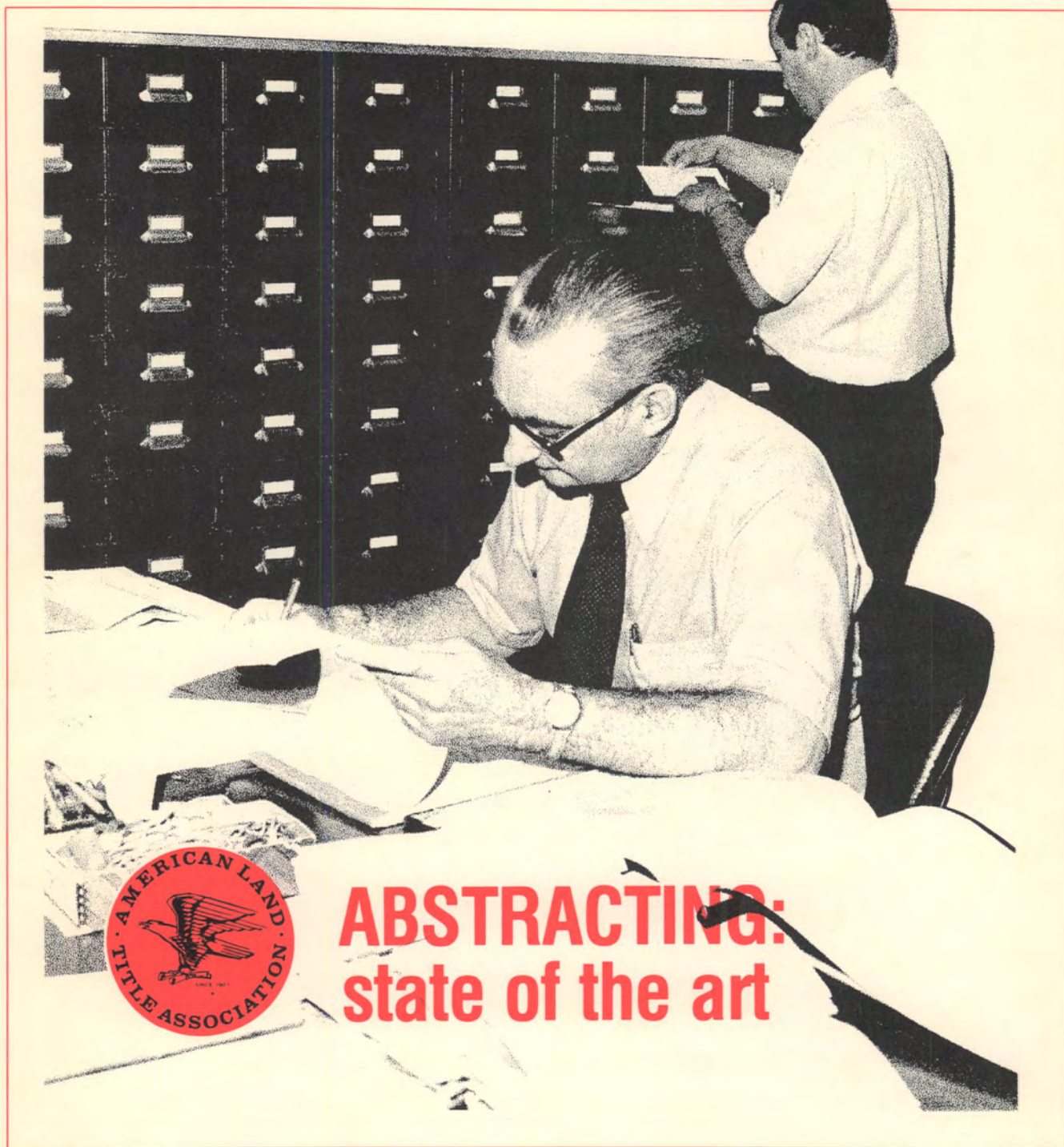
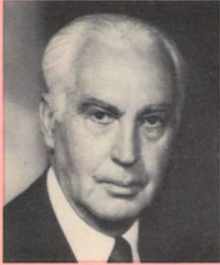


Title News

the official publication of the American Land Title Association



August, 1974



A Message from the Chairman, Title Insurance and Underwriters Section

AUGUST, 1974

The ALTA Annual Convention, to be held September 29-October 2, 1974, at the Americana Hotel, Bal Harbour, Florida, promises to be an outstanding meeting designed for the benefit of all of our membership. A program has been designed to inform our membership of the problems that face our industry and how the Association and its committees and sections are working to meet those problems for the benefit of all of our membership.

The Convention also will provide opportunities through the various entertainment features for each of us to become better acquainted and to get to know each other much better. This is probably as important a feature of the Convention as the business sessions and is certainly necessary in strengthening our Association and our effectiveness.

