and loss adjustment expenses. Over 43 per cent was spent for salaries and related expenses including pensions and insured benefits. Remaining expenses accounted for 39 percent, leaving a pre-tax operating profit margin in that year of 13 per cent.

The year 1969 was a virtual carbon copy of 1968 for the industry. Operating income was up to \$331 million, but expenditures remained fixed at almost the same rates as the previous year. Losses were 4.1 per cent of income, employee costs rose slightly to 44.1 per cent with all other expenses comprising nearly 39 per cent of income spent. Our pre-tax operating margin was once again, in that year, 13 per cent.

In 1970, distribution of the income dollar changed substantially. Losses remained fairly constant at about 4 per cent. Employee costs required nearly 4 per cent more of the income dollar in 1970 than in 1969. And all other expenses rose to 41.4 per cent. This resulted, quite naturally, in a sharply reduced pre-tax operating profit margin of 6.7 per cent in 1970 as compared to the 13 per cent margins in 1968 and 1969.

More and more we find that economists and statisticians are using aggregate data compiled over a number of years when analyzing the performance of industries. For this reason, our committee is maintaining aggregate information for industry comparison purposes in future years.

Let's run over those figures very quickly for the three year period from 1968 to 1970. Total operating income was over \$971 million. Industry losses averaged over the three years 4.2 per cent. For every operating income dollar we received, 45 cents went to our employees in the form of salaries or related fringe benefits; 40 cents was spent for other expenses. Our pre-tax operating profit margin for the three year period was 10.9 cents of every dollar received.

It is only natural that you can't look at these figures in a vacuum, so we must compare ourselves to other industries in order to get some kind of feel both for ourselves and for our critics as to whether our profits are too high and how other industry expense ratios compare to ours. In making these comparisons, we've used Standard & Poor's *Ana-*

lysts Handbook and *Best's Aggregates & Averages* as source references. So let's compare statistics of a few other industries to the title industry for the calendar year 1970.

You'll recall that our pre-tax operating profit margin was 6.7 per cent. Compare that to the 14.2 per cent for 425 industrial companies; 57.7 per cent for finance companies; 20.9 per cent for small loan companies; 11.4 per cent for surety companies.

The title industry appears to be good to its employees, on the whole. We spent nearly 48 cents of every operating income dollar, in 1970, on employees' salaries and fringe benefits. This compares to a little under 7 cents for stock insurance companies; 8½ cents for casualty and surety companies and at Hartford Steam Boiler (and we've been compared with boiler insurance from time to time) 32.4 cents of each operating dollar goes to salary and fringe benefit costs.

You know, the lower our losses are, the better we feel about the job we're doing. Comparing our losses to other insurance companies is the old apples-oranges fallacy. However, people unknowledgeable about title insurance do make such comparisons. When you look at the figures, it's not hard to understand, in their lack of understanding, their reaction to our loss experience.

In 1970, our losses were 4 per cent of operating income. That compares to 69.7 per cent for stock insurance companies; 61.9 per cent for fidelity companies; 36.1 per cent for surety companies; 36.8 per cent for boiler and machinery companies; 58.4 per cent for credit companies.

In 1970, excluding losses, the title industry spent more than 89 cents of each operating income dollar in expenses. Stock insurance companies spent almost 30 cents; fidelity companies nearly 38 cents; surety companies 51 cents; boiler and machinery nearly 58 cents; credit companies 34 cents.

All of this information, it seems, tends to prove that the title industry is a risk preventive industry. Our employee costs are high because we must have highly competent, special people due to the nature of our business.

This Form 9 project is being continued and we hope that we will continue to receive your cooperation on it next year when we again request information from you.

Another area of activity for the Research Committee has been a study of claims. Our response from underwriters participating in this study this year was about the same as occurred last year. Only 41 companies of the 91 receiving the questionnaires, completed the report forms and returned them to Washington.

About 226 of the over 1,800 abstractors, or abstractor-agent members, also responded.

Many underwriters are still having difficulty in adapting their internal reporting systems to the ALTA form. It is impossible to draw too many conclusions from the data received due to the fact that it is not yet a representative sampling of the entire industry. I would like

to show you, however, some of the compilations made from the data received from those underwriters who did participate in the survey this last year.

The 41 participating underwriters received 9,401 new claims in 1970. Over 60 per cent of all new claims reported were classified as examining and opinion errors, closing and escrow procedures, or taxes and special assessments. The basic risks and plant searching and abstract procedures comprised about 20 per cent. Typing and policy review were classified as being less than 1 per cent of all new claims received. Now that's the number of claims, not the dollar amount.

When we look at dollar amount of claims the limited group of underwriters who cooperated in the project this year paid out \$6,500,000 in 1970. Although only 9 per cent of the number of new claims received were on special risks authorized by company practice, over 32 per cent of the dollar amount paid out was classified under this category, the bulk of which was attributed to mechanics lien claims.

Examination and opinion error was the second highest category with nearly 19 per cent of the total payments.

The Research Committee firmly believes that the study of claims and losses for our industry will provide invaluable information over a period of years. We are presently exploring ways to make the reporting system simpler in order to encourage your companies to participate. We are, for example, going to discontinue, at least for the time being, asking for claims information on a state by state basis and ask for only the aggregate figures for your company. Several companies complained of difficulties encountered in compiling state by state information.

We really need greater participation in this project. We're hopeful of giving you much more detailed information on what's happening in our industry in the area of underwriting. We'll pinpoint where losses are occurring to help you in your individual operations improve underwriting practices and decision making processes in the area of claims.

Perhaps the most perplexing project yet tackled by the Research Committee and its staff and the staff in Washington was the study of settlement costs conducted this year. There has been a comment or two on that during the convention so far.

In New York last year, I reported to you that our primary objective was to show that title evidence charges are a relatively small part of the closing costs, be they title insurance, abstracting, or other charges connected with the activity of title insurance companies, title insurance agents and title insurance abstractors. In addition, title costs are a small portion of the entire cost of the transaction such as the relation of our title charges to the selling price of a residential property. We feel that we have accomplished our goal. We have included 28 geographic areas in our study using actual settlement sheets as our source in each location. We found that the highest total settlement cost to both buyer and seller combined amounted to almost 16

per cent of the selling price, on the average, in one area. This compared to a high of 1.66 per cent of selling price for combined title and escrow charges to both seller and buyer. The low figure for total settlement cost was 5.24 per cent as compared to a low of .74 per cent for title and escrow charges.

As you can see, we play a very small part in the closing transaction in terms of cash outlay by the buyer and the seller. Senator Sparkman, this morning, in his very pleasant closing remarks, indicated that the HUD-VA study shows that settlement costs will range between 10 per cent and 15 per cent of the selling price in the country, on average.

Averaging the figures from our study, title charges, as a percentage of selling price in the communities we studied, averaged .94 per cent. Escrow and closing charges that are made by title companies, as a percentage of the selling price, average .17 per cent. The combination of the two charges averaged 1.11 per cent of the selling price. Another way of looking at this is, of the 10 per cent or 15 per cent of which the Senator was speaking, we comprise 1.11 per cent.

The format of our study is partially patterned after the 1965 Housing and Home Finance study entitled "Loan Closing Costs on Single Family Homes in Six Metropolitan Areas." This study compared average closing costs paid by home buyers to median principal mortgage amounts and generally concluded that closing costs to buyers were not exorbitant.

Our Committee agreed that the only real source of information available to us was settlement sheets, so we proceeded to collect data on actual transactions through each of our members. You recall that HUD originally planned to use November 1970 data in their study, but subsequently changed the sample month to March 1971 when their study ran into complications.

When we found that HUD was changing their sample month, we were already in the process of gathering data for November transactions and decided it would be best to continue our study as originally planned. Most of our information is based upon November closings for member companies.

In the process of completing the project, members of the Committee and staff tabulated more than 1,500 settlement transactions including both buyer and seller settlement sheets.

At the Mid-Winter Conference in Coronado, the Research Committee reviewed the preliminary results of the study. We soon discovered there were many variations in closing customs and procedures in each of the cities in the project. Our data would be of no value without a complete description of what transpires before and during settlements in each of the localities. We developed a questionnaire pertaining to closing practices and requested title company personnel in each area to complete the questionnaire. From this segment of the project, we learned it is impossible to compare costs incurred by the buyer alone in one area and costs incurred by buyers in other areas. The reason, of

course, lies in the fact that in many areas, the seller pays all or part of the buyer's closing costs.

We decided that for any evaluation of closing costs to be complete, consideration must be given not only to the buyer's costs, but also to those paid by the seller. We agreed that as the only way for any area of comparability to be even partially valid, buyer and seller costs must be combined and then related to selling price of the property in the transaction. We concede that even by taking this step, true comparability has still not been attained. Not all areas include the same costs on their settlement sheets, for example, and the services paid for in one area may not be the same as paid for another area. But we do feel that we have come as close as possible under the circumstances to making our point and, indeed, we were able to use this idea of combining the buyer and seller charges in our meetings with the people working on the HUD-VA project so that any of you who have seen the HUD-VA report will notice that the principle tables for the areas they looked at are a combination of buyer and seller settlement costs.

The study we made is too long and complex to give you an in-depth analysis during this presentation. We're using the study, at present, to make our viewpoint known to HUD-VA staff members studying closing costs under the provisions of the Emergency Home Finance Act of 1970.

Members of our Research Committee met with the HUD people on September 27th in Washington. We commented on some of the inadequacies of their preliminary report issued last July and we shared the results of our project with them. One of the comments we made had to do with what is called title examination charges which appeared in cities such as Los Angeles and Chicago. To the best of the knowledge of the mem-

bers of the Research Committee or from member companies doing business in that area, there is no such charge. Those are the costs that also appeared in the *National Observer* article. It's impossible to tell at this time how the industry will ultimately fare when the final HUD-VA report is given to Congress around the first of the year. We are, of course, all heartened by what Senator Sparkman had to say this morning. At the same time, the Emergency Home Finance Act does put down a mandate as to the treatment of settlement costs and a desire to develop uniformity and reduce them. And the fact is that the title industry is a highly visible segment of the real estate industry that appears clearly on settlement costs. Another fact is that although Senator Sparkman is the chairman of the committee, Senator Proxmire is the number two man. So, although we feel encouraged, I don't feel we are at a position where we should give up now on trying to prepare ourselves for Congressional hearings next year.

Hearings will be held and all parties involved in the settlement process will be somewhat on the defensive, I suspect. At least, we feel that the title industry is 100 per cent more prepared than we were a year ago. Indeed, we are prepared to the point where we can look at the newspaper article, the *Observer* article, that said title examination costs varied for \$6 per case, on average, in Los Angeles to \$269 on average in Newark.

In fact, both the HUD study and the ALTA study indicate that the average title insurance costs in Los Angeles averaged about \$165 for all cases and in the price range quoted by the reporter, \$157 in Los Angeles. We don't know what they mean by a \$6 title examination fee. We've asked them to go back and recheck their data in Los Angeles, Chicago, Minneapolis and two other cities in the study because there is no such

charge to our knowledge, or they've defined it in a way that we do not understand. So the Los Angeles figure is \$157. The figure that appeared in the paper concerning Newark title examination costs, \$269. The figure that appeared in the HUD-VA study for total insurance costs—the total title insurance costs—on average is \$129 not \$269.

Those of you who are familiar with the way the title business is done in northern New Jersey, in Newark specifically know that it's not a title insurance company that's getting that \$269 total examination charge. The title insurance company gets, on average, \$129 in the size transaction referred to.

Last year at this time, I confirmed in my report what we all knew—that we were having a bad year. This year, there has been some small change. A small sampling of underwriters has reported to the research staff that they expect increases in gross revenue averaging around 23 per cent this year over 1970. I know this optimistic forecast is somewhat accurate. There are a few more smiling faces in the audience today than there were a year ago.

At this point, I'd like to thank the Washington staff and the members of my committee, all of whom worked especially hard this year. The members of our Committee are Charles V. Gardiner, Transamerica Title Insurance Company; Victor W. Gillett, Stewart Title and Trust of Phoenix; LeRoy F. King, Commonwealth Land Title Insurance Company; and Conrad J. Rebillot, Lawyers Title Insurance Corporation. The entire Committee was greatly assisted by Mike Goodin, ALTA's Director of Research, during the past year.

Of course, the Research Committee could not have accomplished anything this year without the cooperation of the members of ALTA. With your help, I think we have accomplished a great deal. Thank you.

A Federal View of Land Title Evidencing

Comments By

Robert F. Hollister

Chief, Home Mortgage Section, Office of General Counsel
Department of Housing and Urban Development, Washington, D.C.

When I was asked to come and speak here, I wondered why. And I just found out, since your previous speaker spoke of the high loss ratios on title policies, I know why. He just wanted to give you people a shot at me because I'm one of the guys who caused you to lose money on these policies. In fact, we generally get in the neighborhood of 3,000 properties a month. It can go up or down. The number can go up quite a bit, but not down very much.

With about half of these cases, or 60 per cent to 70 per cent of them, we get title policies. We have had a wonderful relationship in the past worked out about five or six years ago with your

national representatives on how we handle claims. But before getting into that, I believe that one of the better things I could do for you is to tell you what we do and how we can help you.

The HUD Home Mortgage Section, of which I am Chief, handles the legal activities for all home mortgage programs, one to four family, throughout the United States. We handle the acquisition of properties through the claim procedures, which is where you people come in. We also handle the legal questions concerning the initiation of the mortgage, which is where you people again come in with your title insurance.

We have the responsibility for Section

235 litigation, of which there are now pending a number of cases. In addition, we oversee the operational aspect of Section 235 which involves legal matters as they might pertain to claims. Matters relating to Section 518(b) of the Housing and Urban Development Act of 1970, which pertains to federal assistance in repairing structural defects on 235 cases, are also within our jurisdiction. And finally, we handle the legislative work with regard to any single family activity.

In this regard, I believe it's always well for the people in the field to know and the people in ALTA to know where they can go to get answers. And this is

what we're here for. This is what we try to help you with. To the contrary of what you might think, we don't always go out and ask for \$217 to reimburse us for an expense we might have incurred due to something you missed on a title policy.

We would prefer, in all honesty, to give you answers on how you should handle your problems insofar as we in FHA are concerned.

We were involved somewhat in the closing cost study that was spoken of. Mr. Coon will go into that at greater length, I'm sure.

We have had a wonderful relationship with the national officers of your association. About five years ago, we called your national officers together when FHA initiated a program whereby FHA would not purchase title insurance at the time it sold an acquired property. We thought at the time this would cause some consternation between ALTA and FHA and, in fact, it probably did because they requested the meeting.

Prior to that meeting, when FHA sold one of its 3,000 houses we got each month, we paid for new title evidence on behalf of the new mortgagee as part of our closing costs. We were under a great pressure from GAO at that time to cut out the cost. In a meeting in Washington, we met with your representatives and explained the situation to them. That, in fact, we don't hold properties very long; we may hold them six months. And when a buyer buys a property from FHA, that's frankly, like buying a property from the good Lord above. Buyers believe there can't be anything the matter with the property. And whether we like it or not, this is what is told us. And, therefore, whether we like it or not, this is the responsibility we have.

We found that over a five or six year trial period with FNMA, that we had sold many properties where we did not provide FNMA with title evidence. We guaranteed the title from the day a title company gave us a title policy until the day that FNMA either had to foreclose on the mortgage or the mortgage was paid off. When FNMA had to foreclose on it, then they had to get another title policy and give it back to FHA.

I recall at the time of the meeting that Mr. Burlingame was in attendance and he was at that time a little concerned about the fact that FHA was undertaking this position and program. When we explained that all we were really talking about was only a six months period and that FHA was going to guarantee the fact that FNMA was going to get a good mortgage, he was not particularly concerned to that loss of income. It just wasn't that much. And, in fact, it was of benefit to your industry and to FHA, both.

This program has been in existence for the last five years and has worked wonders. We have cut down on our cost of sale. We have at the same time increased our closeness, I believe, to the title industry because we have run across problems that the title industry has immediately and effectively resolved in our behalf.

Now, there is no harder thing to confront than an irate homeowner and irate

individuals who are acting on his behalf with a problem with respect to title after FHA sells him his own property. We've had these cases and I appreciate the assist that the title industry has given us in resolving them.

We also had a problem in FHA with a mechanical situation whereby many claims for insurance benefits are submitted each month and so many notices from taxing authorities are sent to us that we can't go out to you people before we pay the assessment or any other claim that is made. I'm talking about something appearing of record. So the arrangement we made is that FHA would go out and pay these assessments and my office would send you people a letter saying, "Look. Are you liable?"

You'd either come back with "yes" or "no." If your answer was "no", we wouldn't look into it any further; if your answer was "yes", we expected your check.

It has worked out wonderfully. There have been many cases where you have come back and said, "no, we aren't liable." We didn't even go back again. Or, if any of my attorneys did, I'd like to know it.

We have had excellent success in this regard. In addition to this, I'm sure you are all aware that with an application for insurance benefits which is submitted to us by mortgagees, we require title evidence either by way of your title policy or any other acceptable evidence and the amount of the title policy is generally the amount of the mortgagee's claim.

We have found, in the past, even though the title insurance companies have a limitation liability of \$19,000 or \$18,000 or \$17,000 or even \$16,000 on the title policy, that we have been able to get their assistance in resolving title problems, even taking back the property from us and reimbursing us, at times somewhat in excess of the title policy coverage.

When a title problem cannot be resolved, FHA has the authority to give the property back to the mortgagee and say, "Okay, we gave you \$10,000 on the insurance settlement. You pay us the \$10,000 and you pay us the additional money we put into repairs."

The authority for this is in the laws and in the regulations. I will readily say that I have found the title industry more than willing to say, "We'll come in and take care of the entire matter. We'll reimburse FHA for their entire costs."

Really, they didn't have any legal obligation to do this. This has been the type of relationship we have had with the title industry. It started, of course, many years ago, but continues to the present as I'm sure it will in the future. I and another individual in FHA have just been put on the committee for standardization of title insurance forms. We have worked in the past two years with regard to this and we are deeply interested in it because all FHA home mortgage forms and title matters are dealt with by my office.

Any revisions in the FHA mortgage forms are accomplished in our shop. Right now, in fact, we have a deed of trust in Arizona, I guess it is, where

we're soliciting your opinion and soliciting opinions on Indian problems that we have on reservations. So the closeness of my activities with yours has been very pronounced over the years. Our association has been a good one.

The problem that we face, and I believe it was mentioned this morning, and I also believe I should mention it, is the problem of consumerism. Whether we like it or whether we don't, it is here and it is going to confront us.

We, in FHA, have always thought of the mortgagor equally as much as the mortgagee or anybody else. We have reached a point at times when we couldn't help the mortgagee, but by the same token, the single family section has always dealt with individuals. If we found a guy who had a problem, we took care of his problem whenever possible. We still do this and, in fact, we're probably going to do it a lot more than we did in the past. After all, the buying of a house is probably the biggest investment anybody is going to make in his life. Even buying under Section 235, the individual is still making a bigger investment than he's going to make anywhere else.

So we are going to be charged, and we are now charged, with the responsibility of looking after and helping the individual mortgagors. Your help to us in this regard will be greatly appreciated.

It will arise in a lot of cases, I'm sure—they are similar to those in the past—where we have a problem involving a mortgagor and you have only a mortgagee's title policy involved. You and I are both aware of what your responsibility is limited to. It's very simple.

But in the past, we have found a readiness on your part to resolve the problem now rather than when we ultimately have to acquire the property. It has benefitted us and it has benefitted you. You've come out looking very well and so have we, mainly because of your actions in regard to these problems. And we both realize that at the time you took care of these problems, you did not necessarily have to do this. You had a responsibility to the mortgagee under your mortgagee's title policy, but the mortgagee wasn't in jeopardy at the time, it was the mortgagor. This is the assistance we've had in the past and if it's any indication, and I'm sure it is, it's an indication of the assistance we'll get in the future. Thank the good Lord there haven't been too many of those problems.

I'll say that, out of the 2,000 title policies that go through my office every month, we have very few problems ever arising. The amount of claims we make against you people, may seem numerous because you hear my name so often, not because we've got that many claims. But the work that has been accomplished has been of benefit to us because your work prevents us from getting into trouble with our buyers. So the calibre of your assistance to us has been of great benefit and I'll appreciate all your help in the future. Don't fail to call on me if you have any problems of your own. We'll try and assist you in every way possible.

