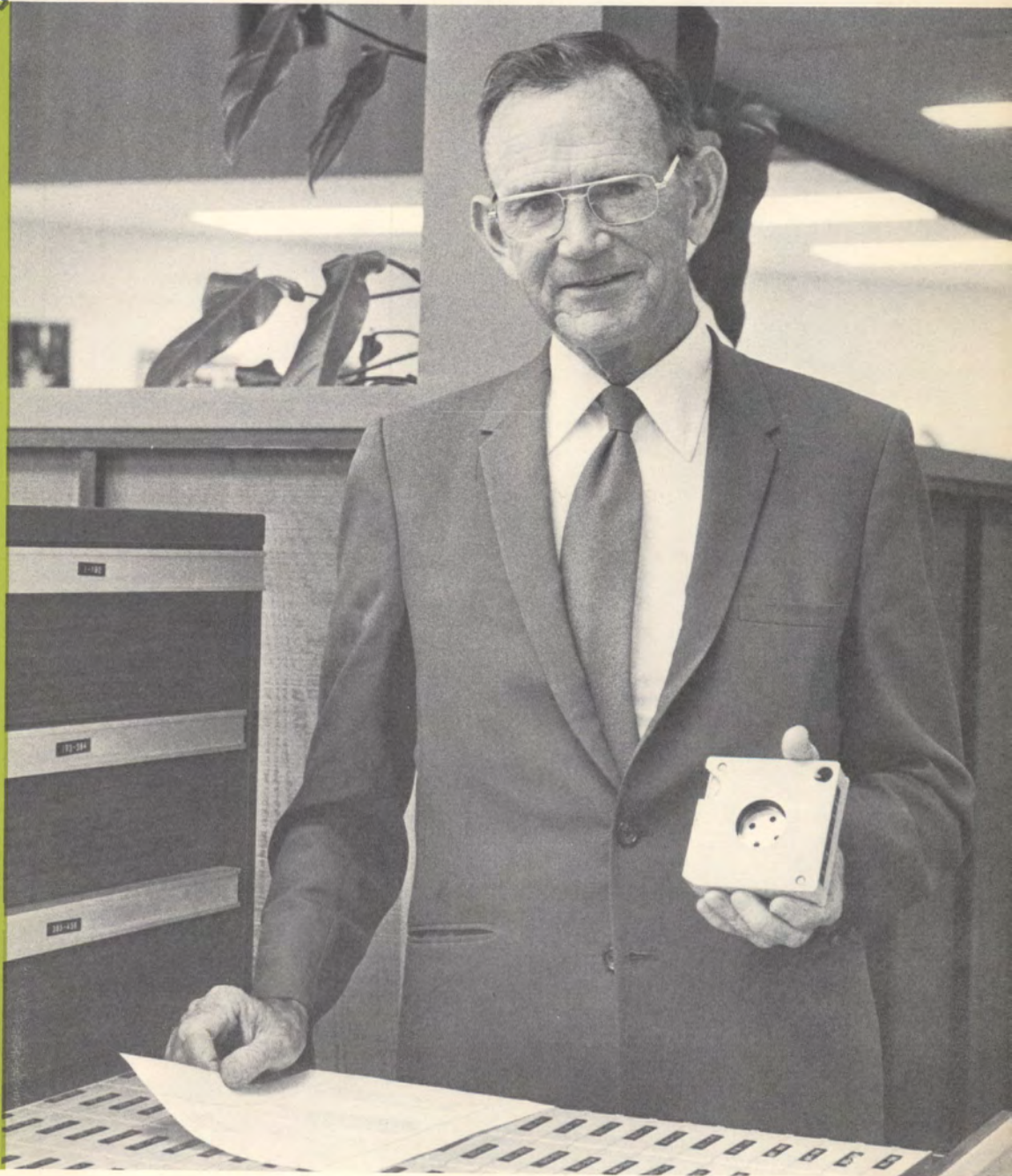


Title News

the official publication of the American Land Title Association

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Microfilm
System Saves
At Eureka

February, 1973



Vice President's Message

FEBRUARY, 1973

The program for the 1973 ALTA Mid-Winter Conference which will be held March 14-16 at Del Webb's TowneHouse in Phoenix is almost complete. From Ice Breaker Reception to golf tournament, this year's program promises to produce one of the most informative and productive sessions in ALTA history. In addition to industry speakers, you will have an opportunity to hear others from related industries and you will have an opportunity to attend the session of the Abstracters and Title Insurance Agents Section or the Title Insurance and Underwriters Section as you prefer.

A dietitian once remarked, "What you eat today, walks and talks tomorrow."

Certainly the food for thought presented at this Conference will be in substantial quantity and of material quality to nourish your mentality and provide ideas for your good and for the good of your business in many ways.

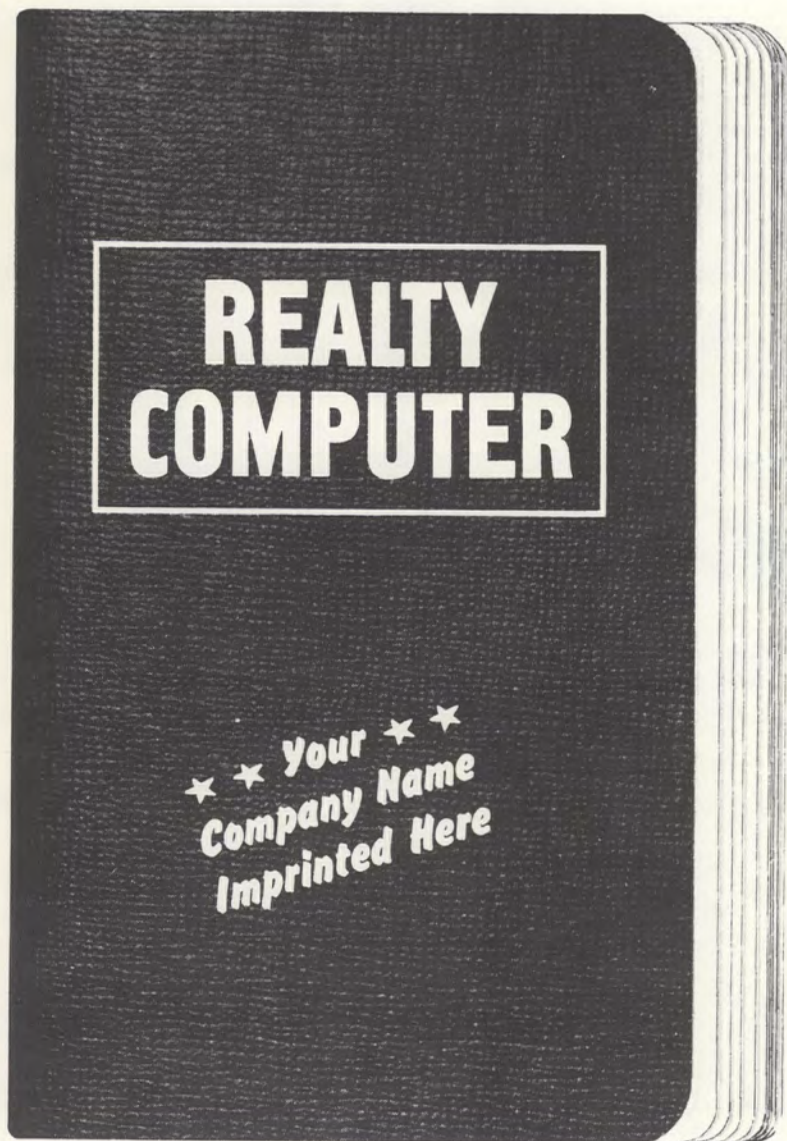
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James A. Gray