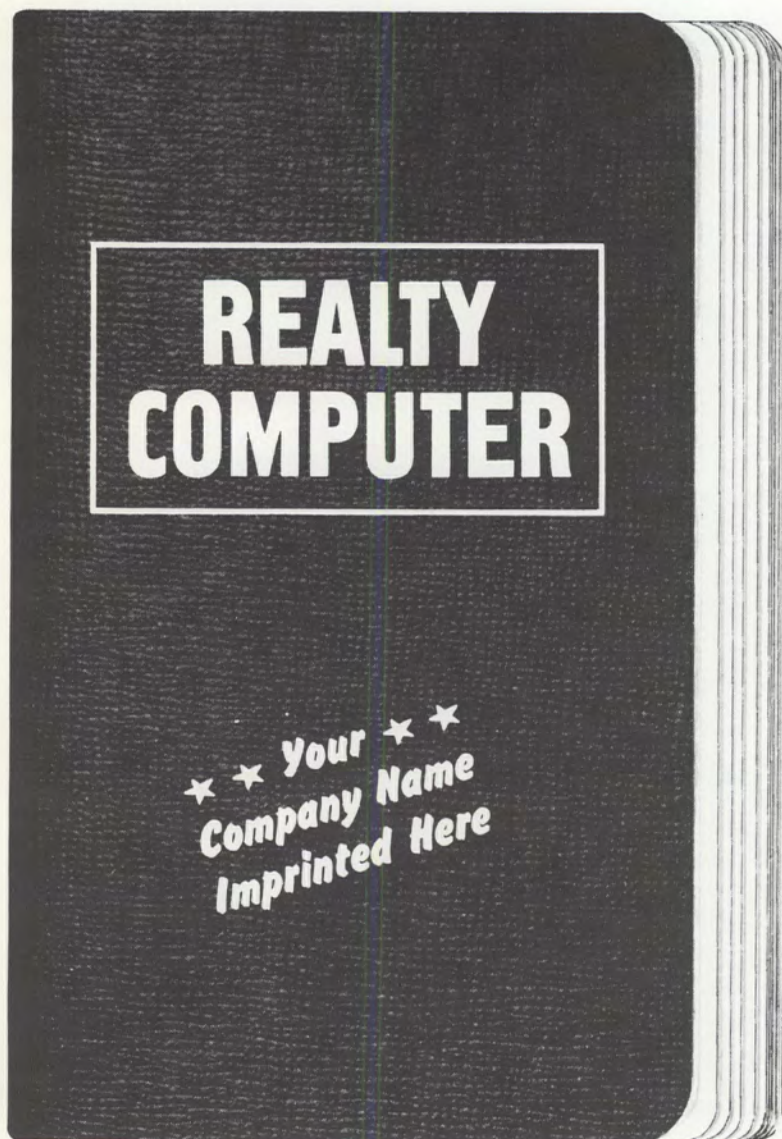
As chairman of the Title Insurance and Underwriters Section, I urge each of you to attend the Convention and to participate in all of its activities.

Sincerely,

Richard H. Howlett

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ALTA officers are scheduled to attend three conventions of affiliated land title associations this month.

Title Insurance and Underwriters Section Chairman Richard H. Howlett will journey to Miles City, Montana, for the convention of the Montana Land Title Association there August 15-17. Association President-Elect Robert J. Jay will be in Salina, Kansas, August 16-17 for the Kansas Land Title Association convention, and will travel to Anoka, Minnesota, August 22-24 for the Minnesota Land Title Association convention.

* * *

Three important ALTA committee meetings were on the agenda in July.

On July 2 and 3, the Association's Committee on the Commission on Uniform State Laws met in New York City to consider suggestions and recommendations regarding certain parts of a Uniform Land Transactions Code being drafted by a committee of the National Conference of Commissioners on Uniform State Laws. Suggestions and recommendations of the ALTA committee will be transmitted to the National Conference committee for consideration in conjunction with its work on the Uniform Code. Following its approval by the National Conference, plans are for the Uniform Code to be made available to state legislatures. Attending the ALTA committee meeting in New York City were Robert Kratovil, chairman; James Lynch, James Pedowitz, and John Wilkie, members; and William J. McAuliffe, Jr., the Association's executive vice president.

On July 11, ALTA members of the Liaison Committee with the United States League of Savings Associations met in Chicago with their U.S. League counterparts. Items on the agenda for discussion included closing costs, service corporations of savings and loan associations in business as title insurance agents, and problems relating to federal flood insurance. ALTA members of the group include Chairman James Robinson, Robert Bates, and Bruce Zeiser. McAuliffe also attended the meeting.

And, on July 16 and 17, members of the ALTA Committee to Establish Liaison with the National Association of Insurance Commissioners met in Chicago to review aspects of a national study of title insurance being proposed by the NAIC Task Force on Title Insurance. Members of the ALTA committee include Chairman Mack Tarpley, C. L. Coffman, Erich Everbach, C. J. McConville, Robert von Doenhoff, John Weatherford, and Wilkie. McAuliffe also attended the meeting.

* * *

Members of the ALTA Public Relations Committee are scheduled to meet August 1 in the Association's Washington office to plan the ALTA Public Relations Program that will be recommended for 1975. Impressive public exposure that favorably identifies the land title industry with serving the public interest is being generated through the 1974 ALTA Public Relations Program that emphasizes consumer education on home buying and land title protection.

Among highlights of 1974 Association public relations activity is telecasting of three celebrity film announcements offering ALTA home buyer education literature free to the public, by nearly 200 stations from coast to coast.

ALTA public service messages have reached millions more this year through a 60-second television film clip "mini-drama" emphasizing the importance of land title protection, and through an ALTA local talk show 3-minute film on how to prepare for closing the purchase of a home.

Other ALTA public relations endeavor involving electronic and print media has contributed to accurately identifying the land title industry before a nationwide audience of millions.

Public Relations Committee members include Chairman Bill Thurman, Vice Chairman Randy Farmer, Phil Branson, Joe McNamara, Frank O'Connor, Ed Schmidt, and Robinson. Also in attendance at the August 1 meeting will be ALTA Director of Public Affairs Gary Garrity and Richard Ronder, ALTA public relations associate.