Comments By

Robert C. Coon

Assistant Director for Loan Policy, Department of Veterans Benefits
Veterans Administration, Washington, D.C.

I'm not really going to speak very much about title evidence as my cohort from HUD did. I'd like to take this opportunity to tell you about a year of change in the GI loan program.

A year ago, the GI loan program was, to put it bluntly, in the doldrums. The interest rate was 8½ per cent; prospective veteran home buyers had apparently decided to hold off buying; we were running up against usury statutes in some states; loan volume was down; and so on, ad infinitum. And then things began to happen.

In October a year ago, the president approved a bill which became Public Law 91-506. This new law made so many far reaching changes, we're still trying to digest them all.

First, the new law eliminated all terminal dates for use of eligibility by veterans for GI loan benefits. It also revived all unused, expired entitlement. Stated another way, every veteran of World War II, the Korean conflict and the post-Korean era who had not used his GI loan entitlement, is now eligible to use it and will continue eligible until he does use it.

To date, we've guaranteed approximately 7,500,000 home loans and there are about 22,000,000 veterans in civilian life. Thus, there are many more eligible veterans now and the GI market has been expanded substantially.

You might be interested to know that while the average age of the WW II veteran is a shade over 52 years of age, the number of WW II veterans for whom we guaranteed home loans more than doubled during the first eight months of 1971 as contrasted with the same period in 1970.

I might also point out that incident to this extension of eligibility, the requirement that post-Korean veterans pay a one-time fee to the VA of one-half of one per cent of the loan amount was repealed.

In addition to the foregoing, PL 91-506 authorized several new programs. One section authorizes the VA to guarantee loans to purchase a single family unit in a condominium project processed under Section 234 of the National Housing Act, but only after FHA has insured at least one unit loan in the project. Heretofore, we had no such authority.

We worked in close coordination with FHA in implementing this program and while the volume to date is relatively small, a number of our offices have guaranteed G.I. loans to purchase units in condominiums.

As you may know, the FHA 234 program, which began in either '61 or '62, got off to a slow start. But in recent years, as land costs have risen and suc-

cessful projects have been built, the volume of FHA 234 projects has risen markedly.

The number of actual unit loans insured by FHA under Section 234 in 1970, was double the number insured in 1969. And the figures for the first half of 1971 show about the same volume as 1970. I probably don't have to say this, but I find so many people with misconceptions about condominiums that I might point out that most people, when they think of condominiums, think of the high rise apartment-type building. You should all be aware that condominiums can also be horizontal, i.e. row housing, semi-detached, and even single family detached. As a matter of fact, all the FHA Section 234 condominium projects in which we have participated this year have been horizontal condominiums, not vertical.

Another new program authorized by PL 91-506 consists of the guarantee by VA of loans to refinance existing mortgage loans and other liens which are secured of record on a dwelling or farm residence owned and occupied by the veteran as his home. He must, of course, have entitlement available, the same as if he wanted to purchase a home.

One unique feature of this type of loan is the fact that the law permits the veteran to pay reasonable discounts required by the lender.

The rationale underlying this authority to guarantee refinancing loans is rather interesting. It was recognized that at numerous points in time during the existence of the GI loan program, many veterans who desired GI loan financing were unable to get it at the time they wanted to use it, due to money market conditions, and were forced to resort to other types of financing, that is, conventional or FHA.

The Congress apparently deemed it only fair that veterans have the opportunity to take advantage of their GI loan benefits through the refinancing process if they so desired, for example, to obtain a lower interest rate, longer maturity, or to realize part of their cash equity, send a child to college or for some other worthy purpose. Neither the law nor the regulations, however, impose any restrictions on the use of the cash equity that the veteran may obtain from refinancing his existing mortgage loan.

The volume of this type of loan is not of particular significance yet—about 400 loans a month. You title people will, of course, be involved in this type of loan since the lender must obtain a valid first lien and, in order to do so, it

is necessary that all outstanding liens on the property be paid off.

Still another program authorized by PL 91-506 is the GI mobile home loan program. As stated in the Law, the primary purpose of this program is "to make available lower cost housing to low and lower income veterans, especially those who have been recently discharged" from the military service.

These mobile home loans may be made for a variety of purposes. I do not propose to go into detail since the title industry is not involved in insuring title to personalty. However, there is one type of mobile home loan in which the title companies will play a role. This will be in what we refer to as combination loans, i.e., a GI loan for the purchase of a mobile home and a lot on which to place it. The VA requires the lender to obtain a first lien on both the personalty and the realty and the lien on the realty must secure the entire loan amount.

How the lender accomplishes it is its responsibility and will depend in large part on local law. For example, it may be possible to accomplish this with only one mortgage or deed of trust covering both the mobile home and lot, or, if that is precluded by local law, by taking a first mortgage on the lot for that portion of the loan relating thereto and taking a second mortgage immediately junior to the first for that portion of the loan relating to the mobile home.

The placing of the mobile home on a lot owned by the veteran also revives the age old question of when does a chattel become a fixture. The determining factor, of course, usually is the method of the affixation of the chattel to the realty so as to become a part thereof.

In one case I'm familiar with, the lender and its counsel were convinced that the manner in which the mobile home was affixed to the realty was sufficient to warrant a determination that the entire loan amount could be secured by one deed of trust. They also had assurance from a title company that they would issue a mortgagee's policy.

Since the GI mobile home loan program was an entirely new and novel program both for VA and for lenders, together with the fact that we were dealing with an entirely different industry than the conventional building and lending industry, it has taken a good deal of time and a lot of effort to get the program going. I am optimistic that we can make the program a success. More and more lenders are coming into the program and we are getting more inquiries from developers concerning approval for GI financing of mobile home sales

parks. Such parks can be organized in several different ways, but if they're going to have amenities such as swimming pools, a community building, this sort of thing, we think the most logical way to do it, develop and organize it and market it, is through the planned unit development concept the VA and FHA devised some time ago for conventional type residential developments.

To compound our problems this last year, the mortgage money market and interest rates have changed rather rapidly, as you all know. As you also know, VA and FHA reduced the maximum permissible interest rate on GI and FHA loans three times in three months, from 8½ per cent to the current 7 per cent.

As a consequence of the legislation I've just discussed, the reduction in interest rates and the increase in supply of mortgage money in the spring of 1971, there has been a tremendous increase in GI loan volume in 1971. Comparing the activity for the first six months of 1971 with the same period in 1970, the number of appraisal requests jumped from 187,000 to 340,000, an 82 per cent increase.

Loan applications increased from 87,000 to 168,000, over a 93 per cent increase. And loans closed increased from 76,000 to 102,000, a 34 per cent increase. This increase in volume in turn created difficult administrative problems since the workload imposed a great strain on our field staffs and our timeliness of processing suffered. We have attempted to cope with the problem by use of overtime and the addition of more staff at the field station level. We have also recently authorized our field stations to hire fee personnel to handle certain aspects of our appraisal and loan processing review functions.

We are hopeful that we can very shortly be in a position to render the type of timely service that the industry and veterans expect.

I believe it was mentioned this morning that the administration has instituted what is commonly known as the Ginny May tandem plan which, by subsidizing discounts on GI and FHA loans not in excess of \$22,000, is designed to assist

in maintaining the current maximum interest rate of 7 per cent per annum and also tend, hopefully, to reduce current discounts. This program, of course, is just getting under way and I think it is too early to make a judgement in respect to its success.

I have a paragraph here in my prepared talk about the HUD-VA settlement cost study, but after listening to Senator Sparkman this morning and Jack Jensen, I'm not so sure I should say anything.

As indicated, the two agencies did collect data through our field stations on all closed loans reported for guaranty or insurance during the month of March 1971. The data was taken from settlement sheets. The analysis to date has again demonstrated that there is absolutely no uniformity in the way loans are closed, the amount of costs incurred, or in the types of fees and charges imposed. In the first place, as I'm sure you ladies and gentlemen are fully aware, not all the closing costs and settlement costs appear on settlement sheets.

Our preliminary report, shows, for example, that in 74 per cent of the GI loan cases, a credit report cost was shown. While this may be a very accurate figure based on the settlement sheets, no GI loan is closed without the VA getting a credit report.

Mr. McAuliffe and, just now, Mr. Jensen, have talked about the study made by your association. We had a meeting a week ago Monday and they furnished the agencies a copy of their study. I've gone over it and found it very interesting and informative. I don't know, of course, what's going to come out of the study. I'm sure I don't have to tell you that costs in general have been rising for some time.

This rather naive observation is, I think, borne out by a story I heard recently about a lawyer who had a plumbing problem in his home. He called a neighborhood plumber to resolve the problem, which the plumber did, and in due course the plumber sent a bill to the lawyer for \$75 for one hour's labor. The lawyer thought a rate of \$75 an

hour for a plumber to be unduly high. In fact, it was more than the lawyer charged for his time for professional services to which the plumber replied the course of the conversation he pointed out that \$75 per hour was more than he charged for his professional services to which the plumber replied, "Well, \$75 an hour is higher than I charged when I was practicing law, too."

There is one last item which I would like to mention to you and that concerns Public Law 91-584. This law was passed in December 1970 and authorized the VA to guarantee one home loan to the wife of a serviceman who has been classified by the Department of Defense as "missing in action" or "prisoner of war."

Now, the number of wives who are eligible for this GI loan benefit is a relatively small, but a very important, group and one which is deserving of all the assistance which the government and the industry can give. Enactment of the law has raised a number of difficult problems in respect to the capacity of a wife whose husband is in the status of MIA or POW to hold title in her own name, to give a valid first lien, and last but not least, convey acceptable title at a future date if, at that point in time, her husband is still in the same status.

We have done a considerable amount of research through our attorneys in our field stations into the laws of all the states. The results are a real mixed bag. We've tried to classify the answers, but there were many that just didn't fit into any pigeonhole.

In several instances where it appeared to be legally impossible, we have been successful in resolving the problem where we found a willing lender and a cooperative title company that was willing to issue both a mortgagee's and an owner's policy with no strings. In these cases, VA went along and guaranteed the loan and the wife got her home. I mention this primarily because I would like to ask all of you, if you should be approached in connection with a case of this type, to view the problem with a most sympathetic eye.

It has been a pleasure to appear before you and thank you very much.

ELECTION OF NATIONAL OFFICERS

By proper nomination and second, the following officers were unanimously elected for 1971-72:

President—JOHN W. WARREN, Newkirk, Oklahoma
Senior Vice President, Albright Title & Trust Company
100 North Main St., P.O. Box 51
74647

Vice President—JAMES O. HICKMAN, Los Angeles, California
Senior Vice President, Pioneer National Title Insurance Company
433 South Spring Street 90054

Treasurer—JAMES G. SCHMIDT, Philadelphia, Pennsylvania
Chairman of the Board, Common-

wealth Land Title Insurance Company
1510 Walnut Street 19102

Chairman, Finance Committee—HALE WARN, Los Angeles, California
President, Title Insurance and Trust Company
433 South Spring Street 90054

BOARD OF GOVERNORS (Term Expiring 1974)

LOUIS G. DUTEL, JR., New Orleans, Louisiana
President, Dutel Title Agency, Inc.
309 Baronne Street 70112

HUGH B. ROBINSON, Carrollton, Missouri
Secretary, Carroll County Abstract Company
c/o Courthouse 64633

E. D. McCRORY, Houston, Texas
President, American Title Company
301 Esperson Building 77002
JAMES W. ROBINSON, Miami, Florida
Senior Vice President, American Title Insurance Company
150 Southeast Third Avenue 33131
STANTON S. ROLLER, New York, New York
Executive Vice President, Inter-County Title Guaranty and Mortgage Company
125 Maiden Lane 10038

AWARDING OF HONORARY MEMBERSHIPS

To Paul W. Goodrich

*Remarks by John D. Binkley
Retired President, Chicago Title Insurance Company, Chicago, Illinois*

The function I have been asked to perform is threefold. I have three very special reasons for taking a great amount of pleasure in this opportunity to talk about Paul W. Goodrich.

First, it pleases me to be asked to be the spokesman for the American Land Title Association on this occasion, for I cherish the many friendships and common concerns that I have had throughout the years with so many members of this group, as well as the memories of so many meetings such as this.

In the second place, I'm sure all of you understand the pleasure it gives me to speak of the man who was for 18 years, the President, and more recently the Chairman of the Board, of the company in which we both spent our entire business careers.

Now if you're beginning to think that I'm going to be terribly prejudiced in

this matter, you're entirely right. I'm going to be like the book I ran across the other day, entitled, *An Unbiased History of the Civil War from the Southern Point of View*.

Paul Goodrich began his career with Chicago Title and Trust in 1931 and became its President in 1953. It was primarily due to his skillful leadership and because of his courage and conviction, that the Chicago Title and Trust Company, during the period he was President, moved from a local operation mostly centered in the metropolitan Chicago area to an organization with facilities and services extending throughout the entire country.

During that time Paul also gave his own continuous personal support to the interests of ALTA, serving as a member of its Board of Governors and Chairman of its Title Insurance Section.

He always encouraged the broad participation of his staff members in all of the objectives and activities of the Association.

Finally, the third reason is that Paul is my friend. We have all come to know him as a warm and natural genuine person, an individual of unusually high standards of personal and professional conduct and one who is utterly sincere in the way he exemplifies and practices these standards.

Paul, because you have been a leader in your industry, because you were my very understanding superior for so many years and because you are my friend, I'm pleased to be the spokesman for so many of your other colleagues and friends in this Association in presenting to you an Honorary Membership in the American Land Title Association. It is a symbol of our respect and warm feeling for you at this milestone in your life.

To George C. Rawlings

*Remarks by Joseph S. Knapp, Jr.
Retired Chairman of the Board, The Title Guarantee Company, Baltimore, Maryland*

Last year at the ALTA Annual Convention, it was my great privilege to receive an Honorary Membership in this Association.

This year, I find that I again have been honored. It is my esteemed pleasure to present an Honorary Membership to a highly regarded leader who is a dynamic force in what the land title industry is today and will be tomorrow. That leader, of course, is George C. Rawlings. George is a native of Fredericksburg, Virginia, and he and his wife, Marguerite, now make their home in Spottsylvania County, Virginia. They have two sons, George C., Jr. and Richard C.

George's unlimited supply of energy has been generously expended for the benefit of Lawyers Title Insurance Corporation, and for ALTA. After joining

Lawyers Title as a field representative in 1934, he advanced to vice president five years later. In 1947, he was elected executive vice president—and he held that position until he became president in 1956. In 1965, he was elected chairman of the board.

Many of us were Association members in 1960, when he led us admirably as ALTA president, and we remembered his earlier outstanding service on the Executive Committee, Board of Governors, and as Vice President and Chairman of the Title Insurance Section. In addition, his ALTA activity has included the Planning Committee, Relocation Committee, Catastrophic Reinsurance Committee, Retirement Committee, Grievance Committee, and Council of Past Presidents.

While he was Chairman of the At-

lantic Coast Regional Conference he recommended and persuaded the Title Insurance Companies who were members of that Conference to produce the first title insurance industry motion picture. It was so successful that the ALTA later produced another very successful industry picture.

Most recently, his considerable abilities have been utilized by the National Conference of the ALTA and ABA.

Much more could be said about what George has accomplished, but I believe my comments have illustrated why he is truly an outstanding selection for an Honorary Membership. It is now my privilege and pleasure to present him with this award, and to wish him God-speed in the years to come.

WORKSHOP SESSION

Title Company Equipment

Comments By

Russell Lowry, Jr.

Systems Officer, Chicago Title and Trust Company, Chicago, Illinois

I was very honored to be asked to serve on this panel. I'm a little bit wary of these two people to my right here. I regard them as "front line" people. I'm somewhat of an odd-ball in the group.

These two gentlemen I regard as front liners—or those who are in the front of their company, and making all the important decisions about selecting equipment, finding the resources, and taking all the blame when it doesn't work. Since I'm from a larger company, I don't have all of these responsibilities, and I have perhaps a few more dollars to play around with than they do. But I won't take a back seat to them for criticism when things don't work.

I do feel like the oddball on this panel however. I think these two boys are going to give you the more down-to-earth interesting parts at the end of this presentation. So I didn't want to follow them.

Being from a large company, as I say, we do have a little more chance to experiment with a lot more devices. I've talked to this group before, and I've talked about all sorts of things, but today I am going to confine myself a little bit.

I finally resolved the issue of serving on this panel, figuring I must be the French poodle in the dog team. I don't know if you have heard this story, but we use it around our company. It is about the trapper in Alaska who used a French poodle in his dog team, among all those big Huskies. He was doing famously, until one day he pulled up at a trading post, where a bunch of other trappers had their dog teams. They said, "Hey Jacques, what are you doing with that French poodle in your dog team?" He said, "Well, she doesn't do much pulling, but she makes the other dogs feel good".

The panel had little contact between ourselves, as to how we were going to split up this program. If anything one expert respects, its another expert, so we start on that note. I was invited to attend. I agreed, I heard nothing for weeks, and finally I corresponded with Jim here, and said maybe we ought to decide how we are going to split this thing up. I don't want to dominate the program. Jim responded, and said, "Well I'm just from a very small abstract company. I am going to talk about my disc packs." (That scared the

hell out of me) That's very sophisticated computing equipment. He continued, "But I won't take very long, and you can go ahead and dominate the program. Why don't you call up Otto, and see what he is going to do." Well I called Otto, and he wasn't any help either. He spun off just about every sophisticated photographic term I could think of, and some I haven't even tried yet. So I concluded to stay away from photography generally. So, what does that leave me? I want to be unique. I'd like to tell you something you could take back to your company.

I decided to talk about computers. Now, don't all run out. If Jim Gray can afford a computer with his very small abstract company, anybody can afford a computer. I am going to talk about a computer adaptation to a small title company, one of our associated companies, when they asked us to do something for them, perhaps using computer hardware, and how we went about it. It's kind of a little case history. I've got a few pictures that I can show you. I think they'll explain a lot more than I can say.

Now I am of course, not talking about buying a computer. I keep saying this, and I hope it sinks in. I don't want anybody to go out and buy a computer. Because I don't think you generally can justify the expense of a computer, or the grief that it is going to give you at the outset. Rather I am talking about leasing time on somebody else's computer. In this application I am going to talk about, although this company is associated with us, they still use a service company to do their modest computer application.

Now, how did this thing get started? I always liked the story about another one of our companies, in a small town, where the manager of the office was approached one day by a local company which was going to set up a computer service agency. They asked him if he would be a director of their company. They wanted to get all the leading businessmen in the community on the board. Well it didn't cost him anything, and he wanted to be in this group, so he agreed. And he performed in that capacity for about a year. Went to meetings, and finally he got a little self conscious about it, and said, "Is there anything you can do for me?" And they said,

"Of course, we thought you would never ask. We can, for example, do your accounts receivable". Now what did that mean to him? "Well," he said, "I already have a bookkeeping department. I have an accounting machine." They said, "That's fine. Why don't you try us and see if we can save you any money?" All he had to do was keep one copy of the invoice that he mailed out to his customers. The service company picked these up in batches, and key punched them, and fed them into a computer. On a monthly basis, they mailed statements for him, they printed allowance checks for him to sign and did all of the necessary accounting with nothing for him to do but read the results. Of course he advised them when he got a check. They handled no money, they just did all of his bookkeeping on a computer.

This is an example of where you do something, and just give a service company a copy of what you are doing, and they do all sorts of routine things for you. That in a sense, is how the things I am going to describe today works.

First of all, you may notice I've got my notes on punch cards. You can assume this speech was written by a computer. I do want to dispel any illusions any of you may have, in this room, about the computer itself. I know all of you know what a computer is, you've seen it. It has been a part of TV plots, and movie scenarios, and everything else. The computer is a subject of jokes in magazines, and they are endless. And occasionally you'll see a reference to the computer as the Giant Brain. Now I think this is the greatest misnomer that could be applied to any computer—"Giant Brain." My preferred favorite expression is the "Speedy Moron."