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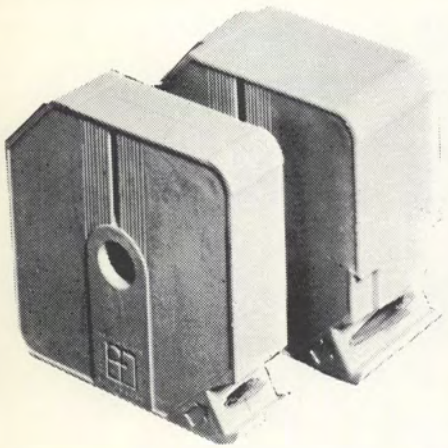
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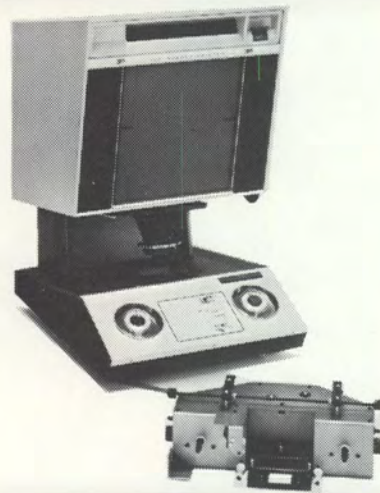
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the official publication of the American Land Title Association

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Features

- The Problem of Inflation 4
Saving through a Microfilm System 7
Part I: ALTA Judiciary Committee Report 9

Departments

- Vice President's Message Inside Front Cover
State Association Corner 11
Names in the News 13
Meeting Timetable 16

ON THE COVER: E. G. Wilkenloh, president and owner, Eureka (California) Title Company, inspects a microfilm system recently installed by his concern. Benefits include speeding customer service, saving time and money, and virtually eliminating the possibility of document loss. For the story, please turn to page 7.

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GARY L. GARRITY, Editor

The Problem of Inflation



Arthur F. Burns
Chairman, Board of Governors
Federal Reserve System

(Editor's note: This article is adapted from a December 29, 1972, address delivered at a joint meeting of the American Economic Association and the American Finance Association in Toronto.)

* * *

Substantial progress has been achieved during the past several decades in understanding the forces of economic instability and in devising policies for coping with them. Severe depressions in economic activity, which earlier generations knew and feared, are no longer a serious threat. And although recessions are still troublesome, their amplitude has diminished and they occur less frequently than they did earlier.

Our very success in limiting declines in business activity has become, however, a major source of the stubborn inflationary problem of our times. As recent experience has demonstrated once again, inflation damages the national economy. Confidence of businessmen and consumers in the eco-

nomie future is shaken; productive efficiency falters, export trades languish, interest rates soar, financial markets become unruly, and social and political frictions multiply. We in the United States can have little hope of sustaining vigorous economic growth, or using our resources with maximum efficiency, or restoring equilibrium in our international accounts, or attaining a more salutary distribution of personal incomes unless the powerful forces that have been pushing up costs and prices are subdued.

The current inflationary problem has no close parallel in economic history. In the past, inflation in the United States was associated with military outlays during wars or with investment booms in peacetime. Once these episodes passed, the price level typically declined, and many years often elapsed before prices returned to their previous peak. In the economic environment of earlier times, business and consumer decisions were therefore influenced far more by expectations concerning short-term movements in prices than by their long-term trend.

Over the past quarter century, a rather different pattern of wage and price behavior has emerged. Prices of many individual commodities still demonstrate a capability of declining when demand weakens. The average level of prices, however, hardly ever declines. Wage rates have become still more inflexible. Wage reductions are nowadays rare even in ailing businesses, and the average level of wages seems to rise inexorably across the industrial range.

The hard fact is that market forces no longer can be counted on to check the upward course of wages and prices even when the aggregate demand for goods and services declines in the course of a business recession. During the recession of 1970 and the weak recovery of early 1971, the pace of wage increases did not at all abate as unemployment rose, and there was only fragmentary evidence of a slowing in price increases. The rate of inflation was almost as high in the first half of 1971, when unemployment averaged 6 per cent of the labor force, as it was in 1969, when the unemployment rate averaged 3½ per cent.

The implications of these facts are not yet fully perceived. Cost-push inflation, while a comparatively new phenomenon on the American scene, has been altering the economic environment in fundamental ways. For when prices are pulled up by expanding demands in times of prosperity, and are also pushed up by rising costs during slack periods, decisions of the economic community are apt to be dominated by expectations of inflation.

Thus, many businessmen have come to believe in recent years that the trend of production costs will be inevitably upward, and their resistance to higher prices—whether of labor, or materials, or equipment—has therefore diminished. Labor leaders and workers now tend to reason that in order to achieve a gain in real income, they must bargain for wage increases that allow for advances in the price level as well as for the expected improvement in productivity. When individuals and families set aside funds for the future, they tend to do so in full awareness that some part of their accumulated savings is likely to be eroded by rising prices. Lenders in their turn, expecting to be paid back in cheaper dollars, tend to hold out for higher interest rates. These new patterns of thought are an ominous development.

I do not wish to minimize the substantial progress that has been made since August 1971 in suppressing inflationary forces, and in altering public attitudes about the inevitability of inflation. The shock therapy applied by the President in the summer of last year has had lasting benefits. The pace of business activity strengthened almost immediately after the announcement of the New Economic Policy, and it has gathered momentum over the past year. Moreover, inflation has been cut from an annual rate of about 5 per cent in the first half of 1971 to about 3 per cent toward the end of this year. That improvement reflects the widespread support by the American public, including the trade unions, of the recent controls on wages and prices. It must be recognized, however, that the controls were aided by continued slack in resource and product markets and by a pronounced rise in output per man hour.

Next year (1973) further progress in moderating inflation will be more diffi-

cult to achieve. The backlog of unused resources has been gradually declining, and there is good reason to expect less unemployment and fuller utilization of plant capacity as 1973 unfolds. Market forces may thus be exerting upward pressure on wage rates and prices at a time when productivity gains will probably be diminishing. If major collective bargaining agreements next year (1973) call for pay increases that appreciably exceed the growth of productivity, the upward pressure on costs and prices will intensify.

Extension of the benefits from the recent hard-won decline in the pace of inflation thus hangs in the balance. A further reduction during 1973 in the rate of increase in wages and prices is essential if the inflationary trend that has so long plagued our economy is to be brought to a halt in the near future. If that does not happen and cost and price pressures intensify next year, the nation's economic future may be adversely affected for a long time to come.

In fact, the outcome of our struggle with inflation is likely to have worldwide repercussions. If we continue to make progress in solving the inflation problem, our success will bring new hope to other countries of the western world where inflationary trends stem in large measure from the same sources as ours.

Almost the entire world is at present suffering from inflation, and in many countries—for example, Canada, France, the United Kingdom, West Germany, and the Netherlands—the pace of inflation is more serious than in the United States.