Title News

the official publication of the American Land Title Association

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Features

- Bal Harbour Offers Ideal ALTA Convention Site 4
Ladies Convention Events Will Make Men Take Notice 5
ASK ME 5
Abstracting: State of the Art (Special Report) 6
Arkansas 6
Idaho, Utah, Wyoming 7
Indiana 8
New York 9
Iowa 11
Colorado 12
Missouri, Oklahoma 13
South Dakota 14
Minnesota, Illinois 15
Wisconsin, Michigan 17
Kansas 18
North Dakota 19
Nebraska 20
New Jersey 21

Departments

A Message from the Chairman, Title Insurance and Underwriters Section (Inside Front Cover)

ALTA Action 2

Meeting Timetable 28

ON THE COVER: L. L. (Speed) Thyen, seated, vice president, handles layout on an abstract continuation while P. R. Welshons checks a microfilm aperture card on a busy day at Dakota County (Minnesota) Abstract Company, which last year processed some 545,000 orders. Dakota County Abstract, located in Hastings, Minn., has the only title plant in its county, and presently has business volume consisting of 70 per cent abstracts and 30 per cent title insurance. But the company workload is changing in the direction of title insurance. Welshons and other ALTA member company executives report on the outlook for abstracting in 19 states in a special report beginning on page 6.

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GARY L. GARRITY, Editor

RICHARD W. RONDER, Managing Editor

Bal Harbour Offers Ideal ALTA Convention Site

By Host Chairman Jim Robinson

Of course you plan to attend the ALTA convention at the Americana hotel! You already know the dates—September 29 through October 2. But what about the program; the weather; the special events which have been planned for you?

Let's begin with the hotel itself. Perhaps you never heard of Bal Harbour. Well, if you've been to Miami Beach, you were within walking distance of the Americana. It is on Collins Avenue just 50 blocks north of the Fontainebleau. One of the world's most popular resort

facilities, the Americana combines the best of everything for business and pleasure.

The Gold Coast strip, unmatched anywhere in the world for sheer luxury, is directly across the bay from Miami, whose name was originally a Calusa Indian word, "Mayami," meaning, "Big Water." Miami's mild winter and sunny summers, essentially sub-tropical marine, are due mostly to its southerly position in the western hemisphere and the moderating influence of the trade winds as they pass westward over the Gulf stream—producing nature's own air conditioning. Temperatures in the winter seldom dip below a brisk 45 degrees, while those in the summer dwell mainly in the high 80s.

And what about the state? Florida is a way of life. South of the mainland, but clinging to America's vast land mass like a child to its mother, it is a fairy-land of forest and swamp, beach and prairie, sea and sand—and has the only true subtropical climate this country can boast. Actually, it is a geological accident: a stretch of coral extending south like a giant sponge for 400 miles.

But, to millions of Americans, this land is more than geography. It is a state of mind, a never-never land of eternal romance, sunshine and pleasure.

Florida, the first land in the present-day United States to be discovered by white men, is today the frontier of the world. From a Florida cape, men take off for the moon.

Miami Beach, mecca of sun-seekers, is the world's most famous resort. Yet not many miles north of this well-popu-



Maureen Ribble



John Kinnamon

... Stars of "I Do! I Do!"



The Brothers and Sisters



Ruth Kerdyk

lated playground are magnificent ocean beaches where one can stroll for miles without seeing a sign of human habitation.

The Suwannee River is more beautiful than the song about it.

Florida has a vast cattle country, and Seminole Indians are among the cowboys.

The Everglades is a great, wet prairie, not a land of flowering tropical forests, as so many imagine. But there are lush tropical forests in South Florida, such as Corkscrew Rookery, a beautiful stand of cypress trees where native American storks nest.

Everybody knows something about Florida, but few folks know all the diverse natural beauty of the Sunshine State. A drive from Pensacola, near the Alabama border in Florida's panhandle, to Key West is a magnificent trip offering vast variety—if you know where to look.

Although ALTA officers and committee members will have been hard at work much earlier, the convention officially begins with the Ice-Breaker at 6:30 Sunday evening in the International Room of the Americana. Monday will be devoted to a General Session and Section meetings with the evening free so you can enjoy Miami's glittering night life. Workshops are planned for Tuesday morning, after which golf,



Chairlady Alice Robinson

fishing and tennis tournaments will delight the sports minded. General sessions will be held Wednesday morning and afternoon. Then the climax! A reception at 6:15 in the International Room, followed by the annual banquet in the Ballroom, where you will be thrilled by the big band sound of Ray Bloch's orchestra and the talent and energy of, "The Brothers and Sisters," one of America's most popular singing groups.

How about the ladies? Let the Hospitality Chairlady tell it like it is.



Chairman Jim Robinson

ASK ME

By Mrs. Virginia Weatherford
Registration and
Information Chairlady

You may have heard about the 100 yellow ribbons tied to the old oak tree but, during the ALTA convention September 29-October 2 at the Americana Hotel in Bal Harbour, you will find 100 yellow ribbons pinned to mem-

Continued on page 25

Ladies Convention Events Will Make Men Take Notice

By Mrs. Alice Robinson
Hospitality Chairlady

The tables are about to be turned! For years the wives and lady guests of ALTA members have regarded with envy the emphasis on programs planned for the men. This year, chances are that the men will be clamoring to gain entrance to the events arranged for the ladies.

Consider the hospitality suite—a lovely room on the ground level adjoining the garden and pool areas. An artist will be on hand to provide souvenir

silhouettes for every one present. Special tokens will be the reward for the first 100 women in the suite each morning. Informality is the order of the day. Continental breakfasts for all.

You won't want to miss being in the hospitality suite Wednesday morning when Ruth Kerdyk, the noted performer and satirist, presents, "The Five Ages of Woman", a review of the most endearing and most irritating faults of

Continued on page 25



Chairlady Virginia Weatherford

Arkansas



Mrs. Marguerite Held
Crittenden Abstract
& Title Company, Inc.
West Memphis, Arkansas

What is the outlook for abstracting? Are title insurance policies replacing abstracts in locales where the latter have been prevailing forms of land title evidence? Have state legislation and regulation helped abstracters solve their problems and better serve the pub-

Abstracts are requested as a means of 75 per cent of the title evidence in Arkansas. Although title insurance is predominant in metropolitan areas, most title companies in other areas build abstracts as requested by examining attorneys, the majority of savings and loan associations, and banks.