I don't mean that to be derogatory. In fact, I think it is quite appropriate, when you think of the computer just that way. If you looked in *Webster's Dictionary* you would find the various levels of competency. I think they define the lowest one as the "idiot." This is the individual who can't do anything for himself. He has to have complete custodial care. The next step up is the imbecile, who can take care of himself, providing he is supervised. And the third level is the moron, the highest order of the three. *He can do routine tasks*, if you supervise him. The computer is best described as the Speedy Moron.

And that is the way I think you ought to consider the entire computer technology. In fact, when you think about it, the whole secret of systems work, of which I am a practitioner, is boiling as much as possible of our daily labors down into routine tasks, so they can be given to the "Moron" to perform.

Now I'd like to go through this little case study. If you will back there, turn on the projection machine and I'll start.

When we first heard about this problem, of this small company, they had these three large books. I don't know if you can read the titles of them back there. But one of them says Judgment Index, another one says Miscellaneous Index, and the other one says Estate Index. Three lovely, leather bound books. The manager of the office felt they were old fashioned, cumbersome—and he wanted to convert them to something more modern.

I'm sure all of you are familiar with this type of record. In our world we call it a name index. There is nothing unique about it. I think you can read this slide, but everything pertaining to an individual is posted into these books. Particularly money judgements, estates, incompetencies, and things of that nature. They are straight alphabetic, with some alphabetic groups to facilitate search, but in general the operation is performed by a young lady standing in front of the book, and turning pages, looking for her party. The main argument is, of course, a name.

Now the immediate question after we are asked for a systems study on a record like this, is what's wrong with it? Well, it's cumbersome. It's old hat. It's getting more and more difficult to use.

The first approach therefore, was to consider going from a book record to perhaps a card record. What image does that bring into your mind? Immediately you think of something like a punch card. This one pictured here is a printed punch card. That is to say, everything that is punched into it, is also printed along the top. And it envisions using a machine like this, called a key punch. The first proposition that we started to think about was, (and we had a little difficulty even here in this small office), is it appropriate for each name takeoff to be punched into a card, and then be put into some sort of an open tub, so that it could be searched conveniently?

A lot of companies do their record searching this way. I am not demeaning this type of search. But there are disadvantages to cards, as opposed to a book, in that they can be misfiled and they can be lost. Before we let go of the card system, we considered other possibilities. For example, if we had a card record, might we get some automated retrieval?

This (slide) is a mechanized card file, and it facilitates the search of a large group of cards, by running the cabinets by you, instead of you running by the cabinets. But again, this represented an investment of some size, and still not practical for the application.

There are also some devices that I have talked about on occasion you may have recalled. This is a random card

searching system, wherein you punch certain discreet punchings along the lower edge of the card when you make it. Then you can drop it into a file at random, and by pushing buttons, pop up all the cards that contain a particular name. This again was not practical, in that the search unit, which is the far left module in this picture, only holds about 2,000 cards. You can imagine making cards for every judgement and court takeoff item in the office, but for a particular search, we'd have to go over to a particular ordinary card filing cabinet and take out about three or four handfuls of cards, and bring them over to the search unit, and that seemed highly impractical.

So we began to think about other things. Well, the next picture is a picture of a sophisticated, current day computer peripheral device. We don't own any of these in Chicago. There is one in a service company near us. And it rents quite cheaply. What is it? It is a machine that reads typewriting. These machines are not really new. This particular model happens to be the Control Data Company's version. I don't know the model number, I'll find it out for you, if you are interested. But again, I am not suggesting that anybody acquire one of these machines. I am sure they cost in five figures.

At any rate, at the time we were trying to find something new for this name searching business, we attended a presentation, at a local service company, at the advent of the use of this machine. Now we had known about this type of equipment. It is called Optical Character Recognition equipment, or OCR equipment. We knew about it, but we were never particularly impressed. The first time I saw a demonstration of the Farrington Unit years ago, the man demonstrating it told me, "You know, this machine is 98 per cent accurate". And I said, "What does that mean?" and he said, "Well, 98 per cent of the time, it reads correctly." Well, maybe that is about all anybody can expect of a manual searcher, but I always think of them as being 100 per cent accurate. An I can't stomach the thought that I am going to put in a machine that only hits 98 out of 100 times. Because you can be sure that those other two times are going to be things that I really need. And they are going to cost me money.

So, as I say, we had never particularly considered the optical character recognition equipment as something that the title industry needed. Maybe they were great for the gasoline charge card system, and the public utilities billing system, where they had meter readers reading mass quantities of things. So they lost a few now and then, it didn't make any difference to them. But to us, every item we take off is important, and we need complete 100 per cent accuracy.

Well, at any rate, when I saw the presentation of this device I watched it reading through typewritten paper with remarkable rates of speed. It was truly impressive. And I said to the fellow demonstrating it, "How do I know it is reading everything?" He said "For one

thing, you can see that reel of tape is moving as the thing is reading, it is putting it all onto magnetic tape." I said, "That's fine, I still don't know that it is reading everything accurately." He said, "Well, I can have that tape printed out for you." I said, "But, I am the world's worst proof reader. I can proof read things a hundred times, and still not find all of the mistakes." He said, "Let me give you one other thing I think may convince you." He withdrew one of the pieces of paper of typewritten material out of the machine, and he took his pencil, or pen, and he lined out one of the words in the middle of one of the sentences. Now, when paper goes through this machine there's a little electric eye that is wagging as the paper goes by. Just like you or I do when we read a paper rapidly. And it was interesting to see this machine read down this page, and when it got to the line where there was a word crossed out, it stopped. It just kept wagging, and re-reading that one line. And then almost instantaneously, the typewriter in the lower left hand corner of the picture started typing. Now what it typed was that very line, every word in that line, except the one that was crossed out. I thought that was truly impressive. So now I had the feeling that this machine is perhaps 100 per cent accurate in everything it reads, and if it can't read something, it is going to let you know about it. That's all the assurance we really needed to get into this equipment.

Now, the next thing we wanted to know was, what sort of typing does it read? And they said, that it reads a particular type font best. For example, pictured here, is the one we are using, if I can get it into focus. It's typed by a Selectric typewriter, which to some people is a great typewriter. At any rate, it is a typewriter which has all its type in the shape of a little plastic ball, which is removeable so that you can select a particular type. I have an example of the type font here which this company guarantees the machine will read at a very great rate. This is called OCR font #1 or something like that. And it is available for the golf ball typewriters. Now this typing is also easily readable with the human eye, in addition to the machine. All that we needed to do then, was to develop a form on which we could type each judgement and sent it over to the machine. A rather simple proposition.

The next thing I want to say about this business is, the girl using the typewriter is the same girl who takes off all the judgements, estates and the new cases that are going to be a part of our records. Before this, she used to go over with a loose leaf notebook, or a ring-bound notebook like a steno usually uses, and just copy a lot of things she found. The form that we designed for her to type into was deliberately designed to show all the things that we really wanted in every particular type of case. It was a kind of bill-of-fare that she had to fill out. We found now that we were getting far more data, all the time, than we ever did. In many cases, although this girl will never admit it, she took off a particular type of case and

she occasionally forgot to pick up the name of the attorney, or something like that. And she just let it go, until somebody really wanted to look at the case. Now, with this system, she has a form to fill out, not a difficult form. It involves three lines of type. But it has blanks to put this, that and the other thing in. Not only that, remember we have the Moron in the act now, and he has been told routine things to watch for. I am talking about the OCR machine now. It has been programmed to watch that it gets certain things for certain types of cases; and if it doesn't to let us know about it in a printed error listing.

Now we've got the Moron watching this girl. And everything is going fine. She knows what she has to do, and the Moron is checking it out. As it has worked out, thus far, we've had so few errors in this system that we are beginning to wonder whether we have a very unique girl, or she is so afraid of the thing that she never makes a mistake. Incidentally, when you type, you can make a mistake. That is not going to blow the form. They have a special key that you press on this typewriter which will obliterate the wrong letter or figure, and you just go ahead and type the right one, right after it. She doesn't do any erasing. You don't have to do that. As a result, when it gets to the machine, it reads past those obliteration marks, and closes up the words, as if it were correctly typed the first time. We've had remarkable success on this operation also.

Now what does the machine do when it gets all through? It writes everything on to a reel of magnetic tape, which is the prime input fare for the computer of today. A reel of tape is going to stay at the service company and be merged into another reel of tape. It is going to consist of the entire name index of the company. We are going to send batches of forms to it, regularly, which are going to update it, change it about, purge it, if necessary, but keep only live items on that tape. The service company, I think you will find, will probably store the tape for you, at no expense, giving you additional security for one of your title records. From this master tape all we will be asking for, occasionally, is a print out. And that's what we are going to use in the company operation.

Now at this point in our design, we considered what the output of the system should be. Should it be paper? Will we be back in the same boat again, if we ask the computer to print out paper of the entire index? Well, we would of sorts. The paper could be temporary

paper. It wouldn't be rag paper. It could be post bound. It could be discarded the next time we printed the index. But it would still be quite bulky. If there is one thing the computer knows how to do, it knows how to print out mountains of paper in the twinkling of an eye. No, we decided to go another route and explore something new, called COM, which stands for Computer Output Microfilm. Now, as it happens, we also have a service company in our area, in fact we have three or four of them, which feature this type of equipment. The most significant thing about this type of equipment is that it takes a reel of magnetic tape and converts it to a strip of finished microfilm. That is to say, there is no developing, fixing, processing, drying, or anything like that. And it does this in the twinkling of an eye, at an absurdly cheap cost. In fact, at the present time, we are paying eight tenths of a mill for each item that we put through this system. And the result of all of this is one cartridge of microfilm which takes the place of those three large books. In this picture you can see she is holding the whole name index in her left hand. She puts it on to a reader printer, and she is able to conveniently scan for a particular name. The search for a particular name will be confined to a single place because, remember, the Moron is keeping them in tight alphabetic order, as we instructed.

Now you can vary this around. You can have the names put into sound dex order, if you want to program that in. But we are using straight, we call it phone book, order here. You can be sure that all the Jones, all the Johnsons, all the Petersons, and all the Krapaviches are in one place, on that screen, when she searches. Since the film is in what we call a cine mode, that means the images run with the flow of the film, she can keep her eye in one place. This is a motorized reader-printer, and she can adjust the speed to make a slow perusal search, if she wants to. Now, if the searcher get a hit, she can either copy out directly on to the search; or if she get a number of hits, she can make a reader-printed copy and give it to the abstractor or the examiner.

You see now, this thing has become quite easily accomplished. Now, I personally feel, and I think the users of this system are beginning to feel, that film output, is a far preferable system to paper output. And we're beginning to think of all title records in this mode. It is a long step toward the land records, because it is involved with a lot of other things. But you can have your name rec-

ords continually "massaged" and purged. For example, we can tell the Moron, when an item is over eight years old to get rid of it.

Finally, you can see here, that for each period, and I think they are doing it on a monthly basis they're getting a whole new name index on that cartridge, and they simply throw the other one away.

Now, as I stated, the service company charges \$17 for a thousand frames. And we are getting something like 21 judgement items in a frame. And the thing will print at the rate of 20,000 lines per minute. So you can see how rapidly this stuff is made. In far less time than it is worth talking about the entire name index is reproduced.

I should say something about turn around. Obviously, when this girl types the new cases each day, she doesn't send them immediately to the service company, for a very simple reason. It costs \$55 an hour to rent the reading machine. And they have a minimum of a half hour. And in a half hour it can read 2500 lines. So you can be sure that we are going to store up our judgments, at least 2500 lines of them, before we send them in. In the meantime, we keep what we call an interim file. And this is a picture of it. We are obliged to search this interim file until we get the next reel, representing the entire name index. This is simply filed alphabetically. The original form that she typed on was a two-part form. The original went to the service company, or will go to the service company; the second part is on a little bit stiffer paper, and stands up in a file like this. You can see we are using a carboard file box here, a very modest installation.

I've talked about reader-printers before, but this is a better picture of the old 3M-400C, and here it is without its magnifier. Its size is no different than it always was. The same machine with a magnifying screen blows it up a little bit, for simply browsing or scanning, to see the file. And I guess they get a few more dollars for it by selling you the enlarging screen. The only criticism I have of this machine is perhaps the cost of the print, which is still in the neighborhood of 10 cents. We had been playing with their latest version, the 500C, we've got it on a crash trial period now, and we're beating the heck out of it, to see if we can break it. And this thing, I must say, looks pretty good. It costs a little bit more, but the print only costs five cents. And it's all dry process.

That about completes my presentation.

Comments By

Otto Zerwick

President, Abstract and Title Associates, Inc., Madison, Wisconsin

Well, I am going to talk a little bit about semantics. I think I am the jelly in the sandwich. They talked about ex-

perts here, and reminded me of definitions of terms that have sometimes caused considerable embarrassment, and

I think it is causing me embarrassment today, in the same way. There were a couple of little ladies discussing their

prestigious families, and one of them was particularly proud, and particularly conservative, and she mentioned to her friend that in her family breeding was everything. The other lady turned to her and said that in her family they enjoyed breeding, but it wasn't everything.

And I think that is what I am up against here, when they talk about me being an expert. I'm an expert to the point of trying to keep abreast of what is going on, so I can recognize if a thing is new or not. And when you hear a talk like Mr. Lowry has given, you

are really hearing an expert. And I am sure that what he has presented is of great interest to all of us. I think I would like to hear more from him, and more about what the costs are, and more of how it is applied to the kind of business that you and I have at home.

Now, the rest of being this sandwich is to tell you that we had a meeting this morning of our Title Class and Photography Committee, and part of the purpose of that meeting, as far as I was concerned, was to do a little brain picking, and find out what was new in the

area. And I discovered, to my amazement, that our chairman this afternoon, has had one of the most interesting small applications that I have ever heard of. And it was so startling and so unusual that it even impressed Mr. Lowry, and I think that is quite impressive. So rather than to tell you a lot of little things, which I tried to skim over this morning anyway, I want to use this time to the best advantage and hear what our friend Mr. Gray has to say, and then if there is any time left, I hope there won't be, I'll try to help fill in.

(Report of the Abstracters and Title Insurance Agents Section Plants and Photography Committee presented by Mr. Zerwick October 5, 1971, at the Section Meeting.)

In preparation for this report your committee sent out some 20 letters to those corporations who in the past have contributed innovation and staples to our title industry. Among these were Eastman, Remington Rand, Itek, Kalvar, NCR, Polaroid, Xerox, etc. Many did not respond at all, and those that did without exception could offer nothing really new. I mentioned the new Selectric which IBM has introduced and mentioned the increasing interest in data processing by quite small abstracters and title insurance agents.

I had hoped to supplement previous remarks I had made to the Association on the automated land title project which has been funded here in Wisconsin and whose project chairman keeps me reasonably well posted as to developments of concern to all of us. By convention time he was unable to get me the material I needed to update prior remarks, but has now placed in my hands a paper which is to be published in the Wisconsin Bar Bulletin for December, 1971, entitled "A Unified Automated Land Title System For Wisconsin" by William A. Chatterton and H. Robert Knitter. Since publication has not oc-

curred, I am not at liberty to reproduce this paper at this time, but will submit it to our *Title News* for possible later publication.

Mr. Chatterton continually alerts me to the giant strides the technology in this area is taking. No longer are punch cards necessary to get from original into the computer. No longer is a print-out required to view the stored material, but this is now available in instant replay on a TV screen. He feels that the problems of posting and checking are so vastly simplified that the day is not far distant when the actual recording can be made directly on computer tape, and that the recordings may be read at any place in the state having the proper instrumentation.

I think it is fair to say that the principals in this study are concerned that their efforts seem to implement, or perhaps I should say pave the way, to the old Torrens System,—and this, he as an attorney, and of course we as title people, earnestly shun. He urges that title people be alert to the potential of the new technology to the end that we may find a solution and keep this industry in private hands.

If we can tailor the new techniques to the system we now know, it would seem to your committee that the changes to come about would do no more than to change the kind of a link which now exists between the register and the rest of the courthouse—and the title people. No attorney cares to examine title from the raw material of the record itself, which is all that the new technology will do unless titles go in and out of the state as they do in the Torrens System.

The paper recites near its close: "That a computer revolution is taking place is incontrovertible. Ten to hundred-fold increases in speed and capacity have been experienced over only the past few years, with resulting precipitous declines in costs which will have great impact on the legal profession. Where information processing problems exist, such as the current land title system, they will sooner or later be coupled with the rapidly improving cost performance capabilities of computer technology; someone will soon apply information processing principles to the issues presented here."

Among small abstracters, James Gray is leading the vanguard.

Comments By

James A. Gray

*Chairman, Abstracters and Title Insurance Agents Section
President, Fidelity Abstract and Guaranty Company, Benton, Arkansas*

You have heard from a large title company, a very large title company; now you will hear from a very very small abstract company and its use of equipment of various kinds. We do not have exotic applications for our data processing equipment; however, we do try to save every minute and every penny that we can. We have to.

To explain how we use data processing in such a small company, perhaps it would be well to relate how we came into existence. Our company is barely three years old. We built it, by first microfilming the courthouse records using 35mm film, then indexing directly from the role of microfilm onto IBM cards, using an 029 printing punch and a 650 card per minute sorter. We sorted the

cards the way we wanted them listed, then we had them listed onto the best quality paper we could get through a computer. The computer did not compute. At this state, it merely ran a listing, printing out the cards in the order we had sorted them. The listings were fastened into tract books and we were in business. Very simple. Then we had to maintain the plant and you can't easily add to tract books from IBM cards. We first used a 35mm planetary camera for the initial filming as it was faster than the small rotary type. Now we use 16 mm for updating and we continue using the 029 printing punch and the sorter. Aside from the usual array of readers and reader printers, that is all the data processing equipment we have, except

for two used disc packs. Not much, but remember our county has only 35,000 population and the county seat has a population of 16,000. Economically to continue to use the printing punch and sorter is rather marginal as against the costs of hand posting; however, I found that I could film the new recordings once a week taking about 45 minutes and I could index the film onto IBM cards in about an hour. Not having a regular full or part time key punch operator or hand poster, I could do the work myself and be free of labor problems, and in the first year of business, I had lots of time. The machine rental would roughly balance the cost of paying a part time tract book poster. Now that we have expanded our operations

into another county and taken on contract work, we have a regular keypunch operator who more than keeps busy and she turns out thousands of cards each week, still on a part time but permanent basis.

Our card format actually contains a three way index: grantor, grantee, geographic; or plaintiff, defendant, geographic; or mortgagor, mortgagee, geographic. As stated, the cards were first listed geographically in date order. Then we acquired the two used disc packs for a different type of sort. Now we had the capability of a purely electronic sort rather than more or less mechanical sort on the sorting machine. The sorter can sort or separate cards at the rate of 650 cards per minute per column, plus handling time, meaning the time it takes to actually handle the cards manually placing them in the hopper, gathering them up, joggling, replacing them in the hopper, etc. Once the cards are loaded onto the disc pack, all further sorting can be done electronically. For example, we loaded about 50,000 cards onto the disc pack in random order and electronically sorted them by section, township, and range; then in date order and listed them onto tract sheets that way. At the end of each section, the printer automatically skips to a fresh page and begins anew. When all section-township-range pages had been printed, we programmed the computer to sort alphabetically all cards in the grantor-mortgagor-plaintiff field and printed them out. It took the computer about 40 minutes to run such a sort and about an hour and 15 minutes to print another listing, this time a direct index. When this was complete, we ran still another sort on the grantee-mortgagee-defendant field, taking about 40 minutes for this third sort and another hour and 15 minutes to print out an indirect index, once again, each line carrying everything on the original IBM card. The whole job took about five hours computer time, and covered 20 years of records in that particular county. Now, five hours computer time probably seems painfully slow to a big computer user, but don't forget we are very small potatoes and we are only paying about \$30 per hour computer rent. We are not in the same league with those companies who can afford to use high speed printers capable of a 35,000 line per

minute, print out directly onto microfilm and printing out an update of an entire new abstract plant every night; I am simply here to explain a data processing application to a very small abstract company and as my old pappy used to say, poor folks have poor ways.