In Canada, unemployment has been rising since 1966, but it has had little visible effect on wage rates. Actually, during the third quarter of 1972, the Canadian unemployment rate reached 6.7 per cent—the highest quarterly figure in many years; yet, new settlements in unionized industries still provided for annual wage increases on the order of 8 per cent. Prior to the recent freeze, wages in the United Kingdom were rising at a rate of 10 per cent or more, in defiance of an unemployment rate that had gone up over a number of years and was still abnormally high.

These countries have discovered, as we in the United States have, that wage

rates and prices no longer respond as they once did to the play of market forces.

As I have already noted, a major cause of the inflationary bias in modern industrialized nations is their relative success in maintaining prosperity. Governments, moreover, have taken numerous steps to relieve burdens of economic dislocation. In the United States, for example, the unemployment insurance system has been greatly strengthened since the end of World War II: compensation payments have increased, their duration has lengthened, and their coverage has been extended to a wider range of industries. Social security benefits have also expanded materially, thus easing the burdens of retirement or job loss for older workers, and welfare programs have proliferated.

Protection from the hardships of economic displacement has been extended by government to business firms as well. The rigors of competitive enterprise are nowadays blunted by import quotas, tariffs, price maintenance laws, and other forms of governmental regulation; subsidy programs sustain the incomes of farmers; small businesses and home builders are provided special credit facilities and other assistance; and even large firms of national reputation look to the federal government for sustenance in times of trouble.

Thus, in today's economic environment, workers who become unemployed can normally look forward to being rehired soon in the same line of activity, if not by the same firm. The unemployment benefits to which they are entitled blunt their incentive to seek work in an alternative line or to accept a job at a lower wage. Similarly, business firms caught with rising inventories when sales turn down are less likely to cut prices to clear the shelves—as they once did. Experience has taught them that, in all probability, demand will turn up again shortly, and that stocks of materials and finished goods—once depleted—nearly always have to be replaced at higher cost.

Institutional features of our labor and product markets reinforce these wage and price tendencies. Excessive wage increases tend to spread faster and more widely than they used to,

partly because workmen have become more sensitive to wage developments elsewhere, partly also because employers have found—or come to believe—that a stable work force can best be maintained in a prosperous economy by emulating wage settlements in unionized industries. In not a few of our businesses, price competition has given way to rivalry through advertising, entertaining customers, and other forms of salesmanship. Trade unions at times place higher priority on the size of wage increases than on the employment of their members, and their strength at the bargaining table has certainly increased. The spread in recent years of trade unions to the public sector has occasioned some illegal strikes which ended with the union demands, however extreme, being largely met. The apparent helplessness of governments to deal with the problem has encouraged other trade unions to exercise their latent power more boldly. And their ability to impose long and costly strikes has been enhanced by the stronger financial position of American families, besides the unemployment compensations, food stamps, and other welfare benefits that are not infrequently available to strikers.

In view of these conditions, general price stability would be difficult to achieve even if economic stabilization policies could prevent altogether the emergence of excess aggregate demand. But neither the United States nor any other western nation has come close to that degree of precision. In fact, excess aggregate demand has become rather commonplace. In country after country, stabilization efforts have been thwarted by governmental budgets that got out of control, and central banks have often felt compelled to finance huge budgetary deficits by credit creation.

There are those who believe that the hard struggle to rid our economy of inflation is not worthwhile and that it would be better to devise ways of adjusting to inflation than to continue fighting it. On this view, social security payments, insurance contracts, bank deposits, and other contractual arrangements should be written with escalator clauses so as to minimize the distortions and hardships that inflation causes.

This is a counsel of despair. Those

who are hurt most by inflation are nearly always the poor, the elderly, the less educated—those in our society most in need of shelter from economic adversity. I doubt if there is any practical way of redesigning economic contracts to deal with this problem satisfactorily. In any event, if a nation with our traditions attempted to make it easy to live with inflation, rather than resist its corrosive influence, we would slowly but steadily lose the sense of discipline needed to pursue governmental policies with an eye to the permanent welfare of our people.

The only responsible course open to us, I believe, is to fight inflation tenaciously and with all the weapons at our command. Let me note, however, that there is no way to turn back the clock and restore the environment of a by-gone era. We can no longer cope with inflation by letting recessions run their course; or by accepting a higher average level of unemployment; or by neglecting programs whose aim is to halt the decay of our central cities, or to provide better medical care for the aged, or to create larger opportunities for the poor.

A modern democracy cannot ignore the legitimate aspirations of its citizens, and there is no need to do so. The rising aspirations of our people are consistent with general price stability if we only have the will and the good sense to pursue an appropriate public policy. Our needs are, first, to restore order in the federal budget and strengthen the stabilizing role of fiscal policy; second, to pursue monetary policies that are consistent with orderly economic expansion and return to a stable price level; third, to continue for a while longer effective controls over money, but by no means all, wage bargains and prices; and fourth, to reduce or remove existing impediments to a more competitive determination of wages and prices.

The single most important need at the present time is to curb the explosive growth that has marked federal spending in recent years. Some shock therapy may be needed here, such as a freeze or near-freeze for a year or two of federal expenditures. The President is struggling to hold budgetary outlays to \$250 billion in the current fiscal year.

Even if he succeeds, as I trust he will, federal spending will still have more than doubled during the past eight years, and it will still exceed last year's outlays by \$18 billion.

Contrary to a widespread impression, this burst of federal spending reflects only in small part the Vietnam war. The fundamental cause has been political indulgence of the theory that most social and economic problems can be solved by quick and large expenditures of federal monies. We have tried to meet the need for better schooling of the young, for upgrading the skills of the labor force, for expanding the production of low-income housing, for improving the nation's health, for ending urban blight, for purifying our water and air, and for other national objectives, by constantly excogitating new programs and getting the Treasury to finance them on a liberal scale before they have been tested. The result has been that we have hastily piled one social program on another, so that they now literally number in the hundreds and defy understanding—beyond the obvious fact that they have disappointed our expectations and frustrated our fiscal calculations. In view of this experience, a tax increase—even if that were immediately attainable—would hardly be a suitable alternative to tightened expenditure controls.

Significant progress in curtailing the future growth of federal spending will require major reforms of a budgetary process that has long been badly outdated. The Executive establishment does not yet have adequate devices for evaluating the benefits of individual programs relative to their cost, such as would be needed in zero-base budgeting. More serious still, the Congress continues to consider individual appropriation bills in isolation, without regard to any controlling total. Consequently, there is little incentive or opportunity to compare the contribution of alternative programs to the public welfare, or to consider systematically whether the nation would be better off if the resources now absorbed by government were larger or smaller.

Recognizing the need to focus on the overall budget, the Congress wisely

Continued on page 14

FEBRUARY 1973

*E. G. Wilkenloh, President
Eureka Title Company*

Saving Through A Microfilm System

Although a microfilm system at Eureka Title Co., Eureka, Calif., will more than pay for itself in two years in employee time savings, we expect the payoff from time saved for customers to be even greater, if more difficult to measure, in terms of increased business.

The real estate broker who has five minutes to pick up a copy of a deed and get to his client's office is the one who particularly appreciates our new-found ability to deliver it in an average of three minutes, instead of eight as in the past. And, our broker clients have been extremely complimentary.

While five minutes per document copy may not sound too impressive, we

get about 20 such requests a day. So we save approximately 100 minutes, or one-fourth of an employee's time. This means that we can handle more work and postpone adding another person to our staff of 15.