The law of Arkansas requires examination of title from the United States patent. The transposition of this mechanics of title has been expedited by preparation of base abstracts to cover subdivisions, therefore necessitating only short supplemental abstracts for lots or smaller areas at time of disposition. In most cases, title policies issue to owner and lender, but in some cases, attorney title opinion only is rendered.

The method of abstracting is changing to keep pace with rapid growth, by use of computer as well as microfilm and all the up-to-date equipment available to this industry. A number of attorneys will accept only an abstract in real estate sales.

In many areas of the state only abstracts are prepared and these are the only acceptable means of title evidence for the purchaser. The abstract is a special document to hand to the individual.

In the future, laws will be passed to shorten the abstract. Demand will necessitate a faster method to be devised. However, it is my prediction that it will take a number of years to even partially remove the abstract from the title business in the state of Arkansas—if ever.

A study of the approximately 100 abstract and title companies in the state

ABSTRACTING: state of the art

lic? What about inflation? Automation? Shortage of qualified personnel? And, are abstracters losing their traditional independence? In this special report, ALTA members look at these and other questions in 19 states.

reveals that in 1967, 30 companies were primarily abstract producers. In 1974, there were about 34 such companies operating. The remainder of the companies produce abstracts and title policies, and only a few concentrate on title policies alone.

Idaho, Utah, Wyoming



Louis Hickman
Hickman Land Title Company
Logan, Utah

I had been so busy that I hadn't paused to reflect on the change in your businesses until called on by the ALTA Washington office to review the current status of the abstract and its use in Utah and perhaps the surrounding states. As we are involved with local companies in Utah, Idaho, and Wyoming, I was able to survey these areas from a first hand position in many of the counties and have contacted abstracters in the remaining areas.

I am almost sorry that I was asked to perform this task. It reminded me of a similar one that I was called on to perform about four years ago when the family of one of our oldest competitors asked me to speak at his funeral, "as no one else knew or understood an abstracter or what he did and thought".

The Rocky Mountain states have always been considered to be "abstract states" and our members have always felt a kinship with others of this same category at national and regional meetings. It hasn't been too many years since the main focus of our state and regional meetings was geared to attempts to standardize abstract pages, certificates, and practices. No more—we are now deluged with talks on underwriting problems, government regulation of

title insurers, insuring air rights and so forth.

My research into this question shows that the state of Idaho has converted almost completely to the use of title insurance. Only a few of the counties even have a registered abstracter in residence and they only rarely and for special situations ever prepare an abstract.

Utah was even slower in giving up the practice and it wasn't until the recent surge in home building that many of the counties converted to the use of title insurance. As in most states, the first evidence of the change came in the metropolitan areas and gradually spread from these. In Salt Lake County the big change came shortly after the end of the second world war and the initial rash of tract home building for returning veterans. At the present time less than five per cent of the real estate transactions in that county use abstracts of title. Actually, most of the demand for abstracts come from attorneys involved in court actions that need a comprehensive picture or history of a parcel of land, that can be given only through the use of an abstract.

These figures are about right also for the other metropolitan counties of Weber, Davis, and Provo. The abstracters interviewed in these counties reported doing as little as one or two abstracts a year, and in many cases told me that they no longer had anyone in their employ who knew how to prepare and assemble an abstract and as a result were no longer offering the service.

The more rural and agriculturally oriented the county, the more the abstract is still in use. In my home county of Cache (population of about 40,000) about 80 per cent of our orders four years ago were for abstracts. Today, only about 15 out of a hundred request them. In this county, for example, only two lenders will still accept an abstract of title as title evidence for a loan—and then only when there is not new construction and the loan to value of the property is low.

In Rich County with a population in the winter of about 3,000 people (a summer area), the people and even the lenders didn't know what title insurance was as little as four years ago. Now the only abstracts being made or extended are either for use in transfers within a

family, or for special situations such as for mineral or court activities. Most of the other counties in Utah are very similar. The main surge of the change came about as a result of regional or national lenders requiring title insurance in lieu of abstracts and attorney opinions. The wholly-owned local bankers still cling to the old ways.

Wyoming is much the same story—only an even later conversion. There is a great amount of new mineral exploration within the state that is keeping the local and oil abstract specialists proficient. However, the areas that are experiencing large recreational and residential growth patterns have had a sudden conversion to the use of title insurance in just the past four or five years.

Even the most rural of the counties in Utah and Wyoming are experiencing this same change in title evidencing in the past couple of years when the major agricultural lenders switched entirely to the use of title insurance. Many of the farmers and ranchers still want to keep their abstracts even though the Federal Land Bank and other such lenders will no longer accept them in conjunction with their loans.

Within the local title companies very few of the younger trainees are being taught abstracting. The entire emphasis in this area is now on preparing take-offs for title insurance, examinations and underwriting principles, and in training the employees for such activities. Many of the title plants now being constructed in this area could not produce an abstract completely within the plant. Only the records essential for title insurance examinations and production are being assembled and indexed in these plants.

As I said at the beginning, I have mixed emotions about this assignment and the awareness of the change that it has forced on me. I almost feel like singing, "Should Auld Acquaintance Be Forgot . . .". I believe that most of the independent title companies are making more money as a result of the change, but few of them are maintaining their independence. In this area, at least, the names of the companies are changing from the typical "Kane County Abstract Co." to the ". . . National Title Insurance Company—Kane County Branch". The local companies are

either selling out to the larger regionalized or national companies, being forced out of business by the competition, or like my late lamented competitor, giving up the ghost with the subsequent liquidation of the assets by the family. They are then replaced by "outsiders" who move in to fill out the vacuum created in such circumstances.