In the beginning, we designed our format for the IBM card to use one type card for all applications, whether section, township, range, or alpha subdivision. You can't change cards back and forth in the hopper anyway, but you do have a selector switch which shifts from program one to program two; thus, changing from alpha to numeric, meaning subdivision to section, township, and range, and back at will. It doesn't matter really what the card has preprinted on it. What does matter is where the holes are punched. The card is happy no matter where the lines are printed, but we do have to be extremely careful that holes are punched consistently in the same columns from card to card, as this is the only way they are read by machines.

Each week, when we have finished indexing the cards, we lay them face down on our xerox machine and make a picture. The xerox copy is checked against the microfilm for errors and the cards are corrected, then sorted and filed. The sorting and filing takes about ten minutes. The xerox copy is refined to some extent and sold to a newspaper for publication. Thus we actually do a little better than a slaughterhouse. We even sell the squeal.

As our current cards build up, we run a supplemental listing using the disc pack, then let the cards begin to build up again. It isn't good that we sometimes have three places to check: the "old" tract books, the current listing and the current unlisted cards. Since we don't use the computer in the popular sense; that is, have the computer give us a print out as we need it, we have to pay the price for rapid input by making extra motions for retrieval.

Another application for the disc packs is updating our general index. We punch cards for a name search, the usual thing for judgements, affidavits, indefinites, etc., using the soundex system. Rather than search cards, we print listings of those too. The first listing was printed after sorting the cards by ma-

chine in the office, which took many hours labor, my labor. Now we have loaded the cards onto disc packs, the initial loading, electronic sorting, and print-out took about four and a half hours to load, sort, and print about 22,000 cards. Now we can update by merging in new cards, effect a new sort and have an entirely new updated print out. The disc pack is unbelievably accurate. When we manually sorted the cards for the first listing, it took seven passes through the sorter to get them lined up for listing. That was 154,000 individual card-passes through the sorter. If we missed a pass anywhere within a "handle" my cards would be out of order and an omission would be more possible. The disc pack and computer eliminated that possibility.

You may wonder why we would want direct and indirect name indexes when we have everything so nicely printed out geographically. The answer is simple. If the key punch operator made an error in punching the description or an attorney made such an error (they do make errors too, you know) and we find a missing link in a chain, we could double check using our own indices in our office rather than go to the courthouse where grantor-grantee indices are maintained, but difficult to use. Furthermore, many times we get inquiries regarding an ownership of land "behind John Doe's five acres, out on Highway 5." It's quite simple to see what John Doe acquired on Highway 5, and the extra listings cost peanuts.

This presentation was intended to include all items of equipment used in our abstract office, and I would like to add that we also are buying an automatic typewriter. It's a Friden Flexowriter, using a paper tape about an inch wide. We have our share of ten to 15 line descriptions and sometimes more, and when indicated, we punch a tape one time for all uses. One tape for a description can be used on an abstract caption, binder, policy, and so forth. The machine is also used for letter writing and any other repetitive typing.

The balance of our equipment is rather routine and mundane. We have an assortment of typewriters for IBM Executives to junkers, an automobile, and an electric percolator to brew free coffee for the employees and guests.

ABSTRACTERS AND TITLE INSURANCE AGENTS SECTION

Forty Ways to Make Money in the Title Business

Henry Arnall, Jr.

President, Poteau Abstract Company, Poteau, Oklahoma

I really probably am about as qualified as the old maid is to tell you how to raise your children, or the bachelor

how to be boss of your household, but we will try to embark on this and I would like for one of our cohorts from

Oklahoma to pass out a list, so if you go to sleep this is fine, you'll have it to take home with you.

Also, on the program Jim came up with the 40 ways, I don't know, because there are only 30 on this list.

Before the meeting, I was asked if I had five ways to keep your customer happy and 35 ways to get a competitor. I don't think I have any ways to keep your customers happy. There is only one I think, and that is to give free service and to smile when you do it.

If you give free service and you don't smile and invite them back, they'll still go to your competitor, probably.

The first item that I have on the list is that of title insurance, and as we go through these some I will elaborate on, some I will not, but in regard to title insurance, I think those of us who are in basically abstract states can see this coming to us.

For sometime, quite frankly, I could not sell title insurance. The more that I can see the good that is in it, the income which is my primary motive, then I can see a service that is being rendered. But I would like to point out that I feel that, particularly in the oil producing states and those that are potentially oil producing states, that we will never come to the point of doing away with abstracts.

As you are probably aware, there are two basic companies who are so-called nationwide oil abstracters. I will point out a personal reference. A year or so ago I received a call from a southern state where they were having oil activity for the first time, and they could not get abstracts.

They said, "Can you help us; our office is located in the middle of a gas field. It's pretty well depleted now, or at least they have quit drilling. Maybe they'll come back some day."

So we received this call and I called another fellow and we now are in the abstract business in another state, because the company had converted to title insurance exclusively and could not furnish the abstracts.

They said, "Charge us what you want to, charge us what you have to." This is what we all would like to have, at some point or other, to have a satisfied customer who says, "Charge whatever you have to to make a profit and come and help us, we need your help."

So I point this out, not to run down title insurance, because I think it's very needed and I think it is very important. I think we have to have it, but I also pointed out; do not switch exclusively to title insurance so that you cannot serve your customers, because we have varied types of customers.

Some will just not take it. Now I understand on the west coast that they have in some cases taken it, but in this particular case, no.

Again on item two, title reports, my comments will perhaps be that related to Oklahoma, because there are the items which I am familiar with.

The ones in the other states may go along the same way, but for this thing on title reports the oil companies, some of our Shell home builder companies, are wanting to file liens.

In Oklahoma, now again this is on a per-county or bi-county basis, we still

have some counties who do not furnish what we call title reports, which merely is a synopsis of a searching of the records which states who the owner by the last deed of record is, what mortgages appear to be unreleased, what liens appear to be outstanding against the property, and whether any taxes are due and owing, and we have had quite a problem.

It seems as though at every title meeting that we have, this question comes up, whether there is or is not any liability placed on these title reports.

We try to limit it. We state in many cases that our particular statement is, "Care has been taken in the preparation of the foregoing report but no liability is assumed thereby."

We are told by the attorneys in our Association, by others, that we can put all of the statements that we care to on our report, but there still is liability assumed on it.

I know, however, of no claim that has been made. Perhaps there have been some, but the oil companies do use these considerably, particularly on the \$1 an acre lease bonus, maybe even the \$5 an acre lease bonus. They use these title reports. It can be very lucrative. After you get the hang of it and depending on how you have your records set up, you can run through one of these really promptly.

We are called upon in many cases. As a matter of fact our office records probably 60 to 70 per cent of the instruments that come in to our county. They are sent through our office and we record them or take them to the courthouse, rather, and pay the filing fees, the mortgage tax, whatever the charge may be.

For a long time, particularly when we had a competitor, we were glad to get these because it sent something back to the customer with our return address on it or something that helped them remember us.

But as our recordings have increased substantially, and as we find that we have several dollars out, we have started charging a small recording fee on these, and we just add it on to the bill and send it back to them. It seems as though on our bad accounts, that they're always the ones that we have some advanced recording fees.

New we do not charge where it is in conjunction with an abstract or where we're doing a base, or an extension, or title insurance. We do not charge extra for the recording on it. Xerox copies you are all familiar with. Notary fees—again many of these that I have listed we do not charge, but these are ways that I find in our Oklahoma Land Title Association. There are varied ways. Some charge, some do not.

On notaries, of course on the Uniform Commercial Code Search, we do charge. This is a part of our service that we do make this search for our customers, for banks, savings and loans and various others that might be interested.

We also prepare a weekly takeoff, a weekly report, of all of the Uniform Commercial Code filings in our county.

We have a subscription list from the banks, savings and loans and sometimes

some of the realtors who are wanting to keep up with this. They subscribe to it at so much per month and it's just automatically mailed to them each week.

We also prepare a general recording report. We list on this, the oil and gas leases, the assignments of leases, mortgages, deeds, general conveyances of all kinds, and of course, we have varied subscribers to this.

We again started this on a free basis, and the thing got out of hand before we knew it, and we ended up with around 200 people who wanted it as long as it was free and we smiled when we gave it to them. They wanted it, but it finally got out of hand and one reason we were doing it on a free basis was to see, really, if there was any interest in it. We later had to start charging a nominal fee for it, and we lost very few of our subscribers. They continued with the report, but many are interested in this; likewise, on the court reports.

The takeoffs that our newspapers in our county get, they like to have. It's part of their publication and also our banks, our financial institutions, do like to have this court report, to keep track of it and I might add that in the counties, where the federal district courts are, a bankruptcy report would be real good, because there are many people who are interested in those, and perhaps even the scope of customers is larger in this than would be in a per-county basis.

Then into the mortgage report which in a sense is a duplication of the general recording, but some do not want to wade through all of this other, and they will take only a specialized or a particular report of recordings.

We have a real problem in our area, in regard to addresses. We are the third largest county in the state. We have a lot of non-resident owners. We have people who desire to purchase some of this rural property. They can't even find the owner.

For some reason or other our county assessor, our county treasurer, doesn't want to bother with this extra problem of keeping addresses of the taxpayers. If they don't pay their taxes, they just put it on the resale list and sell it. This may be good, may be bad, but for some reason or other they continue to be elected. But we have taken it upon ourselves to keep track of the addresses of these various owners, and we have inquiries continually about them from all companies, and from real estate people who have clients who want to buy in a certain area. We have these and actually we have made them available to the public. We do not charge for this particular service.

Then we get into the ownership check which is handled in numerous ways, and you do the same thing in your office. You have a good realtor who brings all of his business to you. You don't charge him; you're glad to go to your records and find who is the owner of this particular tract. But then you get inquiries: "I'd like to have the ownership; make me a little plan showing the owners in this entire section."

This gets into a different category, but many times we have found that abstrac-

ters get very independent in some of these things. We do abstracting, we are not in these other side business lines, but when we get down to this, I think we're narrowing our scope of what we can do. We're limiting our office staff, to a great extent. We're limiting our income also. We're glad to get the customer in the office, whatever the reason may be. Then, perhaps he will buy something.

But we also pay the taxes for a lot of these non-resident owners. Now we do not advance the money for them, unless we know them really well, because, like the recording, you can really get stuck on it, but for some reason or another they do not want to send it directly to the county treasurer. They write us a letter and ask us to find out what our taxes are. Let us know and we will send you a check for it.

In most of these, because we have two trips to the county treasurer's office, so to speak, on the amounts and on the paying, we usually charge just a flat \$5 to pay their taxes and then mail their receipt back to them. But this is something that could be optional. Again if it's in conjunction with the extension of an abstract, or doing some work with them, then of course there is no charge or we do not charge for it.

Getting back to the question that someone asked about five ways to keep your customers happy, the next item, number 14, is one way to definitely make all company customers unhappy, and that is by buying oil and gas leases.

We have had several cases, I think, in Oklahoma where an oil company would come in. They would start putting a block together in a particular area. The abstractor or his cohort would go out and start buying right in the middle of the block. Of course you can imagine the unhappiness that the oil company has from this, and the reaction it has. In all probability, they will go to your competitor for their abstracting or for any work that they need done. So you take a chance on: "Can I make more out of the oil and gas business, in this case, or can I make more out of the abstracting that I might do for the company?"

Our particular case is that we have never engaged in it, but this is to each one's choice. It is one way of increasing your income. Whether the offsetting result will be detrimental or not is for you to decide. I know there are some cases where the oil companies will come in and even ask the abstractor to go buy the leases for them, and this is another side of it.

But the easement or rights of way purchases: who in the county knows the customers better or knows the owners better, in most cases, than the abstractor? Who, in most cases, is relied upon more than the abstractor and particularly in the rural counties? In many cases all you have to do is write a letter; the public service company wants to put a line across your property. Come in, I'd like to talk to you about a right of way easement across. This can be done very easily, and a lot of times adds money with very little effort and very little experience.

In Oklahoma, we continually have had, in abstract offices, problems in regards to abstractors, realtors and various other people in the preparation of legal instruments.

I think we have a good relationship with our bar association, but I think also that 99 percent of the abstractors in the state do prepare deeds, mortgages, releases, and various other instruments. Some charge for it, some do not charge for it, but in many cases, the abstractor does it at a lesser price. Perhaps this is wrong. Perhaps if the abstractor is going to do it, he should either do it free or do it at a charge that is comparable to what the attorneys charge for it, but then you get called on the carpet for practicing law. So, is the income sufficient to offset the expense that you have?

Then the question of certified copies: this of course to me is the same thing as abstracting. It's just certifying to a deed in a little different form. But again we find some abstractors who seemingly don't want to do this, that we make abstracts; we're not interested in these side things.

The eighteenth item we have steered clear of quite a bit, because most of the people who want typing done are the ones who don't want to pay for it. So we just don't do typing. Our typists are busy preparing abstracts and we just don't have time to do that, but it is an added way of increasing your income. It depends on your particular care, if you have someone who can do this as a side effort.

The escrow agent, and this is in the greater populated counties and areas, probably would come in a lot more lucrative, but we have acted in many cases as escrow agent, many where we were going to prepare the abstracts, do a lot of the work that we did not charge.

We do not embark on any long term escrow arrangements. We suggest that they go to the bank with these. We do not embark on any collecting other than an escrow down payment, and then one final installment or one final payment, within a year when title is proved to be satisfactory, or something along this line.

But this again; Mr. Phillips from Wichita mentioned yesterday, I believe it was, that he had some 900 accounts which he makes the monthly collections, payments or what have you out of and it appears to be a very lucrative type thing. So you can figure \$1, \$2, \$5 of an account per month could add up to substantial additional income.

The element of loan closings: again I'm speaking primarily to the rural areas, which we are. I don't know how it is handled in the more populated areas. Perhaps the banks do their own loan closing. Perhaps the savings and loans and various others, but in a rural area, we do probably 50 to 60 percent of the actual loan closings, because our lending institutions are not within the town or within the county. They are from outside, and such agencies as the Farmer's Home Administration, the Veteran's Administration and various others, and this likewise, can be very good.

The best one that I heard in regard to making money was an article that appeared in the newspaper. It said, "If you will send me \$10, I will give you my secret to making a million dollars." The man sent his \$10 in and here came back a short note. "My secret is to get enough ads in enough papers and enough suckers to send me \$10."

Then we have this one of abstract storage. Most of you probably store abstracts, no charge. There is one firm that we know that charges \$1 per year per abstract with an advance fee of \$10, which means that when the abstract comes in, they pay for ten years, whether they leave it there two months or whether they leave it there the full ten years.

Of course you have to offset this or figure on this in regard to space. What is it going to cost for the space, and quite frankly, I can't see where they can come out on it, but if you have the space and you have the insurance, then this might not be a bad investment.

I'm curious as to how many, and I would like to see a show of hands, how many charge your customers for the postage and do it on your billing? I can see that we're in the minority, but we have charged postage for sometime. How many charge postage, but camouflage it?

There are two or three ways of doing it, but I suggest it particularly as postage is increasing and looks like it hasn't stopped yet. But this runs into a major item. It is no longer a minor expense item in your operation, but consider this thing of charging your customers for postage, whether you are chicken and you camouflage it or whether you come out in the open and really show that you're charging the customer for it.

Basically, in Oklahoma and in the oil producing area, it seems as though most people are free to use the abstractor's records, to come in and use them at will. Now Jim, I understand in Arkansas and Michigan we've heard some comments from some of our oil company people, and in a few other states, that the records of the abstract company are not open to the public. Maybe we're missing a real bet. I've heard any place from \$5 per hour, per person to \$25 per hour, per person, to use the records. I've heard charges along the line of so many dollars per section.

Perhaps we've been missing a real bet on added income, but so far we have not charged the public for the use of our records. Now we have run into the situation where attorneys have wanted to use them and where they have made title opinions from these, from their actual check of our records. We've seen their title opinions, where it says based upon the examination of the indices and photo abstract company and they go on with their title opinion.

Of course we sort of get up in the air when this happens, but how much of this happens, we think is very minimal, at least in our particular case, but it does appear, in many instances, to be very very lucrative. But then on the other hand, on occasion, and this is in

regard to oil companies perhaps more than others, that on occasion the companies will send an attorney in to examine the county records, if you happen to be in a state, in a county, which have adequate records. Now of course, if it's the grantor-grantee only, and not the tract book, then you have them caught, but we do have adequate county records which are tract book, and we permit them to check ours.

We have never charged for an estimate on an abstract, even though we knew the customer was shopping. There are some who do charge, with the understanding that if they later would come back, or come back within a certain period of time, that this estimate charge will be applied to the purchase of the abstract. This perhaps will cut down on a lot of time, if they know ahead of time that they're going to have to cough up \$10 or \$15, whether they take it from us or whether they take it from others.

Also that of being agents for loan companies and this again is aimed at the rural areas: agents for map companies—the ownership maps, the various type maps that are available, say by out of town, out of state companies who prepare maps in your county, in your state

—most of them pay a 20 or 25 per cent commission for any maps that you might sell for them.

Then the county maps or city maps: what is the more likely place to find such maps than in your office? We do not sell these. We acquired a customer, because our competitor charged \$.50, for a county map, to an oil company who had done several thousand dollars worth of business with him. As a matter of fact, shortly after this occurred, one of the representatives of the company brought into our office an order for an excess of 200 abstracts at one time, and they had been doing business with our competitor for years and years and were satisfied in every respect except for the \$.50, that it was just a piddling item, but if he didn't appreciate their business any more than that, then they wouldn't bother to go back. This is to your own discretion though.

The sale of printed forms, the contract microfilming: I have a feeling that probably most, in some manner or other, use microfilming. Your camera probably is busy only a small portion of the day. It is being used only a small portion of the day. Now I do not advocate this on a large scale basis, otherwise you get into another side business.

What I'm speaking of is: maybe someone has 500 sheets that they need microfilmed. Perhaps there are some records that some one needs. It's not large enough that they can afford to rent a camera to do it and they cannot take it some place else, but this can be a good side investment.

And then actually recording for the county clerk or the court clerk: there are some counties who do, by xerox or photostat machines, or the other methods. They actually record the instruments or reproduce the instruments for recording for the county clerks, and I have heard some very lucrative figures in regards to this. They do the work and the county clerk cuts down, or the court clerk cuts down on their personnel, they cut down on their overhead for a machine, they don't have space for it and various other things.

Now Jim, I don't have those other ten and perhaps some of you may have some unique way that you have, where there is added income, and if time is up, but just for a minute, if someone has another unique way of added income, I would like to hear and the group would like to hear.

It looks like there are none. Thank you.

Improving Your Efficiency

Thomas S. McDonald

President, The Abstract Corporation, Sanford, Florida

It's great to be here today. I feel so great to be among the finest people in the world, the prettiest ladies, the greatest guys, the people engaged in the land title business.

I love to make speeches. I love to talk. I love to get in front of people. I guess the reason I like to talk and make speeches is, at home I have two teenage children, two pre-teenage children, three cats, a dog named Thunder, a hi-fi set, a stereo set, a record player, four radios and the old man, me, who doesn't get to say very much. So when I had the opportunity of speaking here today, I jumped at the chance, as I get to talk and you have to listen.

This is one of my favorite subjects, saving money. I'm a Scotsman, I like to save money. I don't like to spend it, I like to save it, and I want to share with you today a few ways that I've learned to make my office more efficient.

Now I was assigned this subject, I didn't choose it, and I thought one of the first things I should do is get up to this place called Detroit, and I needed to find a nice efficient method of getting up here. So naturally flying is the best way to go from Florida to Detroit and I looked over the schedules and the cost and the price and so forth, and I noticed that if you fly at night, you can save a lot of money. You still go first class and save a lot of money. I like to go first class, because I'm tall and these little seats that they have back there in the

tourist class are just not big enough for me.

So I got on the plane, heading for Detroit. I left at 10:15 p.m. and I said, "Now I'll get up to Detroit in plenty of time, about 1:00 o'clock in the morning; you usually don't go to bed before 1:00 o'clock at a title meeting anyway, and I'll go to bed and get a good night's sleep and be raring to go and be in great shape for the ice breaker, Sunday night."

Well we flew on up here and we got up here to Detroit right at 1:00 o'clock, just like we were supposed to, great efficient airlines, and we flew around and we looked down and saw all the lights of Detroit, nice and beautiful down there, but the airport, which they put some fifty miles away, was all fogged in, and we circled for three hours trying to find it.