Minutes saved in this manner are just the tip of the iceberg, to use the cliché. Eight years ago, it took us an average of three days to get a title report ready. Now, a complete plant with efficient systems and equipment enables us to do it in one day, on an average.

A major factor is our use of surrounding Humboldt County's arbitrary geographical unit numbering system in our own lot books. This permits one

employee to post all daily recordings in little more than half a day, with reduced risk of error. Most other title companies still use subdivisions, land office records, and some arbitrary map work. In the past, that approach took two of our employees a full day to post a similar number of recordings.

Another factor is a new 3M cartridge-type microfilm system, including a Model 3400 camera and Model 500C reader-printer. In addition to the time savings cited, this equipment virtually eliminates the risk of lost documents, and is enabling us to reclaim the space once needed for filing hard copies. We are currently using the camera to mi-



Work to place daily takeoffs from the county recorder's office—which Eureka Title purchases in film form—in microfilm cartridges is under way at left. These are retained on open reels until two books worth have been accumulated, then loaded into a cartridge. A total of 620 open reels of takeoffs, formerly used with an old microfilm system, also have been con-



verted to cartridges. At right, a Eureka Title employee engages in the task of microfilming some 24,000 escrow files contained in 40 four-drawer file cabinets such as those behind her. When the filming is completed, these files will fill about 160 microfilm cartridges which can fit into approximately a drawer and a half in a microfilm file.

crofilm 24,000 escrow files, each containing five to ten sheets of escrow instructions, deeds, and other documents relating to title searches. These files now occupy 40 four-drawer file cabinets. We are filming the oldest first and expect to be current by mid-1973. We can get about 110 files on a cartridge, approximately the same number as in a file drawer. Thus, four small cartridges contain images of all the documents in a four-drawer file. This means that 160 cartridges—which can fit into about a drawer-and-a-half in a microfilm file—will replace all 40 file cabinets.

We are also filming all financial and accounting records, such as checks, with the 3400 camera simply by feeding in the documents as fast as possible. Each type of document is filed onto a different cartridge. These can be changed in normal room light. Also, the camera has an odometer. We note its readings to index document position on the cartridge. Then when a cartridge is completed, the camera operator rewinds it and films the numerical index page on a spare frame at the beginning of the cartridge to speed document retrieval.

We purchase the daily takeoff from the county recorder's office in film form each evening, retain this on open reels until we accumulate two books worth, then load it into a cartridge. Another 620 open reels of take-offs, formerly used with an older microfilm system, have been converted to cartridges.

Now, to search a title, we go to a wall map, then to a lot book, then to a small map in the lot book adjacent to a page which lists all instruments that affect properties shown on the map. Using the arbitrary geographical number for the parcel, taken from the map, we make a list of all relevant documents, then pull the appropriate cartridges and use the reader-printer to make copies of all the documents for the escrow file. The copies are produced by the dry-silver process and each emerges ready to use, ten seconds after we press the "print" button.

However, if we have previously written a policy on a parcel, the entry on the page is in red. Thus, if it is sold again, and we are asked to do a search, we only have to check forward from

that point. We have a copy of the title insurance policy in the escrow file, with all the previous title search data on it.

Consequently, we now have in our plant all the tools we need for fast response to a request for a title search, or a request for a single document. If that broker mentioned earlier, or another customer, comes in and wants a document from a file we have already copied, we pull the cartridge, locate the document quickly via the index, and produce a print. By contrast, when someone wants a document from a file not yet copied, we must use our old procedure: look up the number, find the file, remove the fastener, pull the document, take it to an office copier, reproduce it, replace it in the folder, re-fasten it, and refile the folder.

This is the procedure that has averaged eight minutes. While the file is open, with the fastener undone and the document being copied, there is always the chilling possibility of loss of a document—with its potential for financial loss. As we all know, if a law suit is tried regarding a title and a document is missing, there is always the suspicion that its loss was deliberate.

All personnel in our office can and do use the microfilm system, so this further speeds service. We recognize that some specialization of labor is necessary for efficiency. But, while a clerk may do one job most of the time here, he or she understands related jobs and often works at them. This "working team" is a more efficient, productive approach and certainly improves customer relations because the customer is not passed from one employee to another.

As a result, we operate with fewer personnel than our two competitors in Eureka—mainly because we have found quicker, easier ways to do things. Thus, we are able to enjoy a growing share of business in Humboldt County. This county is about 300 miles north of San Francisco, right on the coast. Its population is around 96,000, and there are about 27,000 separately-owned parcels of real property. Some 18,000 documents affecting these parcels are recorded annually.

As we see it, there are three primary concerns for a title company:

- Its image with its customers, which is based on speed of service and quality of the product, including the appearance of the typing of documents.

- The longevity of the establishment, or equipment that does the job. For example, we don't want to buy a new type of machinery every two years and throw our employees offstride. Employees resent poor equipment, which breeds poor morale. A clerk irritated and frustrated by the old, open-reel microfilm reader we once used would most likely not do as good a job as she was capable of when she went back to finish typing a document. And once employees lose respect for equipment, they no longer treat it well. So there is no saving in mediocre devices. A title company's plant is the key to its success, of course, and because a plant is expensive, we want our employees to respect all aspects of it and treat it carefully.

- The risk of error and the financial loss which may result. Thus, if we can post a document once to the lot book, then handle it thereafter in microfilm form, we eliminate much of this risk.

Looking a little into the future, after we get current in photographing our escrow files, we will keep each hard copy file for three months after it is closed, to take care of last-minute details, then film it twice. One cartridge will go into our active files and another into a security vault elsewhere. All our hard copy files go to a storage company for five years. Frankly, we are not sure that this is necessary. But it costs little and because microfilming all these documents is a new approach for us, we want to make sure there is no reason why we would need them before we destroy them.

The fee for title insurance covers both the risk of error and the cost of producing the insurance. If, through efficiency, we can handle a greater volume, more accurately with fewer employees, we have favorably affected each of these factors. And, if we can complete a sale one day earlier, the word will get around and our business will gain accordingly.

Part I: ALTA Judiciary Committee Report

(Editor's note: Members of the ALTA Judiciary Committee have submitted over 500 cases to Chairman John S. Osborn, Jr., of the Louisville law firm of Tarrant, Combs, Blackwell & Bullitt, for consideration in the preparation of the annual Committee report. Chairman Osborn reports that 116 cases have been chosen for the report—which begins in this issue of *Title News* and which will be continued in future issues.)

* * *

ATTORNEY AND CLIENT

Kentucky Bar Association v. Tussey, 476 S. W. 2d 177 (Ky. 1972)

In Kentucky, the preparation of real estate mortgages for a bank by one of its lay officers constitutes the practice of law, the court of appeals of that state has determined. The fact that no fee or compensation is charged to the borrower is of no consequence the court held, noting that the officer drawing the mortgage was receiving some form of compensation or benefit from the corporation for his act. "If he could perform the service as an incident of the duties for which he is paid a salary there is no logical reason he could not do it for a fee, and indeed no reason why he could not be carried on the payrolls of several different corporations, performing similar drafting services for all of them on either a salary or fee basis. It is just a matter of degree, and whatever may be the degree it amounts to the practice of law without a license," the court ruled.