Indiana



William King, Jr.
Kings Abstract Company
Richmond, Indiana

Indiana was the first state admitted to the Union that was completely under the Congressional Survey System. The year was 1816 and by now most of the land had been claimed and settled. Hoosier abstracters have been performing their certification of land title data since the early 1800's.

Many of the old tract indices were prepared in the period from 1850 to 1900.

The Indiana Title Association was organized in 1907, the same year as the American Title Association. Both have since added the word "Land" to their title for better understanding.

Luther R. Cressner, James C. Fletcher, Dr. J. R. Morgan, William Roland, and several others whose names have been lost over the years, were the charter ILTA members. These farsighted titlemen were interested in the protection of their profession and the general public from unscrupulous and unethical practices. These early founders of the association decided the only way this might be accomplished would be by the banding together of the abstracters who believed in the establishment of adequate title plants and the improvement of their personnel in the technique of title work so that the abstracts which they produced would reflect the salient merits of title evidence

most needed by their clientele—speed, economy, and safety.

These early founders adopted as their code of ethics, the following:

First: We believe the foundation of success in business is embodied in the idea of service, and that titlemen should consider first, the needs of their customers, and second the remuneration to be considered.

Second: Accuracy being absolutely essential in the examination of titles, titlemen should so arrange their records as to eliminate the possibility of mistakes.

Third: Ever striving to elevate the title business to a plane of the highest standing in the business and professional world, the titleman will always stand sponsor for his work and make good any loss, occasioned by his error, without invoking legal technicalities as a defense.

Fourth: The examination of title being to a large extent a personal undertaking, titlemen should at all times remember the fact, and endeavor to obtain and hold a reputation for honesty, promptness, and accuracy.

Fifth: The principal part of business coming from real estate dealers, lenders of money and lawyers, it is obvious that relations with these men should at all times be friendly. To further this friendship we declare ourselves willing to aid them in all ways possible in meeting and solving the problems that confront them.

Sixth: We believe that every titleman should have a lively and loyal interest in all that relates to the civic welfare of his community, and that he should join and support the local civic commercial bodies.

Through the exchange of ideas and techniques in the association, education and plant improvement have been a constant goal.

Membership in ILTA is predicated on acceptance by the Board of Governors and inspection of an adequate title plant. This rule applies to abstracters and title companies alike. There are also associate memberships available for title insurance companies who don't have plants.

There are 93 member companies of ILTA and two associate members. Officers and directors are elected annually in November at the state convention.

Indiana has been one of the pioneers in abstracting education. Educational seminars are held in the spring in three locations. They are one-day sessions with educational lectures for beginners and advanced employees and round table discussions for owners and managers of companies. Attendance at these meetings was 331 this year.

For the past five years, ILTA has given financial assistance and guidance for a two-year land technology course at Vincennes University. Abstracting and land measurement are taught by an abstract company owner on a part-time basis. This year, seven students—our largest class—have finished the two-year course and have been employed in the abstract and title industry. These young trained abstracters are in great demand and are proving the value of this program.

ILTA has just commissioned Niven Stahl, a retired state counsel for Lawyers Title Insurance Corporation, to write a textbook for abstracters. Publication of this book is planned in three parts with the first section, on land measurement and survey, to be ready for our spring seminars.

ILTA has had a special committee working this past year on the model title insurance code. Presentation of its recommendations were given at our spring seminars and a special meeting is scheduled for August 22 at which time it will be the main topic of discussion.

ILTA conventions are two-day educational, inspirational, and social events held in November of each year—usually in Indianapolis—and are attended by over 250 members, wives, employees and guests.

Abstract companies prepare formal certified abstracts of title for attorney examination in most Hoosier counties. These companies have over the years compiled complete abstracting records with many variations of geographical tract indexing and name search records.

Many changes have come in recent years. The Indiana recording by microfilm statute was passed in 1956. This, coupled with the new types of microfilm cameras, readers and printers, has made it economically possible for many smaller abstract companies to have a microfilm copy in their own offices.

Copy machines have changed the looks of many abstracts. Where once

all material had to be laboriously typed or hand drawn for insertion in abstracts, it is now mechanically reproduced and copies of original instruments are used. Where once we were forced to have a multiple abstract printed and have boxes of copies in storage for years, we can now make one master and Xerox it as many times as needed.

Abstract searchers and chainmen who once spent most of their time at the courthouse can now do most of their work right in their own office. The typist who spent hour after hour copying and proofing at the courthouse can now type from film readers at her desk in her own office or mechanically copy direct from that same film. Computers are being studied but have not been applied to the Hoosier scene.

The new 50-year marketability statute has prompted many county bar associations to accept 50-year abstracts.

Title insurance is becoming more widely accepted. In our larger metropolitan areas, it has completely replaced the abstract.

More and more attorneys would rather examine title insurance commitments and policies than abstracts, especially in those cases where title is based on a voluminous abstract with its 150 years of history.

In these areas, abstract plants have now become title insurance search plants with no lessening of the value of the records.

Nationwide lenders, mortgage companies, industrial and commercial investors are demanding title insurance in all counties.

Abstracts prepared by abstract companies or attorney abstracters which once dominated the scene are gradually being replaced by title insurance. The abstract plant is becoming a title insurance search plant. Many of our third and fourth generation family-owned operations are changing hands. Multi-county operations are increasing. National title insurance companies have come into control of virtually all of the title evidencing in the Indianapolis and Calumet area by either purchase of existing abstract plants or building complete new ones.

This change has taken place in the last decade. Escalation in land prices, more complex expensive office techniques and equipment, more complex

tax accounting, large corporations with investment credit incentive, and a more sophisticated mobile American public, all are factors in an ever-accelerating trend toward title insurance.