So finally we went back to . . . we didn't go back, they said we're going to Louisville, Kentucky, and that's where we landed at 4:00 o'clock in the morning, in Louisville, Kentucky, and then the next morning they said: "We're going to have a plane for you at 7:55 so you'll be up in Detroit in no time flat." So we arrived, we got ourselves ready right at 7:15, as they said: "Be sure to be there at 7:15", and we waited, and we waited, and we waited, and we finally . . . I got into the hotel about 11:00 o'clock in the morning.

But everything is not like this. We do have some methods of getting things

done, and if you first try and don't succeed, you want to keep trying.

There are four areas that I want to talk to you briefly about today, areas that will improve your efficiency.

The first is stretching the dollar. The second is office and plant layout. The third is helping the employee to become more efficient. And the fourth is the attitude of you, the boss.

Now the first and this is a tough job to do anytime, is stretching the dollar, making it go farther, but it is the first thing that I think we need to do, and a great many small and medium size title companies, and I'm in that category, do not have a financial plan. They do not have a budget and some of you may say, "Well goodness gracious, I have to live on a budget at home or at least we try to for a while, and if I have to live that way, I'm just not going to live."

But you need to have a financial plan. And you say, "Well how do I go about starting this, if I've never had one", and I realize that your larger companies have budgets and financial committees, and so forth and so on, but I'm directing my thoughts in this particular area to the smaller title company.

Take your last year's financial report and start from there, and devise a plan. Decide how much you want to make this year. Set a goal, try to make it a little realistic, and also find out how much you want to spend, how much it is going to cost you to make this money

and to produce the products to make this money.

Now you need to be realistic about this. You cannot say, "Well I spent \$320 last year on postage, I'm just going to have to cut down on that." That kind of reminds me of the little lady that went to the gas station and the attendant said: "You need three quarts of oil." She said: "Well just put in one, I've got to teach this car not to use so much oil."

But you've got to be realistic about it. Postage is going up. Maybe there are some ways that you can save money by this. Maybe you can make more deliveries than you used to. You need to look into this possibility.

Another way that you can stretch the dollar is to invest your idle cash. Now most of your federal savings and loan associations, and some of your banks, are paying daily interest. You can set up an account, put your money in it, and if you need it you can draw it out and still get interest on your money.

Now you want to analyze this too. Don't do as a friend of mine did who was in another business and thought this was a great idea. He had been hearing these radio ads about putting your idle cash to work. So he took everything out of his business account except a few dollars and put it into this savings account, but he forgot to analyze the fact that he had been writing a lot of checks every month and he wasn't paying any service charge because he'd been maintaining a very good balance at that bank. And lo and behold, the first month, his service charge far exceeded the interest that he made. So you have to analyze it and you have to determine what's the best amount; the amount that you need to leave into your account.

A third way that you can help stretch the dollar is to buy supplies with your competitor, and this may sound strange to so and so down the block, who steals all my business to buy supplies, but you'd be surprised that a lot of us use a lot of Xerox paper, we use a lot of other supplies and we can buy in sets of 10 and 20 cases at the time and realize quite a bit of a savings. If you don't like your competitor and just can't bring yourself to do that, perhaps your bank or maybe even a government agency will allow you to do such a thing.

Now the next area that I want to talk to you about for a few minutes is office layout. To make your office more efficient, again you need to have a plan.

Now so many of our companies, as we've grown, have added a desk, added some filing cabinets, added some typewriters and we just add, you know, as we grow, without a plan, without any thought to utilization of space. We may have too much space in one area and not enough in another. We need to analyze this and you can get a lot of help from your office supply houses in utilization of space.

One way that you can do it is to sit down and make a plan. Get some scale paper and actually figure out what space you think this should be.

Now the system that I think is good in this particular regard is that every

two years you should review your office plan. Now if you are a tremendously fast drawing company, perhaps more often. But you know every two years you are supposed to have your glasses checked and this is the time to maybe do it the same time that you have your glasses checked, every two years.

Now speaking of that, three years ago, the last time I went to have my glasses checked, my doctor told me, "The next time you come back I'm going to have to put you in bifocals." Well needless to say, I haven't been back.

But review your office. Review what the individual person is doing at his particular job—and some of them don't need very much space. In fact, some other time when you analyze the space in your office, you may find out that you don't even need that employee, but anyway you can find out what they're doing. But again you come back to the plan; you have to have a plan of action.

Now the third area that I want to talk to you about is helping your employees become more efficient. Now one thing I'm not going to talk about today is equipment, because we've got some experts in this line who far exceed my ability in this, and we've got a workshop this afternoon and I encourage you to go to that workshop, to learn about equipment and this way you make your operation far more efficient.

But to get back to helping your employees: one little item that's small, but I think does help, is your coffee breaks. Now this is a tradition of ours, we have to have coffee breaks. In fact I'm kind of suspicious of an abstracter who tries to search titles who doesn't drink coffee.

I think something must be wrong with him. Anyway we have coffee breaks and one thing that we found is that these coffee breaks seem to linger on a little longer than they should. We used to stagger them and it's a little hard for the boss to keep up with how long they've been there. So we put in a little thing that at 10 o'clock you drink coffee, whether you like it or not, you drink coffee at 10 o'clock. And at 10:15 you quit drinking coffee, whether you are finished drinking it or not, and another thing, we leave one receptionist to answer the phone and to tell the customers that they just have to wait because we're having our coffee break now.

But we get all the employees together for a few minutes and this is good. It gives a lot of esprit de corps and they can talk about their operations and everything, and you know they can come back to work ready to go, and we found that this is very helpful.

Another thing to make your office operation more efficient—and the strange thing is that we're planning this next week in my office, for it seems that I came down with a bug last week—is giving flu shots. Give it to your entire office force. They're not there to work if they have the flu, which seems to be a common ailment that goes around the country every few years. You can have them there with this little investment that you give them. They can be there

on the job working, and you can often arrange to have the doctor or nurse come right into your office and give the shots. This kind of makes your employee also feel like you really care. I care about their health and their welfare. What you're really caring about is you want them to be there to do their work.

Another thing I have found that is helpful in this regard with the employees is safety. You know we heard a lot about safety in school, grammar school you know, and this is a great thing in grammar school. My children bring home these safety things and I have to check the house out all the time. I have two children in grammar school and I've got to check out two things. I don't know why I have to do two, but I have to, because both the children bring one home and they won't let me check both of them at the same time, I've got to make the report around with them. But anyway it's a good idea to appoint someone in your office as the safety officer of your office.

Let me take that person in your office who you never could really advance, and you're really trying to do something for him sometimes; you really couldn't give him too much responsibility. But get him some safety manuals and some safety information and make him the safety officer of the office. If you could cut down on some internal office accidents, just little bruises here and there, you could increase your efficiency.

Now the final item that I want to talk to you about for a few minutes is the attitude of you, the boss. I think this is a most important thing in an office, the attitude of the boss. You are the captain of the ship. This ship has got a plan and you're the captain, and you've got to be the one to set the pace for that office. You've got to be the one to show efficiency in the way you operate and the utilization of your time. That you take your time and that you get the most mileage out of it. You have to set the pace.

Sometimes you need to get motivated before you come to work so that you will be in a right frame of mind. Have the right attitude when you get there, so that when you get to work you're raring to go. And one thing that I do—my whole family thinks I'm crazy for doing this—every morning when I get up, as soon as I get up, I say: "This is the greatest day of my life and tell them off," and what does this do? It does two things, it wakes me up for one thing.

The second thing, it starts the adrenalin running and by the time you get down to work, you feel so good that this thing kind of goes all over the office. Everybody just feels this thing and they're ready to go and they produce, and they make a lot of money.

Sometimes this is hard, I mean sometimes you're feeling low and you're feeling down, and you just don't think, well I can do it today. I've been doing it for weeks, but I just can't do it.

Sometimes you need some quips. One thing that I do sometime, you can do if you live about 20 minutes away from work. I don't live 20 minutes away from

work; I live about ten minutes away from work. Sometimes I have to take the long way so I can hear all the tape. I take a cassette player with me. I put it right beside where I sit in the car, and I play it.

The tape recorder says: "He runs the corner gas station because that was his dream, that's what he wanted to do. The success is the successful salesman, who wants to become a top notch salesman, and grow and build up his organization. A success is anyone who is doing, deliberately, a predetermined job because that's what he decided to do deliberately, but only one out of 20 does that."

I listen to this tape and I have several tapes that I listen to, and I'm sure you recognize that voice of Earl Nightingale,

and this motivates me a lot of times to get there and say: "Well I've got the greatest job in the world. Got the greatest employees and I'm going to have a great day today, and it's a real joy to work."

Another thing you can use, you can put a tape in there if you have some thoughts, while you're riding down to work, and sometimes in the morning you have some of your greatest thoughts, of ways to improve your operation and you want to jot it down. So you put it on player and you have a blank tape in there and you talk into it and put down some of your thoughts, that you have early in the morning. Maybe you get your thoughts in the shower. I don't know whether this is

waterproof or not, but it may be worth a try.

But anyway you can use this cassette player for a number of different things, but the attitude of the boss is so important in making the whole office run smoothly and efficiently.

I would just like to say to you in closing, I think that we in the title profession are entering into our finest hour. We can make our companies, each one of them, whether they are three men or a three person company or have 300 or 400 employees. We can make it the greatest company in the world and this is what each of us should do, and this is what we should think about each morning when we come to work. This is going to be our finest hour.

Implementing a Pension Trust and Better Accounting Procedures

William Quinn

President, Brooks Abstract Company, Lansing, Michigan

I will attempt to highlight some of the benefits available to corporations, partnerships, and sole proprietorships, and will list each benefit, and make comments regarding the tax deductibility.

Group Term Life Insurance is deductible. Both regular and Sub-S corporations may purchase group term life insurance on owners and employees and fully deduct amounts of life insurance purchased. Amounts in excess of \$50,000 have a term cost which must be reported to employees. Partnerships and sole proprietorships may purchase group life for their employees and deduct the premiums paid for their employees. In addition the owners may be included, but may not deduct the cost of such program for themselves.

Accidental Death and Dismemberment: the same rules apply as under group life.

Disability Income, continuation short and long term: basically the same rules apply here too. A sole proprietorship cannot deduct their own, but they can deduct employees.

Medical Reimbursement Plans, Hospitalization and Major Medical: the same rules basically apply here as under group life inasmuch as the corporations, sole proprietorships and partnerships may deduct contributions made on behalf of their employees. It may not deduct the contributions made for the owners. The corporation, regular or subchapter, may deduct all contributions and in addition, reimburse any of its employees for medical expenses incurred which are not covered by the group health coverage.

Pension and Profit Sharing Plans: we'll cover each one of these entities separately. A sole proprietorship may set up a program for his employees, on the same basis as a regular corporation, fully deducting the amounts contributed on their behalf. Under this arrangement

he may not participate. He may, however, set up a self-employed program in which he can participate, subject to a maximum contribution of 10 per cent of his net earnings, but in no event can it exceed \$2,500. The employees may have a much more liberal program.

Partnerships: the rules for a partnership are exactly the same as a sole proprietorship.

Corporations: here we have the regular corporation and the Sub-S, the sub-chapter corporation. Under the Sub-chapter S corporation, the owner's contribution from a deductible standpoint is limited to 10 per cent of his net income or \$2,500, whichever is less. He can, however, make an excess contribution to the plan and not deduct it. An excess contribution for an owner-employee under a sole proprietorship or a partnership under a self-employed Keogh plan would disqualify the plan completely. It would then be taxed in its entirety.

Sub-chapter S, the same as a regular corporation, can have the advantage of delayed vesting. I'll explain this delayed vesting a little later on.

The Keogh vesting provisions are much more restrictive. Sub-Chapter S, the same as regular corporations, can have early retirement provisions. Keogh retirement plans do not permit this kind of flexibility.

The investment of Sub-chapter S funds can enjoy more diversity than can investment of Keogh plans. Forfeitures, monies left behind by employees who leave, under a profit sharing plan and under a Sub-S, cannot be used to benefit a shareholder employee. This is a definite disadvantage of a Sub-chapter S profit sharing plan.

Regular Corporations: all contributions may be fully deducted. There are not the limits imposed of 10 percent or \$2,500. Many plans are developed which require a contribution equal to 100

per cent or more of an employee or owner's salary, at the time they enter this plan.

This delayed vesting that we touched on slightly is the program wherein you fund your plan completely with life insurance. You can delay the vesting of the cash surrender value of that policy for up to 10 years.

Now I'm not an expert in the accounting field and I'm not a tax attorney. If you were to enter into any sort of a retirement program for your employees, ideally you would seek out a C.L.U., a certified life underwriter who is very capable and who is very experienced in pension plan funding and pension plan planning. He in turn would direct you to an attorney who is completely versed in tax work. These plans, all plans, must be submitted to I.R.S. for their approval before they can be enacted.

We submitted a plan some five years ago, that was strictly funded by life insurance. We are now in the throes of revision of this plan and we are having to resubmit the entire plan and redraw the entire plan, because we now want to fund it, partly by life insurance, and partly by investment funds, mutual funds.

The advantage to a small corporation, to a sub-chapter corporation, such as ourselves, to diversify the investment by changing the plan from strictly an insurance funded plan to a mutual fund and insurance plan, is that the mutual fund eventually, theoretically, will cover the entire cost of the plan.

We have a delayed vesting under our peculiar plan that has been authorized or has been submitted now to the new delayed vesting subcommittee to I.R.S. at the present, that is a ten year vesting. Presently we are under a five year vesting, but our plan was quite restrictive so that we were not getting the results from employee retention that we felt we

should. We are liberalizing the plan to some extent. The corporation has, in all this time, made a 100 per cent contribution; the employee contributes nothing. The employee has the option of contributing up to 10 per cent of his or her wages, without paying any tax on that money.

Our accounting procedures are relatively simple. We have a firm of C.P.A.'s that we do business with entirely. They come in once a month, pick up all of our

books, do all of our bookkeeping and accounting processing for us. We have several accounts set up. The income is broken down into two categories, title insurance and abstracting. There are about 30 sub-categories in which the expenses are listed, from advertising through travel.

I would like you to throw out some questions. I don't want too technical ones. I'd rather have them in generalities, but if anyone in the room becomes ex-

tremely interested in a retirement or a pension plan, then they should seek out the best counsel they can find for taxes. The tax advantage is tremendous. There are tremendous advantages to both a sub-chapter corporation and a full fledged corporation.

Now sole proprietorships and partnerships, . . . there isn't quite the advantage there. There is some advantage, but it's negligible.

Are there any questions?

ELECTION OF SECTION OFFICERS

By proper nomination and second, the following officers were unanimously elected to serve for 1971-72:

Chairman—JAMES A. GRAY, Benton, Arkansas
President, Fidelity Abstract and Guaranty Company
126 North Main Street 72015

Vice Chairman—ROBERT G. FREDERICK, Salina, Kansas
President, C. W. Lynn Abstract Company, Inc.
115 South Seventh Street 67401

Secretary—IRENE M. FRASER, Fargo, North Dakota
President, Cass County Abstract Company
P.O. Box 826 58102

EXECUTIVE COMMITTEE

ROBERT D. ENDSLEY, Huntington, Indiana
Manager, The Jones Abstract & Title Company
Room 208, Courthouse 46750

WILLIAM T. D. HOLSTEIN, LaCrosse, Wisconsin
Vice President, LaCrosse County Title Company
509 Main Street, P.O. Box 969 54601
MEL KENSINGER, Colorado Springs, Colorado
Executive Vice President, El Paso Abstract Company
121 East Vermijo Avenue, P.O. Box 609 80901
BRUCE E. LANGSTREET, Des Moines, Iowa
Manager, American Abstract Company
407 Stephens Building 50309

TITLE INSURANCE AND UNDERWRITERS SECTION

NAIC Developments

J. Mack Tarpley

*Chairman, Committee to Establish Liaison with NAIC
Vice President, Chicago Title Insurance Company, Los Angeles, California*

I fear that some of you may have a feeling that my appearance to discuss with you National Association of Insurance Commissioners is a regular and expected part of our program, much the same as we could expect a Harold Lloyd comedy when as kids we spent Saturday afternoons watching the latest episode of the "Perils of Pauline." There is no intent on my part to suggest that I have the talent of Mr. Lloyd, although on more than one occasion I have found myself dangling from a parapet high above a bottomless pit dug by my own ineptitude.

The NAIC, as an association, seems to be having some problems in coming to grips with our industry. At our last meeting in New York I reported to you that the proposition of an NAIC Model Title Insurance Code had been referred to a task force to be appointed by the chairman of Property and Liability Committee of the NAIC.

At the June meeting of the NAIC held in New York the printed program contained an agenda item for the meeting of the Property and Liability Committee which read "Report of Task Force to Consider Model Title Insurance Code."

When that item was reached, the chairman announced that there would be no report of the task force for the reason that while it had been created, it had not been staffed by appointing the members thereof. He stated that he would recommend to the executive committee of NAIC that it be staffed and that it make a report at the midwinter meeting of NAIC which will be held in late November and early December.

Subsequent inquiries have been made of the NAIC staff, but to date we have no information of the identity of the task force members.

NAIC does have a sub-committee of its Blanks Committee studying the feasi-

bility of integrating the Title Insurance Form 9 (Annual Statement) into the Property and Casualty Form 9. The interest of NAIC in integration of the Form 9 is brought about by the desire to use an existing computer program for processing of the Property and Casualty Form, and the desire on the part of the members of NAIC to minimize the number of forms and examination procedures.

The Standard Accounting Committee of ALTA is opposed to such integration of forms and is working with the chairman of the NAIC sub-committee to prevent the integration and to obtain badly needed and meaningful revisions in the title form.

While the activity of NAIC as an association has been rather limited with respect to title insurance, several insurance departments have been busy as little beavers. I have been asked to report to some of those individual activities.

Most of you are aware that the Wisconsin Insurance Department suggested to ALTA that it should register and become licensed in the state of Wisconsin as a rate service organization. Under Wisconsin statutes, a rate service organization is defined as a person who assists insurers in rate making or filing by collecting, compiling and furnishing loss or expense statistics, recommending, making or filing rates or supplementary rate information, or advising about rate questions. The inquiry was triggered by the filing by insurers qualified in Wisconsin of forms of policies developed, copyrighted and printed by ALTA. The Wisconsin Department also expressed some interest in the statistical activities of the Research Committee and the Claims Committee of the Association.

Pursuant to instructions of your Executive Committee, representatives of ALTA sought an informal conference with the Department. The conference was rejected by the Department and ALTA was requested to submit a statement in writing showing cause why ALTA should not be required to be so licensed.

Such a statement was prepared and submitted to the Department in April with an offer to have ALTA representatives meet with and discuss the matter with Department staff.

Nothing more was heard of this matter by ALTA. However, on or about September 20, a committee of the Wisconsin Title Insurance Rating Bureau met with staff members of the Wisconsin Department pursuant to an inquiry by the Department relating to a rate and form filing by the Bureau. The committee was informed that the Department expected ALTA to set up a conference with the Department staff to discuss the matter of licensing as a rate service organization. A contact of the Department was made to verify this and the Department's attitude was reported to the Executive Committee of ALTA for its action at this meeting. The Executive Committee has directed that two representatives of the Association, Mr. Thomas S. Jackson, Counsel, and your speaker, meet with the Wisconsin Department to pursue the matter further.

I remind you that in excess of 95 percent of the membership of ALTA is neither qualified nor doing a title business in the state of Wisconsin. I should also point out to you that a number of other states have similar statutes and could impose the same requirement.

Moving from the Midwest to the East, we find the New Jersey Insurance Department taking an active interest in the title insurance industry.

Under Section 17:29A-25 of the New Jersey Revised Statutes, title insurance is exempt from the application of the rating laws. The commissioner is authorized however to make investigation with respect to the exempt classes of insurance and to call on insurers to furnish information relative thereto.

The New Jersey Department sent to title insurers qualified in the state a questionnaire almost identical in form to

the questionnaire distributed by Senator Proxmire. Responses have been made, however no official word has been received of the Department's evaluation of the material.

A committee of the New Jersey Land Title Insurance Association met with the Department staff last month. At that time a Department staff member suggested that the title insurance industry begin the preparation of a rating proposal and be prepared to submit it at a December meeting with the Department. There was also some discussion of the establishment of a rating bureau.