ADVERSE POSSESSION

McKee, as Superintendent, vs. Goldthwaite, 250 So. 2d 682 (Ala. 1971)

In 1939 Arlington deeded to the Montgomery County School Board three (3) acres of land for a recited consideration of \$60.00. The board built and operated Arlington School in Montgomery County on a tract of land not deeded to it for a period of almost 28 years.

This is a bill in equity against the school board by plaintiff who sought to recover possession and be deemed owner of the three acres of land previously used as a school site. Held: The school board which openly, notoriously, and adversely possessed the school site for almost 28 years on the assumption that the site had been deeded to it where in fact the deed described another land, obtained title to the site by adverse possession notwithstanding the possession was by mistake.

Cambron v. Kirkland, 253 So. 2d 180 (Ala. 1971)

Suit was filed by owners of the eastern portion of property against the owner of the western portion, to determine the boundary between the parties' land.

Held: Under the evidence that more than ten years previously the owners of the western portion had cultivated a crop of corn on a strip located along the boundary between the eastern and the western portions of the tract and within the eastern portion, that after corn was harvested, thereafter the owners of the western portion planted grass on the disputed strip, maintained on and constructed a shed and driveway on the strip, the owners of the western portion of the tract acquired ownership of the disputed strip by adverse possession.

Huston v. Lambert, 281 Atl. 2d 511 (Del. 1971)

Action for partition of real property. The parties took title to the property in 1965, as husband and wife, although they had never married. In 1970 the plaintiff removed herself and her belongings from the property because of strained relations with the defendant, and in 1971 filed her bill for partition. The defendant moved for dismissal on

the ground that the plaintiff had been out of possession since 1970 and that his adverse possession created a dispute as to title which must be settled at law before partition could be ordered. Motion denied. By taking title as man and wife, although not actually married, the parties took title as tenants in common. The law does not require that a co-tenant seeking partition be in actual physical possession of the property. Constructive possession by a petitioning co-tenant is presumed if there is non-adverse possession of the property by any other co-tenant. Proof of ouster of one co-tenant by the other must be stronger than between strangers because the possession of one is the possession of the other. The plaintiff's action in moving out of the premises implies a voluntary action on her part rather than a dissension by the defendant. It does not amount to the showing of ouster required in a co-tenancy relationship.

Dimura v. Williams, 446 Pa. 316, 286 A. 2d 370 (Pa. 1972)

This case involved the question of title to a narrow strip of land lying between plaintiff's and defendant's properties. Plaintiff claimed title to the parcel by adverse possession and brought an action in equity to require the defendants to remove their new fence which allegedly encroached upon her parcel and to replace a fence which had previously stood there.

The supreme court, in reversing the lower court, which found for the defendants, supported plaintiff's claim of adverse possession in light of the fact that the line formed by the fence and other fences which connected with it had long been recognized as the boundary line between plaintiff's property and the land owned by the defendants, and as such the fence constituted the boundary.

BANKRUPTCY

In Re Penn Central Transportation Company, 452 F. 2d 1107 (Pa. 1971)

Shortly after trustees were appointed to reorganize Penn Central Transportation

Company, it became apparent that anticipated revenues from the company's operations and other sources would be insufficient to meet its current obligations, a substantial part of such obligations consisting of tax assessments levied by various states and municipalities on property owned by the company and amounting annually to approximately \$64,000,000. In an attempt to keep the railroad running, the trustees petitioned the reorganization court to defer their obligation to pay taxes accruing since the beginning of the reorganization, establishing thereafter to the court's satisfaction that such a deferral was mandatory if other operating expenses were to be met. The trial court found from the evidence that it would be impossible for the company to pay any substantial part of its tax liability by December 1, 1970, and entered an order directing the trustees to make no payment of taxes until further order and enjoining all governmental entities from taking any action involving seizure, foreclosure, or tax sale. New Jersey and New York appealed.

Since they accrued during reorganization the taxes here at issue are administrative expenses entitled ultimately to share pro rata with all claims within the first priority classification under Section 64 of the Act, 11 U.S.C., paragraph 104. Pro rata participation, however, does not necessarily imply that all claims are entitled to simultaneous participation. To so hold would unduly impair the flexibility so essential to a reorganization proceeding. As noted by the Supreme Court in *Continental Illinois National Bank & Trust Co. v. Chicago, Rock Island & Pacific Ry.*, 294 U. S. 648, 676, which involved the authority of a reorganization court to enjoin foreclosure by creditors against secured collateral:

"it may be that in an ordinary bankruptcy proceeding . . . an injunction . . . would not be sustained . . . But a proceeding under paragraph 77 is not an ordinary proceeding in bankruptcy. It is a special proceeding which seeks only to bring about a reorganization, if a satisfactory plan to that end can be devised. And to prevent the attainment of that object is to defeat the very end the accomplishment of which was the sole aim of the section, and thereby to render its provisions futile."

After due inquiry the district court concluded in effect that immediate payment of the property taxes in question would probably defeat the reorganization. It, therefore, decided that under the circumstances the only viable recourse was to postpone such payment for a reasonable time, taking into consideration the competing public interests inherent in reorganizing the railroad and in maintaining the revenues of the various taxing entities affected by the injunction. Appellants do not point to any record basis which would suggest that ultimately the company's assets will be inadequate to meet in full the reasonably foreseeable first priority claims. Cf. *Lowden v. Northwestern Nat'l Bk. & Trust Co.*, 84 F. 2d 847, 855 (8th Cir.) cert. denied, 299 U. S. 583. Under these circumstances we conclude that Section 77 did authorize the reorganization court to enjoin temporarily the payment or collection of the assessed property taxes. Cf. *Southern Ry. Co. v. United States*, 306 F. 2d 119, 130.

New York, New Haven and Hartford Railroad Co., 447 F. 2d 428 (Conn. 1971)

B, a railroad company, purchased certain land in New York City in 1955, all of which B resold to various industries except a plot 50 feet by 421 feet which it used as a railroad right of way as a spur track to serve a private corporation. In March, 1961, the City of New York (the city) commenced an "assessable improvement" proceeding to condemn this plot of land for street use. In July 1961, a petition for reorganization in bankruptcy of B was approved, and the reorganization court entered an order enjoining all persons from interfering with B's property in any way. In spite of this order, the city did not stay its action in condemnation and the land was purportedly condemned in August of the same year. The city then transformed the land to be suitable for street use and, pursuant to an agreement between the city and B, B continued to operate trains over the condemned land, B paying the city \$600 per year for the use of the property. Later, B's trustee in bankruptcy filed a claim in the condemnation proceeding in 1968, questioning the validity of the proceeding, and the court granted a motion to stay the proceeding for 90 days while the city sought permission of the reorganization court *nunc pro tunc* to condemn the property. Such permission was refused, and the reorganization court voided the condemnation order entered in 1961.

Opinion: We believe that the use to which railroad property is or may be put is not relevant to the issue of the jurisdiction of the reorganization court, and that said court has jurisdiction to stay all condemnation litigation involving the debtor's property at least when such condemnation proceedings are not brought by the federal government.

Under the broad provisions of Section 77 (a) and 77 (j) of the act, the bankruptcy court has "exclusive jurisdiction over the debtor and its property wherever located" and the power of the court to stay suits is not limited to suits relating to dischargeable claims. Thus "in railroad reorganization, . . . limitations

on the bankrupt's power to stay suits are not conducive to the best interests of a reorganization. Such interests require unified administration of the debtor's property to a greater degree than do ordinary bankruptcy proceedings which envision only liquidation (footnote omitted). Subdivision (j) therefore apparently contemplates giving greater powers to the court than it would have in ordinary bankruptcy." Collier on Bankruptcy, Vol. 5, par. 77.12 (1970).