A look into the future of Hoosier title evidencing for the next decade will see the ever-increasing dominance of the national title insurance companies and multi-county operations, especially in the larger, more lucrative, counties. Abstract or title search plants will retain their value. They will use more sophisticated equipment and be maintained by better educated staffs, thereby providing a better product to a more demanding American buying public. The present wave of consumerism will continue to grow and be a factor to be reckoned with. In Indiana, we have a hard-working state organization and in a strong ILTA we are optimistic in predicting a bright future for our industry.

New York



Paul Moonan, Jr.
Monroe Abstract & Title
Corporation
Rochester, New York

There are still some areas in New York State where on a Saturday morning if you're in the right place you can hear the soft tones of the local radio station, the bubbling of the coffee pot brewing and witness the thoughtful concentration of a veteran searcher reaching into the past in an effort to reproduce the remnants of a real estate closing that took place well before the turn of the century.

The place is a county clerk's office, and the end product of that morning's concentration is an abstract of title.

An abstract of title is simply a transcript of the public record in manuscript form with a certificate attached, indicating the records examined, the owners searched and the period of time covered.

This is usually referred to as the record title—one of the two basic evidences upon which a determination of title is made!

These abstracts, or record evidences of title, vary in a greater or lesser degree in their form and substance in almost every county throughout New York state.

All of these differences stem from the requirements of the lawyers in the respective communities as to certification, form and content of the abstract. The whole outline of the matters required to be shown is established by custom; in most instances many years ago; and expanded only to the extent that new liens, new matters, which may affect title, have been created by statute or case law.

Title or abstract companies, or county or individual searchers, do not determine the requisites of an abstract. This has already been done by the local real estate lawyers.

How does that content vary? In Buffalo (Erie County) the setouts are minute. The abstracts made in that area certify as to location and assume full responsibility as to whether the setouts affect. These abstracts must be examined with reference to the record.

In Rochester and Syracuse, to a large extent, the lawyer, examiner or reader must determine location; but may generally, except for actions and proceedings, review these titles in his office from the abstract alone.

In other counties these features vary from Erie County's skeleton search to complete abstracts, including setouts, as to all matters affecting title.

Who makes these searches? It's quite a list! They are made by title companies authorized to make and guarantee searches by Article 13, Section 432 of the Insurance Law. They are made by corporations organized under the business law, which may certify against errors occasioned by negligence. They are made by the county clerk's searchers, either a deputy clerk or a person designated by the county clerk to make an official search. They are made by individual searchers (retired county clerks or people found by the local bar to be qualified by reason of local knowledge, responsibility and accuracy).

They are made in some downstate counties, and to some substantial extent

in Broome County, by lawyers. The younger men in the larger law offices are thus trained to examine the records and the title.

What guarantee do we get that these abstracts are accurate? Locally, the title lawyers generally know the individual searchers, the abstract and title company employees. Thus, the competency of the searcher is known.

No matter how reliable, competent, expert and good to his mother a searcher may be, he or she is also human—thus, on some occasions, errors *will* be made; and guarantees *must* be established to provide protection against loss thus occurring.

Under the insurance law, companies making guaranteed abstracts are required to establish loss reserves for known mistakes and reinsurance reserves to protect those depending on its abstract.

Abstract corporations, too, may have either capital and reserves or insurance to protect those who rely on abstracts made by these companies. County clerk searchers, individual searchers, lawyers and other who make searches offer only their competence and expertise. Some recognize liability in the event of error, but the main problem as to this form of guaranty is that it will not survive even the good searcher who has gone to meet his Maker.

As indicated earlier, in the conduct of our business we are concerned with *two* types of title evidence. The second of these is what is commonly referred to as "possessory evidence."

A somewhat less than erudite explanation of possession might be the following:

If I go to 353 Hollywood Avenue—that's Rochester, New York—put a key in the door, throw my coat in one corner, my hat in another; if I then sit down, put my feet on the table and shout, "Where the **** is my dinner?"—it means several things.

First, it means that I have asserted a right to possession and unless the record title can explain and/or qualify that right, then even under an unrecorded written instrument, my so demonstrated possession will prevail.

Second, it means that I have exercised "dominium"—legally defined as power to use, to enjoy and to dispose of property at will.

And, third, it means that my wife isn't home, and I know it!

So much for possession!

The purpose of this article is to discuss "record title" and the forms that evidence of it may take in the various counties in New York state. We should first consider whose responsibility it is to produce in a real estate transaction the evidence of title necessary to permit the transfer or to effect the mortgage lien.

In this state there is a definite difference in this responsibility as generally established by real estate contracts.

In the Hudson River counties from Albany south and in the greater City of New York, these contracts provide that the vendee will obtain his own evidence of title.

From Schenectady west and north, the vendor assumes, under contract, this obligation. Thus, in greater New York and the river counties, the purchaser obtains, pays for and retains the abstract, attorney's certificate, or title policy necessary for his purposes; and, generally speaking, he retains it and his effort in this respect is repeated by each subsequent vendee.

Contrariwise, in the northern and western sections, throughout all the counties in that area, and including the major cities of Utica, Syracuse, Schenectady, Rochester, Buffalo and Binghamton, the vendor supplies the title evidence (normally an abstract) to the vendee.

Thus, this form of title evidence passes from owner to owner and continues to provide, for each link in the chain of title, the record evidence necessary to sustain it.

In the greater City of New York and its surrounding counties, the normal evidence of title is the title insurance policy. This purports to, and generally does, guarantee both record title and the right to possession. Title insurance rates in these areas include the abstract or the cost producing the record title necessary to sustain the title policy.

In the balance of the state the normal title evidence is an abstract or search which presents in chronological order the instruments of record in the county clerk's office. It certifies or guarantees that these are all the matters of record indexed against owners in the chain of title and affecting a particular piece of

property, and that the same are correctly abstracted!