After a cursory examination of the New Jersey statutes, I am firmly of the opinion that for the industry in New Jersey to work together in the establishment of a rate is fraught with many potential violations of federal laws, in view of the exemption of title insurance from the application of the New Jersey statutes. I do not see how a rating bureau operation could be legitimized without a proper amendment of the statutes.

A matter of interest, not directly attributable to regulatory authority, faces a number of us in Colorado. The 14 foreign title insurers licensed in that state are defendants in a civil anti-trust action brought by the plaintiff as a class action seeking to recover damages for excessive title charges. There is an allegation of action in concert to fix prices, and a further allegation that the state of Colorado has not regulated rates and prices in any meaningful or effective manner.

The state of Arizona has also done its part. All title insurers licensed, all agents for title insurers and the Title Insurance Rating Bureau of Arizona have been formally requested to appear at a conference with representatives of the Arizona Insurance Department prepared to discuss:

- (1) The basis on which rates currently charged the public are fixed; and
- (2) The rating material currently on file with the Arizona Department; and
- (3) The method of determining "risk premium" as defined by the Arizona statutes both for rate making purposes and the calculation of premium taxes; and
- (4) The reporting of premium receipts in Schedule T of the annual statement and in premium tax returns.

Under Arizona statutes title insurers are taxed under the Arizona Income Tax Laws; however, foreign insurers, by virtue of the retaliatory statutes can also be subjected to a premium tax. The statutes provide that such premium tax shall be calculated on "risk premium" as defined therein.

The rating bureau and a special committee thereof have been struggling with the subject matter for the past four months and to date have been able to arrive at only two conclusions. First, the number of accounting methods and procedures coincides exactly with the number of title insurers licensed in Arizona. Second, the adoption of a uniform "risk premium" is not possible on a voluntary

basis. The reason therefor is the different methods of operation of title insurers and the resulting difference in systems of expense provisions.

Those of you not licensed in Arizona, wish us luck at our November conference with the Department.

The great "freeze" imposed by Mr. Nixon has affected all of us. The New York Insurance Department rejected an application by the New York Board of Title Underwriters for an increase using the presidential order as the basis for disapproval. However, a number of us feel that the Department's decision as written was a deliberate attempt to influence legislation to amend the rating laws to abolish the payment of commissions and was not responsive to the application for increase and the statutes.

A number of insurance departments have issued bulletins stating they will not consider any rate filings with increases during the effective period of the freeze.

An interesting result of the "freeze" has taken place in the state of Nevada. Some Nevada companies filed for a rate increase in the month of July. The rate of at least one company was approved as filed. At least two other companies' rates were disapproved, subject to the filing of statistical justification materials. Before the statistics could be compiled and submitted, the presidential "freeze" was invoked. Therefore, the latter two companies must continue their old rate. I suppose the company whose rate was approved could adhere to its increase, or could go back to its previous charges.

Those of you operating in rate regulating states will find very interesting reading in the case of *Bentley v. Allstate Insurance Company* decided by the Supreme Court of Georgia and reported in 182 SE2d 770. You will also find additional facts from the decision of the court of appeals in the same case reported in 178 SE2d 700. I am sure that the majority opinion will indicate to you some of the problems relating to rate making. I am sure, also, that most of you will applaud the dissenting opinions.

Now, having reported as requested, I am going to make a few suggestions for your consideration.

As W. C. Fields once said, "It is time we took the bull by the tail and faced the situation." Regulation by states is with us. Some of it we asked for, some of it we did not. We are going to have more of it, so we have no alternative but to learn to live with it. We can make our lives a great deal easier if we seek to understand the principles of insurance regulation and work with regulatory authorities to better educate them as to our industry and its special problems.

A girdle, a garment worn by the ladies and I understand by some sagging members of the opposite sex, has been defined as a device for turning facts into figures. In view of the growing trend toward rate regulation and justification, I urge you to remove the girdle from your accounting systems so that the facts necessary for rating purposes can be readily ascertained with a reasonable degree of accuracy.

Submerged, But Not All Wet

C. J. McConville

Chairman, Committee on Navigation Servitude
President, Title Insurance Company of Minnesota, Minneapolis, Minnesota

As I hope you may have gathered, the title of this part of the program—Submerged But Not All Wet—deals with the subject matter and not the speaker. I'm going to talk to you about title problems involving lands that were, or are claimed to be, once under navigable waters and attendant problems. I will cover four areas. First, the status of the navigational servitude. I am sure that the sheer anticipation of hearing that report sends shivers up and down your spine. Secondly, I will report on the cases around the country involving wetlands, meadowlands or tidelands, or whatever they are called in your area. Third, the results of a survey conducted by the ALTA Navigational Servitude Committee relative to the wetlands problem. By the way, that committee consists of John Eagan of Title Insurance and Trust, Mel Martin of American Title, Al Pentecost of The Title Insurance Corporation of Pennsylvania and Paul Plack of The Title Guarantee Company. I want to publicly express my thanks to them for all their hard work. And, finally, I will review some recent cases which, if you'll pardon the expression, have caused waves on the shores of states abutting navigable waters: that is the right of the public to beaches on privately owned land.

The Navigational Servitude Committee of the ALTA came into being in October, 1968, because at that time the American Bar Association was actively supporting legislation which would minimize the problems of navigation servitude. Stated in a nutshell, or perhaps it would be more appropriate to say, stated in a nutshell, the navigation servitude refers to the paramount right of the United States under the commerce clause of the Constitution to perform work in its navigable waters without payment of compensation for injury to private property within the bed of the navigable water.

As you know, the Corps of Engineers establishes harbor lines in navigable bodies of water. Perhaps in your area they are called pierhead lines or bulkhead lines. Under regulations of the Corps of Engineers adopted in May, 1970, implementing Section 403 of Chapter 33 of the U.S. Code, a permit is now required from the Corps of Engineers for any "work" that is commenced shoreward of the harbor line. The term "work" has not been clearly defined by the Corps of Engineers. In the case of improvements to be built on filled-in lands, there is the definite possibility that the word "work" will be interpreted

to mean not only the fill, but any improvements put on it. Therefore, it would seem judicious for anyone intending to put expensive improvements on filled-in lands to request that the permit from the Corps of Engineers include permission to erect the type of improvement that is contemplated as well as to put in the fill.

Of course we are all aware of the ecological and environmental pressures that have been exerted upon the Congress and the Corps of Engineers. The fact that the Corps must now grant a permit has already had its impact. For instance, a group of Florida developers recently wanted to build an island in Tampa Bay on submerged land that they owned. The Army Engineers denied permission on the grounds that the project would harm fish and wildlife in the area. The developers contended that the Engineers could only block projects that interfered with navigation. A Federal District Court in Tampa agreed with the developers but the Fifth U.S. Circuit Court of Appeals reversed the decision. In February of this year the United States Supreme Court refused to grant certiorari, thereby sustaining the Circuit Court's opinion.

In May of 1970 the American Bar Association appeared before the Senate Committee on Public Works to make a statement in favor of legislation that would compensate upland owners who have filled in lands and made other improvements on the filled-in lands out to the harbor line, if the federal government determined to condemn. No action was taken by the Congress.

Presently the ABA is pressing for a Congressional study to be made of the subject with the hope that legislation providing some relief will come out of such hearings.

There is a rather vocal group, including spokesmen from the Corps of Engineers, who feel that this is not as big a problem as investors and title insurers make it. However, there is no doubt in my mind that substantial developments have been dropped because the United States Government has this right to condemn without compensation, and an investor is not willing to gamble that this will not happen to his project.

In the meantime there is a piecemeal solution. That is in having Congress enact special legislation, project by project, which declares that the area which is to be filled-in, is non-navigable. There are over 50 cases in which the Congress has so acted. One of the most heralded cases is on the East River in New York where substantial improvements were to

be made on freshly dredged fill, in a pier area where some of the largest ocean liners in the world had docked for years. In the year prior to the enactment of the measure, one pier alone handled 50 tons of newsprint. Yet Congress declared that spot in the East River to be non-navigable! Needless to say this is an unsatisfactory solution.

Our committee feels that ALTA should continue to support legislation which would compensate owners who fill in and improve lands that were once under navigable waters out to the harbor line where permits have been granted by the Corps of Engineers.

A rash of claims and litigation involving various states' claim to lands that were considered to be privately owned, caused the scope of our committee to be expanded when its members were reappointed in October, 1970. We were directed to act as a clearinghouse to gather information on cases and claims involving tidelands. John Eagan of our committee prepared an excellent paper which was presented at the Mid-Winter meeting in Coronado this Spring covering the landmark case of the *City of Long Beach v. Mansel* (3 Cal.3rd 462). I will not repeat any portion of his presentation since John Eagan's paper was printed in the October issue of *Title News*. I commend it to your reading.

In addition to the *Mansel* case, California has probably 50 more cases of various types pending where the state is asserting ownership. But that state is not alone. The state of Washington has three cases pending. In 1970 a case came down from the state of Maine. Also, the Court of Appeals of Maryland, in May of this year, delivered a very comprehensive opinion. Resumes of these cases and their citations will all be contained in my written report which I presume will be printed in *Title News* as a part of the results of the survey conducted by this committee.

Vying with California as the state most beset by this problem is New Jersey. According to one member's estimate there are over 100 cases of this type now pending in that state. Their problem arose when the state of New Jersey commenced condemning lands for highway purposes. It hit upon the idea that the meadows adjoining the Hackensack and Passaic Rivers were once tide-flooded and therefore belonged to the state of New Jersey. Some of these meadows have been in private ownership for over 200 years and no one, including title companies, ever foresaw that the state might claim an interest. Larger

portions of these meadowlands have long since been filled and improved with homes and industrial complexes. To further complicate matters, the state filed a map covering the Hackensack meadowlands and claims almost one-half of them for the state on the theory that they were once flooded by the tides. Needless to say the entire problem is being followed very carefully by the New Jersey Land Title Insurance Association.

One small ray of hope in this area came out of Minnesota recently, and I mean besides me. In a 1971 decision, an upland owner had filled land into Lake Superior and the state of Minnesota wanted to condemn the filled lands for highway purposes. The question was whether they had to compensate the upland owner for the taking. The Minnesota Supreme Court held that if the taking had been for navigational purposes, the state could take the improvements without payment of compensation. However, the construction of a public highway is not remotely connected with navigation or any other water-connected public use and therefore the state had to pay compensation to the upland owner for the taking. The court made an interesting statement in the case. It said that it is in the best interest of Minnesota that such lands be improved and used for profitable enterprises rather than to lie forever waste and unproductive. Further the court noted that by establishing lines of navigability that the state has impliedly invited riparian owners to reclaim submerged land.

The Committee has sent a questionnaire to all of the title insurance companies doing business in states that border on the Atlantic Ocean, the Pacific Ocean and the Gulf of Mexico relative to the tidelands problem, and whether they were aware of any claims. We received a good percentage of replies. We recognize that the problem we are discussing also involves inland states but most of the recent activity has been on the oceans. There was some doubt in the mind of one of the companies out in Lubbock as to whether his part of Texas had a problem. I would like to read parts of his reply: He allowed as how the only filled-in land in his county was when the dust blew in from New Mexico and built up in the yards more than they should. He also said that his county had never been accused of having any swamp or tidelands and therefore no riparian rights are ever involved. He added that he was sorry that he couldn't answer in the affirmative because they certainly could use some moisture even if only wet mud. He concluded with the statement that it no longer was necessary in his county to go out and make ALTA inspections of property—all that he did was wait for it to blow by.

All in all we had some interesting answers to our survey and I hope you will take the time to read that report.

The final item of my remarks deals with what might be termed the S.O.B. Doctrine. Translated that means the States' Open Beach Doctrine. Our survey revealed recent activity in this area in

six states: California, Delaware, Florida, Oregon, Texas and Washington.

As you know, the law in all but six jurisdictions is that the upland owner owns title to the mean high water mark and has a limited ownership between that line and the mean low water mark. These areas are generally called tidelands. Below that line, the title is in the state or instrumentality of it. What these beach cases appear to do is to limit the ownership that the upland owner has and move the rights of the public from the high water mark up to the line of vegetation.

In Texas the Texas Attorney General has held that beach front—to the line of vegetation—is the property of the citizens of Texas which can be used by them for beach purposes.

The Delaware case is not a reported decision and the Committee has no copy of the letter opinion given by the Court. However, for those of you who are interested, the case is *State vs. Wienski*, 274 CA in Sussex County Chancery Court.

Two recent California cases which were consolidated in one opinion by the California Supreme Court are *Gion vs. The City of Santa Cruz* and *Dietz vs. King*. In these cases the court found that there was an implied dedication of the beach area to the public. The court noted that the public had used the lands as if they were a public park owned by the government, that the use was for more than five years without asking or receiving permission and without objection being made by anyone and with the owners' full knowledge. The disturbing part of these two cases is that California originally followed the majority position that public use is presumed to be permissive rather than adverse. In these cases the upland owners did try to restrict the use of the beach. They put up logs and no trespassing signs but the signs and logs were removed just about as soon as they were put up. The court said that if a constantly changing group of persons uses lands or public way without knowing or caring whether the owner permits their presence it makes no difference that the owner has informed a few persons that their use of the land is permissive only. The court also said in the *Dietz* case that although the present fee owners have made it clear that they do not approve of the public use of the property, that previous owners by ignoring the widespread public use of the land for more than five years have impliedly dedicated the property to the public. Nothing can be done by the present owners to take back that which was previously given away. The court found that there was prescriptive dedication because the elements necessary to implied dedication were present. That is, use by the public for the prescriptive period without asking or receiving permission from the fee owner. There is no reference in either case to the right of the public to go over the upland owner's land to get to the beach areas, other than in the *Dietz* case there was an unimproved dirt road leading to the beach which had also been used by the public and it also was construed to

have been impliedly dedicated by the prior owners.

The Oregon court took the broadest, and perhaps most frightening, approach in *State ex rel. Thornton vs. Hay*. It indicated that it could have followed the Doctrine of Implied Dedication as was done in the *Gion* case in California. However, the Court stated that it felt that a better legal basis was present; namely, the Common Law Doctrine of Custom or Customary Use. This doctrine goes all the way back to Blackstone. You may recall the first of the six requisites of this doctrine because it is quoted so often. Blackstone says that, "The custom must have been exercised so long that memory of man runneth not to the contrary." The court said that one of the reasons for favoring this theory over the prescriptive theory was that strictly construed, prescription applied only to a specific tract of land before the court and doubtful prescription cases could fill the courts for years with tract by tract litigation. An established custom on the other hand can be proven with reference to a larger region. It said that oceanfront lands from the northern to the southern border of the state ought to be treated uniformly.

The other reason which commended the doctrine of custom over that of prescription as the principal basis for the decision is the unique nature of the land in question. That is, in this case they were dealing solely with the dry sand areas along the Pacific shore. The court said that these beaches had been enjoyed by the general public since the beginning of the state's political history and therefore the public had long ago gained a recreational easement over the dry sand.

The dissenting justice did not agree that the opinion should have been based on the English Doctrine of Customary Rights. Rather he felt that it should have been based on prescription.

Again it should be emphasized that the court is not limiting itself to the so-called wet sand over which the water may rise to its high tide level. Rather it is extending this doctrine to the dry sand, which is often described as that part lying between the high tide line and the vegetation line.

As a result of such decisions, some of the title insurers reported taking exception to the rights of the public in these beach areas.

The Washington state case is still pending but we are advised that the theory that is being argued is the theory approved in the *Thornton* case of local custom.

Florida has some cases pending. There is concern that the public may be able to troup across the land owned by exclusive Miami Beach hotels to get the beaches. However, as mentioned above, none of the courts have gone so far as to say that the right to use the beach area carries with it ingress over a private owner's land unless there is some right-of-way dedicated to the public, either actually or impliedly.

A review of these cases indicate that the courts are leaning to an interpretation that if a member of the public can

get to the navigable waters legally, then he has the right to use beaches. Further, that the owners of land abutting on navigable water may own the fee to the mean high tide line but that ownership may be limited between that line and the vegetation line in that members of the public can use it for beach purposes, particularly if shown that they have used it in the past.

This covers the four points I told you in the beginning that I intended to cover. I have often wondered why I was chosen Chairman of this Committee coming from an inland state like Minnesota. Of course we have around 15,000 lakes in our state, although due to our extreme modesty we only advertise our state as being the land of 10,000 lakes. But I am reminded of the story of the young lady who dropped her wrist watch into a swimming pool. No one around was wearing swimming clothes and therefore there was a problem as to how to retrieve it. About that time a professor wandered by, also fully dressed, and one of his former students who was standing there asked if the professor would mind diving in the pool to retrieve the watch. Whereupon the professor asked why he was chosen for this signal honor. The student said, "Well, I had you as a teacher for a year in statistics and you were able to go down deeper, stay down longer and come up drier than any man I ever saw." I hope that this is not the reason I was selected for this task.

I'll just conclude by stating that when reporting on a subject like this I feel something like the bridegroom who was husband number eight of a famous movie actress. He approached her on their wedding night, frightfully admitting: "I know what I'm supposed to do, but I'm not sure I can make it interesting!" I hope you have found my remarks interesting.

Following is a résumé of the replies to the Committee questionnaire of the states bordering the Atlantic and Pacific Oceans and the Gulf of Mexico. At the time of this report we did not have replies from Hawaii.

1. Has this state attempted to assert any rights to lands now apparently vested in private ownership on the basis that the state owns them because they are swamp and overflow lands, below the mean high water mark, or similar reasons?:

Alabama: Yes. *Alabama vs. Wilkinson et al.* (1968) 214 So.2d 321 (case held that the state could not quiet title against a private citizen since the state had recognized the existing title in others over a period of time).

California: Yes.

Delaware: Yes.

Florida: Nine negatives and four affirmatives.

Georgia: There is a recent opinion of the Attorney General which claims all marsh lands for the state in the absence of proof that such lands are privately owned.

Louisiana: One negative and one affirmative reply.

Maine: Yes.

Massachusetts: Yes.

Maryland: Yes.

New Jersey: Yes.

New York: No.

North Carolina: Yes.

Oregon: Yes.

South Carolina: Yes.

Texas: Yes. Attorney General's opinion in which he claims that the beaches are the property of the citizens of Texas.

Virginia: No.

Washington: Yes.

2. Are there any cases now pending? If yes, please cite:

Alabama: No.

California: Yes. There are probably more than 50 cases of various types pending.

Delaware: Yes. There has been a case filed in U.S. District Court by the state against the Pennsylvania Railroad asking for an injunction against the filling of lands to the low water mark without the consent of Congress.

Florida: There were 10 negative replies and two affirmatives. One of the affirmatives merely stated "On Crooked Lake in Polk County." The other affirmative stated "*Gainesville Development Co. vs. Levy County.*" No citation was furnished.

Georgia: No.

Louisiana: No.

Maine: No.

Massachusetts: No.

Maryland: Yes. The reply merely mentioned "Ocean City Wetlands Case" and that it is on appeal.

New Jersey: Yes. There are probably over 100 cases now pending in the state. A large portion of them involve the Hackensack Meadowlands.

New York: No.

North Carolina: Yes. The reply merely mentioned "Bald Head Island."

Oregon: No.

South Carolina: Yes. Several cases pending in lower court to determine primarily the location of the seaward boundary as delineated in the original grant.

Texas: No.

Virginia: No.

Washington: Yes. Cases pending in three counties: Pacific, Jefferson and Skagit. The Skagit County case is *Stockwell vs. Washington Loggers, Inc.*, Skagit County Superior Court case No. 31952. The Pacific County case is *Gorton ex rel. State of Washington vs. Hill*, Pacific County Superior Court case No. 16589.

Two of the actions attempt to prevent filling of tidelands presumably in private ownership. In the third case, the state claims fee to lands seaward of the vegetation line plus the right of the public to use the beaches. The arguments in this case are based largely on the *Thornton* case in Oregon.

3. Are there any cases decided recently in this state on the subject? If yes, please cite:

Alabama: Two negatives and one affirmative but no citation given.