It is apparent that the reorganization court was justified in its conclusion that this was not a proper case for the application of the *nunc pro tunc* doctrine, which allows the issuance of an order effective at a prior date. The city, which was charged with notice of the railroad's bankruptcy, was under a duty to comply with the order of the reorganization court and stay its condemnation proceeding. It did not do this, and as such the reorganization court acted quite properly in adjudging this condemnation to be null and void. The circumstances under which an order will be issued *nunc pro tunc* are limited. See Moore's Federal Practice, Vol. 6A, paragraph 58.08 (1966), *Backo v. Local 281, United Brotherhood of Carpenters and Joiners*, 438 F. 2d 176, 179.

BONDS

Benton State Bank, Appellant, v. Hartford Accident and Indemnity Company, Appellee, United States Court of Appeals, Eighth Circuit, 452 Fed. 2d 5 (Ark. 1971)

This is a diversity action brought by a bank to recover on a banker's blanket bond. The bank was the victim of a fraudulent scheme whereby a real estate developer had obtained loans by use of notes and real estate mortgages bearing names of fictitious persons or persons who had no connection with or knowledge of the transactions. The bank sued to recover \$600,000, the face amount of the bond, alleging losses in excess of that amount. Pertinent clauses of the bond were:

A. One which provided protection on account of reliance on forged documents.

B. A rider attached with respect to any loss or losses (from forgery) is limited to \$25,000.

C. A nonreduction of liability section that payment on loss shall not reduce liability for other losses.

Defendant Hartford claimed the correct construction limited loss to \$25,000 for any one forgery and \$25,000 for plural losses resulting from a number of separate forgeries perpetrated by the same person.

The lower court held that the rider provided a limit on this class of losses and held that the nonreduction of liability clause did not effect a reinstatement of the total limit. The circuit court affirmed, and held that the right of recovery was limited to \$25,000, rather than \$25,000 for each act of forgery by the same person.

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Harry H. St. John, Jr. Elected by Kansans

Members of the Kansas Land Title Association elected Harry H. St. John, Jr., Columbian Title & Trust Company, Topeka, as their president during the 1972 KLTA Annual Convention last September in that city.

Ms. Marjorie Wright, Logan County Abstract Company, Russell Springs, was elected vice president and Robert G. Frederick, C. W. Lynn Abstract Co., Inc., Salina, was re-elected secretary-treasurer.

Governor Robert Docking of Kansas welcomed KLTA members on the occasion. Other convention talks covered the state economic outlook, federal courts, insured mortgages, and probate code and related legislation. James A. Gray, Fidelity Abstract Company, who last October was elected ALTA vice president, presented a report to KLTA as ALTA Abstracters and Title Insurance Agents Section chairman and discussed national activity of ALTA.



Robert Crisp New FLTA President

Robert F. Crisp, Florida Land Title & Trust Company, Marianna, was elected new president of the Florida Land Title Association during its 1972 Annual Convention last October in Nassau, Bahamas.

Other newly-elected officers are C. J. Bryan, Guaranty Title Company, Tampa, first vice president; Allan K. Ricketts, Title & Trust Company of Florida,

Photographs from the 1972 Kansas Land Title Association Convention at Topeka show Kansas Governor Robert Docking addressing the group as newly-elected president Harry H. St. John, Jr., listens (top). ALTA Vice President James A. Gray and wife Lola (center) chat with ALTA Past President Thomas J. Holstein and wife Nora in the center photograph. In the lower photograph, retiring KLTA President Earl O. Field talks with fellow Kansan and ALTA Past President Clem H. Silvers and their wives (right and center, respectively).

Jacksonville, Zone II vice president; Emil D. McLendon, Tamiami Abstract & Title Company, Sarasota, Zone IV vice president; George W. Shave, American Title Insurance Company, Miami, Zone VI vice president; William Beardall, Fidelity Title & Guaranty Com-

pany, Orlando, Past President's Council chairman; and G. Thomas Kirk, Lawyers Title Insurance Corporation, Miami, CLS Section chairman.

Sam D. Mansfield, Marion Abstract & Title Co., a past president of FLTA, was selected to receive the Raymond O. Denham Memorial Award, presented each year to the individual rendering the most outstanding service to FLTA, the abstract and title profession, and the public.



Robert F. Crisp, newly-elected Florida Land Title Association president, addresses a general session during the association's 1972 Annual Convention in Nassau, Bahamas.

First American Opens in New York

Establishment of operations in New York State and acquisition of a title insurance company and two abstract concerns there—along with acquisition of a California title company—have been announced by First American Title Insurance Company, underwriter with headquarters in Santa Ana, Calif.

Policies are being issued by First American Title Insurance Company of New York, successor to Northeastern Title Guaranty Corporation, with home

offices in Minneola, N.Y. In addition to acquiring the assets of Northeastern Title, First American has increased capitalization of the newly-named entity.

Also acquired were New York Abstract Co., Inc., Manhattan, and Attorneys' Abstract, Inc., Queens, according to the announcement.

D. P. Kennedy, president of the parent company, is chairman of the board of the New York company and Harold Pilskaln, Jr., regional vice president in charge of the parent company's eastern operations, is president of the New York company. Other officers of the new acquisition are Walter Krinsky, Jr., vice chairman of the board; Samuel Fremer, senior vice president; Joseph N. Friedman, Louis Kushner, and Harold S. Schwartz, executive vice presidents; and Joseph Kerbis, treasurer.

In the California acquisition, the parent company has assumed ownership of Tahoe Title Guaranty Company and changed its name to First American Title Company of Tahoe. The newly-acquired company operates in Placer and El Dorado Counties and has been issuing policies of the parent company for several years through an underwriting agreement.

Principal offices for Placer County are in Auburn, with branches in Kings Beach and Roseville. The El Dorado County main office is in Placerville, with a branch in South Lake Tahoe.

Richard H. Immel heads the Placer County operation and Charles Sorenson the El Dorado facility as vice president and manager.

Past President Of MLTA Killed

Word has been received of the death of Eugene Burns, forty-sixth president of the Missouri Land Title Association, last December 9 in a natural gas explosion in Clinton, Mo.

Recently, he had founded his own abstract company—the Burns Abstract Company—whose office was among the buildings demolished in the explosion.

Survivors include his wife, Peggy, and a daughter, Susan.



In a surprise ceremony, Jay R. Schwartz, president of American Title Insurance Company, right, is presented a certificate commemorating his 36 years of service with that concern and designation as first member of American Title's newly-implemented 25-year club. Making the presentation is John Ely Weatherford, senior vice president, as Miss A. B. Cale, second vice president, watches. Schwartz also received a gold watch from company officers in honor of the occasion.

names
 NAMES in the news
 names

C. J. McConville, president of Title Insurance Company of Minnesota, will succeed Robert M. Blaese, chairman of the board, as chief executive officer. Blaese will continue as chairman of the board until the company's annual meeting on April 18, 1973, when he is due to retire.