Real estate contracts and accepted practice require the vendor to obtain, pay for and furnish this abstract continued through the date of closing. Because this contract obligation exists, even title insurance filed premium rates exclude abstract costs. Thus the seller furnishes the abstract and the purchaser, if he desires an insured title, need only assume the cost of the insurance.

In upstate New York, an abstract may be deemed acceptable as to the date of its source, from the extreme in Erie County, where it is required that it begin with a deed from the Holland Land Company from 1820 to 1840; in Rochester that it begin with a warranty deed recorded at or about the turn of the century; to some upstate rural counties by a deed, quitclaim or otherwise, from a source deemed acceptable by local lawyers, which may be of record as little as 20 to 30 years.

On the other hand, an abstract made to examine mineral rights, or sub-surface property right of any kind, must necessarily begin with a patent or earliest possible source for the single reason that adverse possession cannot start until the digging begins.

There are a number of losses occurring from mistakes. In our experience, most of these have been recognized and cured.

The greatest loss that can and has occurred is when the lack of financial responsibility destroys the acceptability of existing searches. When Title Guarantee Co. of Buffalo was dissolved by the state insurance department, its searches became orphans and many hundreds of thousand dollars worth of them had to be rewritten and reguaranteed at the expense of the property owners.

This, and other failures, led to the enactment of the reinsurance reserve formula for all title insurance companies in 1939; it was strengthened in 1945 and now is included in Section 434 of the Insurance Law. It has provided a certainty of a guarantee fund for every abstract issued by these companies.

There are no licensing laws or regulations which affect abstract companies doing business within the purview of the

Business Laws of the State of New York.

As to future innovations on existing practices it should be noted that the use of systems of automation is extremely difficult, if not impossible, to achieve in New York state by reason of the following facts, viz.:

(a) The records in 56 of the counties are indexed alphabetically against owners and therefore give no specific reference geographically.

(b) In these areas, the cost of a geographic index would be excessive in the light of the demand for the service.

(c) This is especially true in the smaller counties for the same reasons.

Thus we are limited in the preparation of abstracts to the use of the alphabetical system in all upstate counties except one—namely Onondaga County.

What then does a competent lawyer, examiner or reader generally look for in his title evidence in New York state:

(a) That his title evidence, his abstract, be in the form acceptable in his community; that its content be accurate and sufficient for his purposes.

(b) That the certification include a full examination of all the indices and records which may, under law, affect his client's title.

(c) That the abstract be prepared, guaranteed or certified so that it will continue to be acceptable when his client wants to sell or mortgage his property.

(d) That the abstract by its certification be available so that all subsequent owners may rely on the document. Thus there must not be any time limitation on the guarantee by statute or otherwise.

(e) That the guaranty means something, i.e., that there are actually adequate capital reserve funds or non-limited insurance contracts protecting the same. The extent of these capital funds, the reserve fund, and the non-limited insurance guaranty contracts, should relate in proper proportion to the number and extent of the abstract guarantees issued; and, finally,

(f) That the guaranty provide that it is designed to and will protect any person with an interest in, or a specific lien upon, the premises for which the abstract is made.

The above is an outline only of the

title evidence, abstracts and practices seen in the 62 counties of this state.

If one were to ask our "veteran searcher" where he thinks abstracting is today and where it seems to be headed, he would probably answer the entire question with the following:

"Ya know, things haven't really changed much!"

Iowa



G. A. Harstad
Iowa Title & Abstract Company
Cedar Rapids, Iowa

Iowa holds a unique position in the title industry. It is the only state in the Union which prohibits the writing of title insurance within its borders so I am in the position of being able only to converse with you on Iowa abstracts of title.

Abstracting in Iowa within the last 15 to 20 years has seen a decided change in the format of showings in an abstract of title, to the extent that we feel we are the leaders in abstracting—not the followers. This has come about through the cooperation of the Iowa Land Title Association and the Iowa Bar Association. Through this cooperation, the Iowa Land Title Association has produced an excellent guide for abstracters in Iowa, which we proudly call the "Blue Book." It is to be regarded only as a guide and any deviation that may be necessary is entirely up to the individual member. The "Blue Book" has forms for almost all instruments or proceedings that may be encountered when compiling an abstract and, with these forms, is the reference to the Code of Iowa which governs each particular form.

We have 99 counties in Iowa. The population of a county may be 8,000 to over 200,000. We are mostly rural. Our abstract offices may be a one-man oper-

ation or an office which will have in excess of 30 employees. In some counties, there are no competing abstracters, yet in other counties, there may be several competitors. In the least populated counties, it is sometimes necessary for the abstracters to engage in endeavors other than abstracting in order to make a living. In some cases, it may be law, insurance, real estate, farming or mortgage investments, etc. Yet in the larger communities, the abstracter confines himself or herself strictly to the abstract field.

The members of the Iowa Land Title Association do not abstract in more than one county unless they have passed the qualifications for membership in more than one county. Our Association has an examining committee which examines the plant, books and personnel of the prospective member. This committee makes its report to the board of directors of the Iowa Land Title Association and the Board then approves or disapproves the application for membership.

Our program of training a new employee to become an abstracter varies from office to office. Periodically, the Iowa Land Title Association has a school or seminar to aid in the training of new employees. The new employee may be a recent high school graduate or someone who has a degree from college in various fields such as law, chemistry, engineering, etc. Each trainee, as I call it, goes to the school of hard knocks right in the office.

Hard equipment in our abstract offices varies from office to office, depending on the size of the office, the competition and the volume of business. All of the latest equipment is available to us, but each company uses only that which it can afford and efficiently use.