California: Yes. The most important cases decided recently are: *City of Long Beach v. Mansel*, 3 Cal.3d 462 and *Gion v. City of Santa Cruz & Dietz v. King*, 2 Cal.3d 29.

Delaware: Yes. *State vs. Wienski* No. 274 C.A. in Sussex County Chancery Court (Letter Opinion only; not reported). Also in *State of Delaware vs. Pennsylvania Railroad Company* the following recent cases were cited: 228 A.2d 587; 237 A.2d 579; 267 A.2d 455; 273 A.2d 268.

Florida: No.

Georgia: No.

Louisiana: No.

Maine: Yes. *State vs. Johnson*, 265 A.2d 711.

Massachusetts: No.

Maryland: Yes. *Public Works of Maryland vs. Lamar Corporation*, 277 A.2d 427.

New Jersey: Yes. The cases in part are *Gaines v. National Union Electric v. Chelsea Title and Guaranty Company v. State of New Jersey*, U.S. District Court, New Jersey, Docket 1061-70; *Carlstadt Sewerage Authority v. Barell Limited*, Bergen County Docket L-13403-60; *State of New Jersey v. Goyum Industries; State of New Jersey v. Natural Resource Council, et al.*, Bergen Superior Docket L-12561-68; *City of Elizabeth, et al., v. State of New Jersey, et al.* Essex Superior Docket C-2179-70; *O'Neill v. State Highway Department* (Remanded for Retrial), 50 N.J. 307. *Meadowlands Regional Development Agency et al. v. State of New Jersey, et al.* Superior Court, Chancery Division, October 1970, 112 New Jersey Superior Reports, page 89. *Ward Sand and Materials Company vs. State Highway Commissioner*, 51 N.J. 51; *Boro of Wildwood Crest vs. Masciarella*, 51 N.J. 352.

New York: No.

North Carolina: Yes. *Carolina Beach Fishing Pier vs. Town of Carolina Beach* (1970) 177 S.E.2d 513.

Oregon: Yes. *State ex rel. Thornton v. Hay*, Vol 89, No. 11, pg. 887.

South Carolina: No.

Texas: Yes. *Giles vs. Ponder*, 257 S.W.2d 509, affirmed by Sup Ct. 293 S.W.2d 736. *Strayhorn vs. Jones*, 289 S.W.2d 321. *Hejl vs. Wirth*, 343 S.W.2d 226, reversing 334 S.W.2d 498.

Virginia: No.

Washington: Yes. *Wilbour et al. v. Gallagher*, 77 Wash.2d 307.

4. Were you or any other title company involved in any of the litigation referred to above? If yes, which companies:

Alabama: Yes.
California: Yes.
Delaware: No.
Florida: No.
Georgia: No.
Louisiana: No.
Maine: No.
Massachusetts: No.
Maryland: No.
New Jersey: Yes.
New York: No.
North Carolina: No.
Oregon: No.
South Carolina: No.
Texas: No.
Virginia: No.

Washington: Yes. (Washington Land Title Association filed an amicus curiae brief in the *Wilbour* case.)

5. Have you any claims pending involving this subject? If so, please give a short resume of the facts on a separate sheet.

Alabama: No.
California: Yes.
Delaware: No.
Florida: No.
Georgia: No.
Louisiana: No.
Maine: No.

Massachusetts: No.
Maryland: No.
New Jersey: Yes.
New York: No.
North Carolina: No.
Oregon: No.
South Carolina: No.
Texas: No.
Virginia: No.
Washington: Yes.

If you have any questions about any of the foregoing or want more specific information concerning a state listed, write to the Navigation Servitude Committee c/o ALTA.

New Financing Methods

Marvin Bowling, Jr.

Associate Counsel, Lawyers Title Insurance Corporation, Richmond, Virginia

Last Friday, I received a telephone call from Sam Hill, one of our approved attorneys in Nulluslocus County. Sam said he had a case in which a real estate investment trust was building a 234(d) preclosed FHA condominium on subaqueous property involving a sale leaseback to a joint venture with separation of title to improvements and a wrap-around open-end mortgage which would be pooled for Ginny Mae guaranteed modified pass-through securities. Since it was near lunch time, we didn't get the binder out until the 2:30 mail!

This story, of course, is apocryphal, but it does serve as an illustration of the necessity of the title insurer to keep abreast of new and sophisticated methods of investment in real estate. If we are to serve our customers properly, we must continue to acquire as much knowledge and expertise as possible regarding their methods of doing business. As these methods change, we must attempt to adapt our product to furnish them the service and protection they need.

It is my intention to discuss some of the modern techniques—some old and some new—now employed by our mortgage lending customers, especially the large institutional lender, in real estate financing and to indicate some of the problems created for the title insurer in insuring his policies and how these problems might be handled.

In hearing about these rather technical and complicated procedures, I hope you won't feel like the little girl whose father wrote a book about penguins and asked her to read it. After she had finished, he asked her how she liked it. She replied: "Daddy, this book tells me more about penguins than I want to know."

The inflationary trend in our economy has caused the mortgage lender to look for new ways of financing which will avoid the traditional fixed income return principle of lending at a set interest rate

and provide a more flexible type of income return on money invested in real estate. The theory appears to be to tie the return on money invested to the income derived from the project, thus providing a hedge against inflation.

While many of these methods were spawned during the days of tight money, they appear to be rewarding and are no doubt here to stay. I find the frequency of these transactions increasing in our shop and I am sure you are having the same experience.

I will now discuss briefly some of these financing techniques, followed by my opinion on how the title insurer should handle them in issuing its policies.

I. Mortgage with Lender Participation

The lender will receive a mortgage providing for fixed interest but which also provides for payment to the lender of a percentage of income—usually net—derived from the property. The mortgage may be on the fee and the income derived from leases or may be a leasehold mortgage and the income derived from sub-leases.

If we are to insure a mortgage on the landlord's fee subject to a lease we must make exception to the lease but may insure that the lease is subordinate to the insured mortgage, if such is the case. Also, if there is an assignment of rents under the lease by the mortgagor-landlord to the mortgagee as additional security, we may show this as information after the exception to the lease, *not* as an insured interest in land nor as an insured security instrument under schedule A of the loan policy.

If a mortgage is given on a leasehold estate, the lender may require the landlord to *subject* his fee to the mortgage. This should *not* be a so-called "subordination" of the fee but an actual mortgaging of the fee by the landlord's joining in the granting clause in the mort-

gage or by executing a supplemental mortgage.

If the fee interest of the landlord is subjected to the lien of the leasehold mortgage, we may issue our loan policy insuring a fee simple title. Schedule A will show the estate vested in the landlord as a fee simple subject to a leasehold estate vested in the lessee. It is unnecessary to make an exception to the terms and conditions of the lease since the mortgage is a lien on the rights of the landlord in this instance.

II. Sale and Leaseback

This is a traditional method of real estate investment by institutional lenders with which we are all familiar, but there are some new wrinkles involving the separation of land and buildings.

Where the land is unimproved, the developer, in order to recover land costs, sells the vacant land to the institution and takes back a long term lease. The tenant then constructs the building, giving a mortgage on his leasehold estate in the land and his interest in the building to the institution. This procedure allows the developer to "mortgage-out" and to take tax depreciation on the building.

If the developer's land is already improved, he sells the land only to the institution, reserves title to his buildings and takes back a lease of the land only.

In either case the lease and/or deed may provide that while the building remains the property of the lessee-developer during the term of the lease, upon its termination thereof, the building shall become the property of the institutional landlord. The problem created for the title insurer in this situation is in determining how to insure the various interests in the building.

The institutional landlord may want an owner's policy insuring its fee simple title in the land and its interest in the building after the lease ends. The developer-lessee may want an owner's policy insuring its leasehold estate in the land

and interest in the building during the term of the lease. The institution may also want a loan policy insuring its mortgage on the developer's leasehold estate and interest in the building. I will discuss these three policies separately.

The institutional fee owner-landlord may require his owner's policy to insure not only the fee in the land but also a right of reversion in the building free and clear of liens upon the termination of the lease. There is a line of cases which holds that although a lessee constructs the building and the lease provides that it is his during the term thereof, unless he has the right to remove it, the title to such building nevertheless vests in the landlord upon construction with the lessee obtaining only a possessory interest. Upon the termination of the lease the building belongs to the landlord in fee simple free of tenant's interest.

If the buildings are already constructed before the sale-leaseback, the deed from the developer to the institution should convey both land and buildings and then reserve title to the buildings in the developer during the term of the simultaneously executed leaseback.

The owner's policy to the institution could then insure fee simple title to the land only together with a reversion in the building upon the termination of the lease. The policy should make it clear by exception that it does not insure that the building will vest in the landlord free and clear of liens arising after the date of the policy.

The owner's policy should be issued for the full value of the land and improvements since the landlord could obtain the possessory interest in the building at an early date in the event of default under the lease.

In issuing a leasehold policy to the tenant-developer, we may insure that his estate is a leasehold in the land together with an interest in the improvements during the term of the lease. Exception should be made not only to the terms and conditions of the lease but also to lessor's right of reversion in the improvements as provided in the lease and the deed.

The loan policy issued to the lender would show these same estates in land and building vested in the mortgagor and contains these same types of exceptions.

As you can see, this procedure gives the institutional lender the advantages of being both a mortgagee and a landlord.

Having an advantage reminds me of the Saturday night my roommate in law school came back from a blind date. He told me in glowing terms how he had taken the girl out to Goshen Pass and parked in a spot overlooking the Shenandoah Valley. It was a beautiful night and he said he couldn't resist making certain overtures to the young lady. She said she was agreeable provided he would put his top down so that she could look up at the stars, which she said made her very romantic. My roommate said, "I had my top down in an hour and everything was great!" "An hour", I said, "I would have had my top

down in thirty seconds." "Yeah", he said, "but you have a convertible!"

III. Sale and Buy Back

Under this procedure, the developer sells land and buildings to the institution and takes back a long term contract of repurchase, payments under which provide the necessary yield to the institution. We may issue an owner's policy to the investor insuring a fee simple title with an exception to the contract of sale and an owner's policy to the developer insuring his interest as a contract purchaser.

IV. Equity Participation

This is the new and revolutionary method of institutional investment in real estate. Simply stated, the institution acquires an interest in developer's project by contributing capital and receives his return by sharing in the profits. This participation may take one of several forms. The institution (or its subsidiary) and developer may form a land owning corporation, or they may set up a real estate trust with themselves as beneficiaries. The most popular form, however, is the forming of a partnership, general or limited, or a non-partnership joint venture. The institution may also make a mortgage loan to the organization of which it is a member.

We have no special problems in insuring title in or a mortgage from a corporation or trust, but we have several problems relating to a partnership or a joint venture formed for this type of financing.

While a partnership is a legal entity and under the Uniform Partnership Act may acquire and convey real estate in its partnership name, a joint venture is not a legal entity capable of taking title in the joint venture name. A joint venture is not a partnership. Therefore, we cannot insure title in or mortgages from joint ventures which acquire title as "Acme Company, a joint venture, composed of A.&B." Rather, the title must be taken as "A.&B., joint venturers, doing business as Acme Company." The joint venturers acquire title as tenants in common and must be so treated.

Therefore, it becomes necessary for the title insurer to determine whether he is dealing with a joint venture or a partnership. What the parties call themselves is not determinative. The agreement must be carefully analysed to ascertain the relationship between the parties. One important criterion is whether the parties are organizing to carry on a single project or the operation of a continuing enterprise which might involve a series of projects. I would state in passing that I would be reluctant to consider the organization as being a partnership regardless of the continuing nature of its operation when the agreement specifically states that the parties do not intend to create a partnership.

Another problem arises if a partner or joint venturer makes a loan to his partnership or joint venture. If the institutional joint venturer makes a mortgage loan to a joint venture, our loan policy should contain an exception to any loss or damage occasioned by the fact that

the insured mortgagee is also one of the mortgagors. This problem may be obviated if the joint venturer is a bona-fide subsidiary of the lender instead of the lender itself.

When a general partner makes a mortgage loan to the partnership, it would seem that there is no problem regarding other creditors of the partnership provided there is no fraud and the partnership is not insolvent or rendered insolvent by the debt. However, Sec. 13 of the Uniform Limited Partnership Act casts a cloud on the priority of a mortgage given by a limited partnership to a limited partner.

V. Wrap-Around Mortgage

This is a financing method which seems to have come south from Canada. A wrap-around or all inclusive mortgage is a junior mortgage which secures an indebtedness in an amount which includes the amount advanced to the borrower at the closing of the wrap-around mortgage and the balance due on a senior mortgage. The wrap-around mortgage provides for amortization payments which are sufficient for the mortgagee to make the payments called for by the senior mortgage.

For example, a borrower may own property subject to a mortgage in the amount of \$1,000,000. In order to construct additional improvements, he desires to borrow another \$1,000,000. Because of a high prepayment penalty or a favorable interest rate in the existing mortgage, he does not wish to pay it off and because he finds that a regular second mortgage carries a very high interest rate, he gives a wrap-around mortgage to a new lender. The wrap-around mortgage will secure a note for \$2,000,000 but only \$1,000,000 will be advanced to the borrower. Out of the payments based on a \$2,000,000 note, the wrap-around mortgagee will make the regular payments on the \$1,000,000 debt secured by the senior mortgage. This produces a good rate of return for the lender since interest is based on the \$2,000,000 note secured by the wrap-around mortgage, not just on the \$1,000,000 cash disbursed to the borrower.

In order to protect itself as a second mortgagee, the wrap-around mortgagee will provide in its mortgage that it may cure defaults by the borrower under the senior mortgage. This may entail payments by the junior mortgagee out of its own funds of overdue regular payments, taxes, insurance premiums, etc., required by the senior mortgage or the entire indebtedness secured by it. The wrap-around mortgage provides that these payments are added to the indebtedness secured by it and should provide that the wrap-around mortgagee is subrogated to the prior lien position of the senior mortgagee as to such payments.

A regular loan policy may be issued insuring a wrap-around mortgage in the same manner as an ordinary second mortgage. Exception must be made to the senior mortgage.

Since the face amount of the note secured by the wrap-around mortgage is greater than the amount disbursed at the

date of closing, the question arises as to whether the amount of the policy should be in the full amount of the wrap-around mortgage or only in the amount disbursed to the borrower at the closing prior to the date of the policy.

If the lender desires a policy in an amount to cover only the money disbursed by it directly to the borrower prior to the date of policy, the policy may be issued in that amount.

However, an exception should make it clear that the policy does not insure the validity and priority of the lien of the mortgage as to advances made subsequent to the date of the policy.

If the lender desires a policy in the

full face amount of the note secured by the wrap-around mortgage, the policy may be issued in that amount. However, since only a portion of the face amount of the mortgage will have been disbursed, a form of pending disbursement clause should be set forth under Schedule B of the policy.

This clause should make it clear that liability under the policy includes disbursements made by the mortgagee to the borrower at the closing and for subsequent disbursements which the lender makes out of its own funds which increase the debt and which it is obligated to make or makes to protect its status as a junior lienor and for which it is sub-

rogated to the position of the senior mortgagee. However, liability under the policy should not increase as to regular payments made by the wrap-around mortgagee to the senior mortgagee and which it has collected from the borrower. As to these payments the wrap-around mortgagee is merely acting as a conduit of payments, is not advancing its own funds and cannot expect to have priority of lien for such payments.

I hope I have not told you more about penguins and fancy financing than you want to know and that hearing about them will give you the same kind of advantage I had in owning a convertible.

Report from Weisbaden—European Response to a Speech on Title Insurance

James G. Schmidt

*Treasurer;
Chief Executive Officer, Chairman of the Board,
Commonwealth Land Title Insurance Company, Philadelphia, Pennsylvania*

Twice I have had the privilege of speaking on the subject of title insurance outside of the United States. Back in 1966, I spoke on this subject at the American Bar Association convention in Montreal. My second opportunity came in September when I addressed the Federation Internationale des Geometres in Wiesbaden, Germany. This association, commonly referred to as FIG, is an international land group composed of appraisers and surveyors from 52 countries. Many members of the American Society of Residential Appraisers attend. They have yearly meetings and triennial conventions. The next will be in Washington in 1974. About 1500 members attend, and the association is divided into sections called commissions. I addressed Commission 7, which is entirely devoted to land registration.

Wiesbaden is located where the Main River empties into the Rhine, in the very heart of the wine making country. Originally a spa, where persons went to take curative baths, it has now grown to a city of 200,000. However, it still retains a charming atmosphere. Our hotel was located opposite the Kurhouse, where you originally went for the cure, but now a gambling casino which only cures your pocketbook. From our hotel there is a broad boulevard, the Wilhelmstrasse, which has a lovely park on one side and fine shops and outdoor cafes on the other, comparable to those in Paris, all of which indicates a very leisurely life. The boulevard leads to the Rhine-Main-Halle, which was the headquarters of the convention.

When you register for the meetings, they give you about two brief cases of material to read, along with two German wine glasses and a bottle of wine to help you digest it. Social events of the conference include the usual banquet, vari-

ous receptions, a wine tasting party and, best of all, an all day boat trip on the Rhine. The boat took us down the Rhine, past the steep slopes covered with grape vines, the ancient castles, charming villages having wine festivals to celebrate the coming of autumn, and finally past the famous Lorelei rock. When we returned to Wiesbaden, the villagers gathered by the bank and sang to us, and our trip ended at 10 o'clock with a magnificent display of fireworks.

Turning for a moment away from the convention, I had a rather unusual task in Wiesbaden. Before I left home, I had been appointed by our city authorities as an ambassador of good will to present a gift of a silver tray, etched with a picture of Independence Hall, to the Mayor of Wiesbaden. So my wife Marion, and I went to the City Hall to the office of the Mayor who is called the Burgomeister. We were received most graciously, the Burgomeister bowing to me and, in the continental manner, kissing Marion's hand. He had with him an interpreter and a public relations official. After receiving our gift, he then presented us with a framed print of the Kurhouse in 1800, and shared with us a bottle of fine Moselle wine.

Coming back to my speech—although 52 countries were represented and many languages were spoken at the meeting, only three languages were official—English, German and French. In spite of my name, I do not know German, so I spoke in English, and there was a simultaneous translation into German and French, done by two very able girl interpreters. It was particularly interesting during the question and answer period when a question in German or French had to be translated to me and my English answer then translated for the questioner.

The topic which was assigned to me was "Title Insurance Companies and their Place in Land Registration in the United States of America." I thought that most of my audience had had no experience with title insurance companies and their function, so I started with a brief explanation of the purpose of title insurance and explained how it protected against claims affecting the title to real property. I stated that for the protection of the real estate investor and to minimize the possibility of a claim arising, the title insurance company makes a thorough search of title and that the method of searching depends on the laws and practice of the state where the real property is located. I am sure that they were surprised to hear that in the 50 states and the District of Columbia, we have 51 sets of different laws affecting real property.

I told them that in spite of these differences, there are two principles existing in the property laws of all the states. One is a policy of individual ownership and a freedom to transfer land. As a result, most Americans wish to own their homes, and we find, for example, in Cleveland that there are 400,000 individually owned parcels of real estate; in Philadelphia 600,000; and in Los Angeles 1,850,000 separate units of real property. A second policy existing in all the states was the recognition of multiple rights in the same piece of real property and the continuance of such rights over long periods of time. So while one person might have the individual ownership of a fee simple title to a tract of land, another could have rights in the air space above the surface, or an easement to a driveway across the surface or mineral rights below the surface, and many other parties could have rights to enforce building or use restrictions against the

property. Mortgages, mechanics liens, ground rents, federal, state and municipal tax liens could be charges against the individually owned property and bind it for periods of time varying from five years to more than a hundred. In most states, when a law suit resulted in a judgment, the amount of the judgment was indexed on a public record against the defendant and became a legal charge upon the defendant's real estate and continued as a lien until satisfied or terminated as a lien by passage of time.

I stressed that the true purpose of the American recording system is to establish the priority of these rights in land. All parties dealing with a parcel of land are charged with notice of anything relating to that parcel appearing on the public record, whether they examine the record or not. Thus arises the necessity for a thorough search of title for the protection of the real estate investor.

I explained that the search was made primarily in the county where the real property was located, but that it might be in as many as 15 different indices in separately located public offices frequently in different buildings. While most searching was limited to the county, some searches would be made in the state's capital city and some in the office of the federal district.