* * *

Title Insurance Company of Mobile has named Roberdeau D. Geist, Jr., former assistant manager of the company's title plant, a vice president. Robert H. Goodloe, Jr., assistant secretary in the Baldwin County department, and James K. Merrihew, Jr., whose duties include underwriting and supervision of agency operations, have been named assistant vice presidents. Mrs. Nita F. Childs, supervisor of the accounting department, has been named treasurer. Cecil E. Brinson, title examiner; Mrs. Dianne Wacker, manager of the Bel Air-Springdale branch; Terry W. Nash, title examiner in the underwriting department; Marshall J. Spurlock, supervisor of the research department; and Larry A. Giardina, supervisor of customer relations, advertising and personnel, have been named assistant secretaries.

* * *

Metropolitan Title Guaranty Company has named William H. Kanter vice president in charge of its Brooklyn office.

* * *

Lawyers Title Insurance Corporation has announced the following promotions:

John H. Brenner of Detroit and



McCONVILLE



KANTER



DANCO



FELDMAN



BRENNER



McCLUNG



OLIVIER



WATTERSON



EICKHOFF



FREEDMAN



VOLINO



CHILDERS



HOOP



SHAPIRO



SMITH



VORBROKER

Claude R. McClung, Jr., of Dallas have been named assistant vice presidents.

Elected to the positions of assistant state counsel are **John T. Eickhoff**, Indianapolis; **Lee B. Freedman**, New York; **Edgar C. Hoop**, Chicago; and **Haskell Shapiro**, Boston.

The following have been promoted to the positions of branch counsel: **Ernest J. Danco**, Columbus, Ohio; **Ronald D. Feldman**, Mt. Clemens, Mich.; **Robert S. Olivier**, Saginaw, Mich.; **Alfred V. Watterson**, Pittsburgh; and **Nicholas Volino**, Detroit.

Warren G. Childers, Detroit; **Ced L. Smith**, Chardon, Ohio; and **Henri G. Vorbroker**, West Palm Beach, Fla., have been elected to the positions of assistant branch counsels.

Robert L. Brunet has been elected manager of the Freehold, N.J., office.



BRUNET

* * *

Victor C. Vescovo has joined the National Department of Mid-South Title Co., as an associate of **W. J. Gallagher**, vice president in charge of agent service. His duties as a field representative will take him throughout Arkansas, Mississippi, and areas of Tennessee outside Shelby County.

INFLATION—continued from page 6

decided this October to reexamine its procedures. A logical first step would be to establish a Joint Congressional Committee on Expenditures and Revenues. Such a Committee would review and evaluate the budget proposed by the Administration each January for the next fiscal year. It would seek to determine whether the proposed total of expenditures was in keeping with the nation's needs and capabilities, whether new sources of revenue would be required or if some taxes could be low-

ered, thus returning resources to the private sector. Determinations of this character would serve as a useful guide to the individual committees of the Congress, and so too would projections of the growth of revenues and expenditures over the next three to five years, given existing federal programs and new initiatives under consideration.

Besides such a Joint Committee, formal Congressional procedures for controlling total expenditures are needed. Legislative budgets merit fuller and more careful consideration than they have yet received. For example, the Congress might act on a single comprehensive appropriation bill instead of the dozen or so bills that it now handles. Another procedure might be to legislate an overall budget total, with outlays specified for a limited number of major categories, before turning to the appropriations process. Then, if any individual appropriation bill involved expenditures exceeding the limit already established for that category, a two-thirds vote in the House and the Senate might be required to enact that appropriation.

Alternatively, the Congress could impose a rigid ceiling on total expenditures, and require the Executive to adjust outlays on individual categories so that they would be consistent with the ceiling. Such an approach was considered by the 92nd Congress, but rejected because of concern that too much power over the purse strings would be ceded to the President. There is some justification for that view. But it should be noted that a ceiling also limits the ability of the President to spend as much as he might desire, and that restrictions might be placed on his power to readjust spending priorities. A vigilant Congress could, I believe, take steps to ensure that Congressional control over the direction of spending would not be weakened by a legislative budget ceiling.

Formal and systematic control over federal expenditures would, as I have already suggested, do a good deal to eliminate recurring bouts with excess aggregate demand. But there are times when overheating of the economy originates in the private sector. At such times, better fiscal tools are needed to curb private spending. In a recent re-

port to the Congress, the Federal Reserve Board argued that it would be wise to enlarge the role of fiscal policy in short-run economic stabilization, and that a promising way of doing this would be to vary the investment tax credit in the light of business-cycle developments.

To facilitate timely adjustments, without which stabilization policy cannot be effective, the President might be given the authority to initiate changes in the investment tax credit. At the same time, Congress could retain its traditional control over taxes and act as a full partner in making the needed adjustments. For example, the President might be permitted to change the tax credit within a specified range, say between zero and 10 or 15 per cent, subject to modification or disapproval within 60 days by either House of Congress.

Experience since 1966 suggests that variation in the rate of the investment tax credit would influence significantly the behavior of business investment over the course of the business cycle. Such a fiscal tool would therefore reduce the burden on monetary policy, and make possible some improvement in the management of aggregate demand.

There has been a tendency throughout the postwar period—both in the United States and in other countries—to rely heavily on monetary policy to adjust to shifts in private spending propensities, and even to expect monetary policy to offset the impact of unwanted fiscal stimulus. It is difficult, however, to maintain adequate control over aggregate demand when primary reliance is placed on monetary policy, first, because its effects occur with variable lags, second, because its influence on economic activity is disproportionately large in particular industries such as housing. If improved fiscal instruments were used side by side with monetary policy to influence total spending, the chances of avoiding excessive bursts of aggregate demand, with their inevitable inflationary consequences, would be greatly enhanced. Furthermore, undesired effects on the structure of real output would be reduced, greater stability could prevail in financial markets, and the monetary

managers could focus more consistently on maintaining a course conducive to sustainable economic growth and reasonable price stability over the longer run.

This conception of the role of monetary policy has guided our thinking at the Federal Reserve over the past several years. During this period, more careful attention has been given to the monetary aggregates because we recognize that excessive amounts of money and credit might inadvertently be supplied in a period of rising credit demands if attention were focused primarily on interest rates. We recognize, however, that changes in the cost and availability of credit affect the nation's economic activity, and we therefore cannot neglect the condition of financial markets.

Monetary policy since early 1970, when judged by any of the major monetary aggregates, has favored moderate economic expansion. During the past three years, the narrowly defined money stock—that is, currency plus demand deposits—has grown at an annual rate of about 6 per cent. Defined more broadly, so as to include also consumer-type time and savings deposits of commercial banks, the stock of money has grown at an average annual rate of 10 per cent. Between the third quarter of 1971 and the third quarter of this year, the narrowly defined money stock increased 5.6 per cent. This was well below the growth rate of total real output, and far below the increase in the current dollar value of output.

Monetary policy has thus provided the funds needed for a good expansion in production and employment, and it has done so without fostering a condition of excess aggregate demand. We at the Federal Reserve expect to continue a policy of supporting economic growth, but we are firmly resolved to do this without releasing a new wave of inflation.

Responsible monetary and fiscal policies are clearly essential for coping with the current inflationary problem. However, as the incomes policy initiated in August of last year has demonstrated, efforts to influence wages and prices directly can play a constructive role when cost-push inflation reaches

serious proportions. The energy released by the New Economic Policy has been abundantly evident to businessmen, workers, and consumers. True, the control program did not bring inflation to a halt, but any such expectation would have been unrealistic.

There are those who believe that the time is at hand to abandon the experiment with controls and to rely entirely on monetary and fiscal restraint to restore a stable price level. This prescription has great intellectual appeal; unfortunately, it is impractical.

If some form of effective control over wages and prices were not retained in 1973, major collective bargaining settlements and business efforts to increase profits could reinforce the pressures on costs and prices that normally come into play when the economy is advancing briskly, and thus generate a new wave of inflation. If monetary and fiscal policies became sufficiently restrictive to deal with the situation by choking off growth in aggregate demand, the cost in terms of rising unemployment, lost output, and shattered confidence would be enormous. As a practical matter, I see no alternative but to pursue for a while longer the experiment with direct controls. I trust, at the same time, that reasonable steps will be taken to reduce the distortions and inequities that are beginning to accumulate.

But the greater need in the year ahead (1973) will be to use the breathing spell afforded by the control program to seek ways to improve the functioning of our labor and product markets, so that wage rates and prices become more responsive to the balance between market demand and supply.

There has been much discussion recently of the need for structural reform—by some, because they see evidence of abuse of economic power by large business firms; by others, because they see trade unions forcing up wage rates well beyond productivity gains and raising costs otherwise through restrictive work practices; by still others, because they see a multiplicity of governmental regulations that restrict productivity and impede the workings of competition. While opinions may differ as to which of these several areas merits

primary attention, I believe that informed observers of the current economic scene would agree that structural reforms are needed in all of these areas in the interest of weakening the built-in forces of inflation. In any event, given the realities of political life, genuine progress is likely only if we move on all fronts simultaneously.

It will take courage for the Congress and the Executive to deal with the issues of structural reform in forthright fashion. The ground to be covered is difficult and enormous. We need to reassess the adequacy of our laws directed against monopolistic practices of business, the enforcement of these laws, the power of trade unions at the bargaining table, restrictions on entry into business or the professions, the restrictive practices of trade unions, the subsidies to farmers, the Federal minimum wage—particularly for teenagers, restrictions on the activities of financial institutions, the welfare system, import quotas, tariffs, and other legislation that impedes the competitive process. We need also to reevaluate our extensive manpower training programs and the feeble effort to establish computerized job banks, for it is clear that our labor market policies have thus far failed to contribute sufficiently to the objective of expanding employment and yet avoiding the inflationary effects that monetary and fiscal policies so often tend to generate.

There is no quick or easy path to meaningful structural reform. But I see no real alternative if our national aspiration for prosperity without inflation is to be realized, while free enterprise and individual choice are being preserved.

In conclusion, let me remind you that in August of last year (1971), confidence of our citizens was at ebb tide. The measures then taken created hope that our government had the will to halt inflation and move the nation's economy forward. It is time now to take the further steps needed to consolidate the progress already achieved. In the measure that we succeed we will not only protect our domestic prosperity, but we will also facilitate the rebuilding of the international monetary system and the economic growth of our sister nations around the world.

meeting timetable



1973

March 14-16, 1973

ALTA Mid-Winter Conference
Del Webb's TowneHouse
Phoenix, Arizona

March 30-31, 1973

Florida Land Title Association Mid-Year
Meeting
Hilton Hotel
Tallahassee, Florida

April 12-14, 1973

Arkansas Land Title Association
Fayetteville, Arkansas

April 13-15, 1973

Oklahoma Land Title Association
Camelot Inn
Tulsa, Oklahoma

May 3-5, 1973

Texas Land Title Association
Camino Real Hotel
Mexico City, Mexico

May 6-8, 1973

Iowa Land Title Association
Hyatt House
Des Moines, Iowa

May 10-12, 1973

New Mexico Land Title Association
Airport Marina Hotel
Albuquerque, New Mexico

May 10-12, 1973

Washington Land Title Association
Evergreen Inn
Olympia, Washington

May 23-25, 1973

California Land Title Association
Newporter Inn
Newport Beach, California

June 3-5, 1973

Pennsylvania Land Title Association
Host Corral
Lancaster, Pennsylvania

June 7-10, 1973

New England Land Title Association
Stratton Mountain Inn
Stratton Mountain, Vermont

June 8-9, 1973

South Dakota Land Title Association
Holiday Inn
Mitchell, South Dakota

June 14-16, 1973

Idaho, Montana and Wyoming Land Title
Associations
Pink Garter Plaza
Jackson, Wyoming

June 20-22, 1973

Illinois Land Title Association
Drake Hotel
Chicago, Illinois

June 21-23, 1973

Colorado and Utah Land Title Associations
Manor Vail
Vail, Colorado

June 21-23, 1973

Oregon Land Title Association
Ka-Nee-Tah Lodge
Warm Springs, Oregon

June 24-26, 1973

Michigan Land Title Association
Hidden Valley
Gaylord, Michigan

July 12-14, 1973

New Jersey Land Title Association
Seaview Country Club
Absecon, New Jersey

August 6-9, 1973

American Bar Association Annual Meeting
Sheraton-Park Hotel
Washington, D.C.

August 22-25, 1973

New York State Land Title Association
Whiteface Inn
Lake Placid, New York

August 23-25, 1973

Minnesota Land Title Association
Quadna Mountain Lodge
Hill City, Minnesota

August 24-25, 1973

Kansas Land Title Association
Wichita Holiday Plaza
Wichita, Kansas

September 6-8, 1973

Ohio Land Title Association
Salt Fork Lodge
Cambridge, Ohio

September 13-14, 1973

Wisconsin Land Title Association, Inc.
The Dome Resort
Marinette, Wisconsin

September 13-15, 1973

North Dakota Land Title Association
Villager Motel
Lincoln, Nebraska

September 14-16, 1973

Missouri Land Title Association
Hotel Muehlebach
Kansas City, Missouri

September 30-October 4, 1973

ALTA Annual Convention
Century Plaza
Los Angeles, California

October 22-24, 1973

Mortgage Bankers Association of America
New York Hilton, and the Americana
New York, New York

October 28-30, 1973

Indiana Land Title Association
Atkinson Hotel
Indianapolis, Indiana

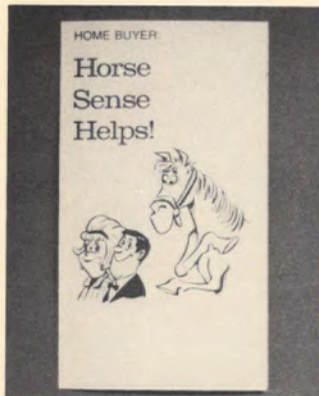
November 7-10, 1973

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Biloxi, Mississippi

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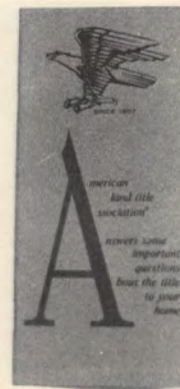
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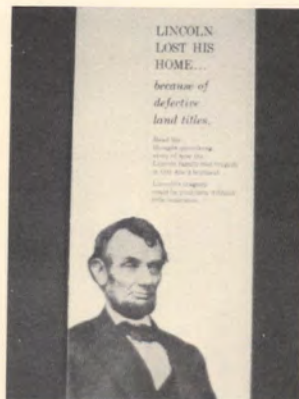
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American Land Title Association