To be of value to future buyers and investors and to give a reasonable basis for the doctrine of constructive notice, the public records have to be organized so that their contents are reasonably accessible, and there must be an index. While undoubtedly the most satisfactory form of indexing would be a property index, in most counties this is not feasible, due to inaccuracies in many descriptions and a lack of uniformity of method in describing real property. As a result, the most prevalent form of indexing in the recording office is a name index against grantor and grantee, mortgagor and mortgagee, etc., and in the other public offices a name index against the defendant.

This lack of uniform method of describing real property has been the chief road block to a system of placing title records on an electronic computer so that information can be quickly obtained in printed form from the computers and their auxiliary equipment. I explained that at the present time, studies are being made to establish some uniform method of describing real estate so that every property would bear an identifying number—that it is possible that we would adopt a cadastral map system or a plane co-ordinate system at the same time that we would convert our measurements to the metric system. Undoubtedly, this could only be done over a period of many years because it would take a considerable time to change the descriptions—for example—for the 1,850,000 properties in Los Angeles. Incidentally, I later discussed this problem with a number of the FIG members and I found that they were considerably ahead of us in this regard.

My speech continued with a description of the various methods of certifying title. I told them that a search of the

records in the recorder's office and the other public offices requires the employment of a skilled artisan thoroughly familiar with the systems of the various recording offices. After the search has been carefully made, there must also be an analysis by someone such as an attorney who has a thorough knowledge of real estate law, who can give assurance to a real estate investor that the title is good and marketable. Prior to the beginning of the use of title insurance this was the general practice and it still continues in many areas of the United States. The attorney either makes the search himself or has the search done by some trained person in his office. The results of the search are included in an abstract of title which consists of a summary of the essential parts of every recorded instrument of conveyance, will foreclosure, etc., and a brief statement of all liens and encumbrances affecting the property searched. The attorney reviews this abstract, weighs the facts in light of existing law, and gives his opinion as to the condition of the title. If the title is satisfactory to the purchaser and mortgagee, the attorney records the deed and mortgage, thus completing the transaction.

In areas of the country where the land transfers are numerous, the deficiencies of the public records as well as the increasing complications of land titles has led to a business-like approach to the problems of title searching. Instead of having abstractors in each attorney's office, abstract companies have been formed, accumulating a valuable collection of title records which helps to simplify the work of searching. These companies prepare carefully typewritten copies of the chain of title, retaining one copy in their files, together with the attorney's opinion, and delivering the other copy to the purchaser. The abstract then passes on to each succeeding owner of the property, in each case brought down to the date of the new transfer and with a new opinion of title signed by the attorney for the seller. I told them that the abstract company accumulates a valuable collection of title records—supplementing past searches and abstracts with copies or abstracts of documents recorded each day. This accumulation of title records is referred to as a title plant.

I then stressed that there are three major deficiencies in the above methods of title certification. First, the financial responsibility of the party making the certification. If made by an attorney, he could be dead when the loss arises, out of business, or, if still in business, financially unable to pay the claim. A second deficiency is the impossibility of disclosing matters not on the public record which might seriously affect the title. A previous deed could have been forged. One or more unknown heirs of a decedent might not have transferred his or her interest. A married man might have signed a deed without the joinder of his wife. A grantor could have been a minor or a mental incompetent. A third deficiency is that while the search of title can be completely accurate, the attorney can make an honest mistake in interpret-

ing the legal effect of the search, and for this mistake he is not liable.

I had now set the stage to give an explanation of the history of title insurance. I told them of the facts leading up to the decision of *Watson vs Muirhead*, the establishment of the first title insurance company in 1876 in Philadelphia, of the quick formation of other companies in New York, Chicago, Minneapolis, San Francisco and Los Angeles, and that today there are more than 90 title insurance companies with aggregate assets of over a billion dollars and total yearly operating income of more than \$350 million. I also told them of how some of the companies had become national in their operation, including within their system local plant operation, abstractor agents and approved attorneys.

I closed my talk with a review of a typical real estate transaction in the United States, from signing of the agreement of sale to the issuance of the title policy, so that they might have a clear picture of our practice.

My final statement was that title insurance represents a forward step toward securing marketability of land titles. When there are adequate facilities for land transfer, this promotes the highest utilization of the land. We think that title insurance, as practiced in the United States, has encouraged the American principles of individual ownership of real property and free alienability.

The reaction to a speech is often indicated by the questions which are asked. During the morning session when I spoke, there were three other speakers—from Yugoslavia, Bulgaria and Sweden. In two cases no questions were asked, and in the third, a single question. In my case there were about 20. Men in the audience rose—"I am from Israel and I have a question" . . . "I am from Norway" . . . "I am from South Africa" . . . "I am from Malaysia."

The questions fell into three categories—interest, antagonism and disbelief; considerably more than half indicated an interest in our business. These included questions as to cost, method of operation, amount of claims, coverage of policy. I am sure that enough interest was shown that one of these days some of our title companies will have an international title department. Only one question was antagonistic. I was asked whether it was true that the Torrens system failed in the United States because of opposition of title companies. I answered that it failed because of the optional character of use, its high cost, and the length of time required for initial registration. I cited the case history in California where virtually the entire fund established for the protection of the registered title holders was wiped out by one claim for damages. As to the questions of disbelief, they followed a general line as to why we would allow such a complex system as ours to continue and why we did not make efforts to simplify our procedure.

These questions helped me to get some information as to their practice, which was supplemented by conversations during the balance of the conference. I

found that in Germany, Austria and Switzerland deeds are not known—all titles are registered and there is no necessity for a search of title. In France, deeds are used and they have the notary system similar to our Louisiana practice. The notary keeps the deed and also certifies the title. An extract is entered on the registry to serve as notice to subsequent purchasers. Deeds are also used in England, Belgium, Denmark, Norway, Sweden, Finland, Greece, Italy and Spain, and while there are methods of registering title, searches are needed. In Belgium they have a 30 year marketable title statute. I discovered that in Australia where the Torrens system originated there is still land not registered under the Torrens system. Incidentally, I have made

contacts so that I can get more precise information in the future. I am confident that title insurance could spread to some countries in Europe. Which reminds me—Larry Zerfing just sent a clipping to Fred Fromhold from a Tokyo newspaper indicating that a party had attempted to acquire a property in Tokyo by a forged deed.

My visit to Wiesbaden came at a time when the United States is considering a change to the metric system and when we are receiving HUD's recommendation that there be federal grants to counties to modernize title recording systems, and when we are considering co-operation with the American Bar Association in their land identifier program.

The next few years are going to be

a period of change in our registration and recording systems. They must be improved if we are to have full advantage of our computer equipment. With HUD's recommendation, the studies which are being made in our universities, and with the work of the committee of the American Bar Association, these changes will be accomplished. Ivan Peters and his committee have been co-operating, but it is necessary for all of us to have a part in these changes, to study and help. There can be a simplification in our recording and indexing systems, and the title insurance companies should be leaders in improving this system. Title insurance should always lead the way toward improving systems which will make land titles more marketable.

ELECTION OF SECTION OFFICERS

By proper nomination and second, the following officers were unanimously elected to serve for 1971-72:

Chairman—ROBERT C. DAWSON,
Richmond, Virginia
Executive Vice President, Lawyers Title Insurance Corporation
3800 Cutshaw Avenue 23230

Vice Chairman—WILLIAM J. HARRIS,
Houston, Texas
President, Houston Title Guaranty Company
1220 Dallas, Box 52950 77029

Secretary—JOHN B. WILKIE, Tucson, Arizona
President, Lawyers Title of Arizona
199 North Stone Avenue, Box 5406
85703

EXECUTIVE COMMITTEE

FREDERICK R. BUCK, Baltimore, Maryland
President, The Title Guarantee Company
St. Paul and Lexington Street 21202

ROY P. HILL, JR., Casper, Wyoming
President, The Title Guaranty Company of Wyoming, Inc.
535 South Center 82601

TRAMMELL MCINTYRE, Atlanta, Georgia

Regional Vice President, Pioneer National Title Insurance Company
34 Peachtree Street, N.E. 30303
Suite 2140, The National Bank of Georgia Building

O. B. TAYLOR, JR., Jackson, Mississippi
President, Mississippi Valley Title Insurance Company
315 Tombigbee Street, P.O. Box 2428
39205

COMMITTEE REPORTS

Finance Committee

Hale Warn

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

The report of the Finance Committee will cover three areas related to the financial aspects of your Association's activities. First, the manner in which your reserve funds have been invested; second, an analysis of our 1971 operations compared to the 1971 budget adopted a year ago, and third, a summary of the 1972 budget which has been presented to and approved by your Board of Governors.

The year 1970 concluded with an excess on revenue over expenditures of \$71,493. That amount of money was subsequently paid by the treasurer of your Association into the reserve fund trust which, you will recall, is our so

called "rainy day fund." That addition to the funds previously paid into the reserve fund trust results in the following. As of September 17th of this year, the asset value of our reserve fund trust, at cost, is \$287,249.

You will recall that under the terms of the trust agreement, not less than 25 per cent of the total value of the fund, at cost, is to be invested in U.S. government bonds. The present percentage is 32.6 per cent.

The trust agreement also provides that not more than 50 per cent of the total value of the fund, at cost, should be invested in common stocks and as of September 17th, that percentage was 36.5

per cent, so the funds are invested well within the limitations of the trust agreement.

The current market evaluation of the fund is \$303,705 which is an appreciation over cost of 5.7 per cent.

The fund is currently producing \$15,549 annually, which amounts to an overall yield of 5.43 percent on cost and 5.12 per cent on market. This is in addition to the 5.7 per cent appreciation factor previously mentioned.

The trustee has indicated to us that it is watching the market situation very closely and, either later this year or the early part of 1972, depending on market conditions, will be moving funds for the

corporate bond fund over the common stock fund to bring that percentage of our assets closer to the 50 per cent maximum authorized by the trust agreement.

As to our 1971 operations, it looks about like this at this point. Our 1971 anticipated income—based on the first eight months actual and the remaining four months estimated—will amount to \$421,400 which is \$32,000 in excess of what we had forecast a year ago at the time of the adoption of our 1971 budget.

Anticipated expenditures for the year appear to be \$387,000 as against a forecast a year ago of \$394,200, which is \$7,200 less than budgeted. With an anticipated excess of \$32,000 in income and an anticipated reduction of \$7,200 in expenses in relation to the budget, it appears that the 1971 results of operation will be \$39,200 favorable to budget

and provide an excess of income over expenditures of \$34,400.

As to the 1972 budget for our operation next year, it summarizes as follows. We are projecting that income will amount to \$477,100 which the Finance Committee believes may be quite conservatively estimated. This would, however, be an increase of \$55,700 over the income anticipated for 1971.

The budget anticipates expenses of \$435,700 which is \$48,700 more than the anticipated expenses for 1971. If those figures materialize, it will result in an excess of income over expenses of \$41,400, or \$7,000 more excess than anticipated for this year.

I'd like to identify just where this \$48,700 increase in expenses anticipated for 1972 is to be spent.

That amount approximately equals (within \$300) the increase in expenses over 1971 applicable to the following:

Public Relations Program—up \$15,000
Salaries, Employee Benefits &
Life Insurance Program—up \$11,400
Conventions, Conferences &
Travel—up \$14,200
Directory, *Title News* & Postage—up \$5,800

Miscellaneous items—up \$2,000
This is the first year in which our anticipated expenses will be over \$400,000 but I think that we all recognize that, if there was ever a time when we needed to realize and recognize the dire need of a good public relations program to acquaint the public, and the government and its agencies, of the value of our product, it is right now. The Public Relations Committee has done an outstanding job in creating for us a really meaningful program for this coming year.

I wish to thank the staff for their very fine cooperation throughout the year. Thank you.

Treasurer's Report

James G. Schmidt

Treasurer

*Chairman of the Board and Chief Executive Officer,
Commonwealth Land Title Insurance Company, Philadelphia, Pennsylvania*

As Al just stated, we *are* solvent. Hale Warn has given an excellent report of the budget for 1972 and has compared it with the anticipated income and expenses for the current year 1971. He also has indicated that we are solvent and therefore, I am not going into further detail on those figures.

As you know, after this fine budget is prepared, it is the responsibility of the treasurer to constantly go over the vouchers and, with the cooperation of

the Washington office, to invest some of the loose funds to see that we get a little extra income. During the year 1970, we were able to receive income of \$16,000 from this source, but during 1971 we only anticipate about \$9,500.

This is due to two reasons: one, that we didn't have quite as much loose money around, having turned over the \$71,000 to the trust fund reserve and; secondly, the lower rate of interest received from these short term investments. But, of course, the lower rate of

interest has been responsible for the increased income in the title insurance industry which in turn has been responsible for the increase in dues received by the Association. This far more than compensates for the little income we make from investing the loose cash. We look forward to this coming year and I can assure you that the association, with the funds received from our members each year, is accomplishing more on your behalf than ever before. Thank you.

Constitution and By-Laws Committee

Gerald L. Ippel

Chairman, Constitution and By-Laws Committee

President, The Title Guarantee Company, New York, New York

Mr. President and ladies and gentlemen. In accordance of the recommendations of the Executive Committee that a meeting should be held during each Mid-Winter Conference and Annual Convention which would be limited to active members of the Association, the Constitution and By-laws Committee proposes the amendment of Articles Three and Four of the Constitution and the renumbering of the sections of Article Four.

As Al Long indicated a few moments ago, this session that we're at presently is constituted as a result of a resolution of the Board of Governors and what

we're proposing to do in this amendment to the Constitution is to make such a session mandatory at both the Mid-Winter and the Annual Conventions.

In addition, the Constitution and By-laws Committee proposes the amendment of Articles Seven and Eight to comply with the recommendations of the Planning Committee and the Board of Governors relating to the size and nature of any sub-committee, the Liaison Committee with the NAIC and the Federal Legislative Action Committee; and, the Committee also proposes the amendment of Article Seven relating to the establishment of a maximum age of the

members of the Young Titlemen's Committee. Presently, the maximum age of the Young Titlemen's Committee is established by the Young Titlemen's Committee. What the amendment proposes to do is enable the Board of Governors to establish such maximum age.

These proposed amendments have all been published in the June 1971 issue of *Title News* and have been posted here at the convention in a conspicuous place in accordance with Article 11. Unless someone desires to the contrary, we propose to dispense with their formal reading and move for their adoption.

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Updated Gill Title Course Available

The 1971 version of American-First Title & Trust Company's *Land Title Course* is now available. The present volume is based on the original prepared in 1945 by the late William Gill, Sr., former president of American-First.

In ten detailed lessons that range from survey fundamentals to policy issuance, the course follows the development of a chain of title. A series of questions and answers follows each lesson. Also included are commonly-used tables and an index to the entire course.

Although based on Oklahoma real property law, the course also has proved useful to residents of other states over the years. The lessons were revised in 1950, 1955, and 1964, as well as in 1971, to keep abreast of changes in public recording systems,

laws, and other innovations, and will continue to be updated in the future.

American-First's president, Richard H. Godfrey, believes the course can benefit students of real property law, real estate brokers, mortgage bankers, employees of savings and loan associations, employees of oil company land departments, and oil and gas leasehold dealers, as well as abstract and title company personnel.

The *Land Title Course*, in one volume, can be obtained for \$3.50 postage paid, from American-First Title & Trust Company, 219 Park Avenue, Oklahoma City, Okla. 73125.

William T. Ely, Ex-Titleman, Dies

Word has been received of the death November 30, in Winston-Salem, N. C., of William Thomas Ely, 48, former Winston-Salem branch man-

ager for Lawyers Title Insurance Corporation.

He had joined the legal department of Lawyers Title in 1958, and had served as branch manager from 1959 to 1965.



A ribbon-cutting ceremony opens Chelsea Title and Guaranty Company's third Camden County branch office at 80 Tanner Street, Haddonfield, N.J. Participants include, from left, Raymond Wheeler, Haddonfield Commissioner; Mayor Eugene Hinski; Elwood F. Kirkman, Chelsea Title president; Ted Genett, Chelsea Title assistant vice president and Camden County manager; and H. H. Lumley, Chelsea Title senior vice president.

names
names
names
names in the news

ALTA Board of Governors member **Stanton S. Roller** has been elected president and chief executive officer of Inter-County Title Guaranty and Mortgage Company. He joined Inter-County as executive vice president and chief executive officer in February, 1971.

Formerly a vice president for another leading title insurance company, **Roller** is a member of the New York State Land Title Association, the Real Estate Board of New York, and the Mortgage Bankers Association of America. He also is a past president of the Connecticut Board of Title Underwriters.

Western Title Insurance Company has named three new vice presidents with the following new titles: **Robert Youles**, manager of the Sacramento County Division; **Dave Morton**, operations officer, Sacramento County Division; and **William A. Garner**, manager, Amador County Division.

Commonwealth Land Title Insurance Company has promoted **Daniel J.**



ROLLER



YOULES



MORTON



McINTOSH



DANDREA

Herron, of Springfield, (Pa.), and **Eugene J. Whitaker**, of Lafayette Hill (Pa.), to vice presidencies in the company's national agency division. **John J. Rapp**, of Secane (Pa.) has been promoted to assistant vice president, national branch division.

Albert P. McIntosh, senior title attorney in Lawyers Title Insurance Corporation Florida state office, has been elected Orlando branch counsel.

Woodrow J. Dandrea, former vice president in Commonwealth Land Title Insurance Company's national title division, has been appointed vice president and manager of Philadelphia title plant operations. Dandrea succeeds **William J. Erwin, Jr.**, who has retired.

Thomas J. Higgins, head of Pioneer National Title Insurance Company's business development and advertising department, Chicago regional office, has been elected an assistant vice president and will continue in his present position.

Ohio Title Completes Large Loan Project

Ohio Title Corporation of Cleveland recently completed the title work on a project that required the largest loan ever insured by FHA and the largest loan ever made by a single savings and loan association in the U.S. for a single housing unit, the company has reported.

The project, Central Park Towers, involved 26 parcels of land adjacent to downtown Cleveland. Ohio Title started preliminary work in June,

1969, and carried on until November, 1971, when the transaction was completed and the title insurance policy issued.

In November, FHA approved the \$30,245,000 loan by Broadview Savings and Loan to a Cleveland real estate developer, Carl D. Glickman. Glickman's undertaking consists of a \$35 million, 100-apartment unit with its own parking, 75-store shopping plaza, and entertainment facilities. The two, 22-story towers involved will have about 140,000 square feet of commercial and office space.

Scheduled for completion in late 1973, the center will be built by

Building Systems, Inc., of Cleveland and Glickman. Architect is Dalton-Dalton-Little.

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After an enthusiastically-received premiere at the 1971 ALTA Annual Convention, the Association's new 14-minute, 16 mm color sound film, "Blueprint for Home Buying", now is available for purchase by ALTA members. This same film now is in nationwide television public

service distribution through the ALTA Public Relations Program.

The new film takes home buyers through the basics in selecting, financing, and closing with regard to purchasing residential real estate. Featured on the screen are the various experts who provide closing services—including the land title professional. Most of the film consists of animated sequences, although a live narrator also is featured.

You can obtain a print of this important new film for \$95 plus shipping charges by writing Business Manager, American Land Title Association, 1828 L Street, N. W., Washington, D. C. 20036.

Write today for your print. Remember, your public is waiting.

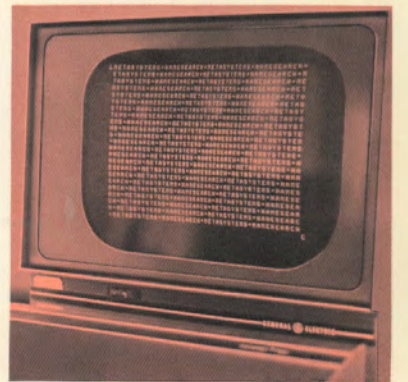
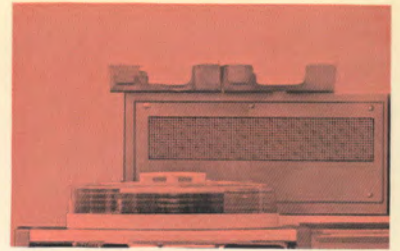
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