The 40-year Marketable Title Act which became effective July 1, 1971, has enabled us to shorten our abstracts by commencing from the root of title at least 40 years ago. This does not relieve us of the examination of the record from the United States Government to the root of title, as there may be easements, party-wall agreements, plats and surveys, boundary line agreements and unexpired recorded leases which may affect the marketability of the title. We use this act primarily in the production of new abstracts but do use it some

in continuations or extensions of abstracts. This act has been a boon to the examining attorney as he does not have to examine all of the old instruments which have no present effect on the marketability of title as the abstractor has done this work for him in the preparation of the abstract.

The enactment of the Iowa Uniform Trial Court Act on July 1, 1973, has increased the work load for the abstractor due to so many small claim judgments being entered in the lien index. Prior to July 1, 1973, judgments in the municipal, justice of the peace, and mayor's courts, did not become liens on real estate unless transcribed to the district court. Now all cases are within the jurisdiction of the district court.

The future of abstracting in the more rural areas of the state will depend upon the effect caused by the small farms being combined into large farms. At one time, an 80-acre farm could support a family comfortably. Today, we see the farms increasing in size to over 1,000 acres. Due to the use of the large equipment available and the high use of fertilizers and pesticides, we see the farm producing more and better crops. The larger the equipment, the larger the farm will be, thus the amount of farm abstract work will be reduced. On the other hand, with the combining of the farms, more people are moving off of the farm and into the urban areas, so the volume of urban abstracting should increase, as these people need places to live, and accordingly are producing more urban residential development. Industrial development in Iowa is on the increase, attracting people from the farms and from all over the nation; this, in turn, increases residential development. Industrial development is not being confined to the larger urban areas, but is reaching into the rural communities, which should offset the loss of abstract business in farm abstracting by increasing the abstracting in the residential category. All in all, the future of Iowa abstracting business should increase from year to year.

One could take a pessimistic view of the economy due to the inflation that we are now experiencing, but, being optimistic, the inflation will cause us to review our procedures to develop a shorter or quicker way to produce an

abstract in order to combat the increase in costs over which we have no control in our own offices. We will have to review each step in the production of an abstract to determine which corner or step may be eliminated to reduce costs and thereby result in better abstracting. Since the first of the year, we have through state law been able to eliminate the search for old age assistance liens. However, the time saved in the elimination of this search has been lost due to the increase in time necessary to take off and post judgments due to the Uniform Trial Court Act.

I believe that the future of abstracting in Iowa is bright and if the day should come when it is legally permissible to write title insurance within the borders of Iowa, our future would be even brighter.

These are my own views and in no way are they to be construed as views of the Iowa Land Title Association or any abstract company or other abstractor within the state of Iowa.

Colorado



Ms. Betty Lynde
Lawyers Title of Pueblo, Inc.
Pueblo, Colorado

This report is a composite picture of the seven counties, out of 63 in Colorado where I actually contacted the abstractor and received replies.

The most populous county contacted found the abstractor reporting that the switch to title insurance was so extensive that they actually did very little abstracting. They felt that this trend was going to continue and that abstracting, so far as actually preparing and delivering an abstract of title to a customer, was going to become a comparatively rare occurrence.

Even in a less populous county the abstractor reported as follows: "At the

risk of being thought negative, I suggest the era of the pure abstractor, his art and product is fast coming to a close. From experience, I can tell you they are becoming more scarce each day in the rural areas which have formerly been the fortress of 'abstracting'".

Another primarily rural county abstractor reported that abstracting in his county was decreasing little by little and title insurance was gaining.

Several reasons he set forth were: abstracts are getting more expensive than title insurance, the big city lending agencies are taking over the local institutions and want more uniformity of title evidence, more automation is coming and the "little guy will eventually be swallowed up by the big guy to the point where everything in this county will be put on computer tape in a central Denver office and all the local office will do is take orders and make the take-off for the tape".

Essentially the same report came from another rural county. Even in the small community this abstractor felt that automation is becoming a must. He felt that small in-office computer equipment will be the coming thing to keep up with the pace of our society. He feels that centralized records should be avoided at all cost since the knowledge of local conditions plays a major role and a system of centralized records would lose this asset.

There was one county that reported that 85 per cent, or greater, is still abstracting in his area and is preferred by the old timers. However, even he felt that abstracting is losing ground to title insurance with each newcomer that moves in from a title-insurance-oriented area. Here complete change will be slow.

An abstractor in a county where there is a good deal of oil and mineral activity reported that the oil companies still insist on a complete abstract of title. This seems to be an area where the abstractor is important and his records and knowledge are invaluable to the oil brokers.

All were in agreement on one important point, even a vice president of a major title insurance company, and that is the importance of personal contact which must never be lost or the title business will suffer.

Among the comments were: "When

I go into a business, I like to deal with people I know and who care, not some machine in far off lands. This may be something city people are used to, but small town people know that the merchant selling his product to them will meet them on the street, the golf course, bowling alley or any social event the next few days and have to look them straight in the face.”

There is a shortage of good help and good employees are hard to keep when you do find them. There are so many other types of employment that can afford to pay higher wages and give greater benefits. The government has taken many good employees.

Inflation is a big problem for the abstractor, as well as everyone else. Some abstractors use a valuation charge which does help some.

Increased property taxes and land use legislation are greatly affecting future trends. It appears the day of the small subdivider and land speculator is ending. The expenses involved in meeting new laws and regulations cannot be met by an individual to set up new subdivisions. This will affect both the abstractor and title insurer.

One abstractor commented that “unless interest rates drop in the future—contract purchase with no title evidence may be the accepted mode of action to handle any but the commercial and high cost transactions”.

To sum up, it appears that if the abstractor and his company are to survive, it is going to become necessary for them to become an agent for a title insurance company, or they can sell out to the title insurance companies, as so many of them in Colorado have done, and become a branch office. Those of us who grew up in the abstract business do not really like the trends we see so plainly, we regret the loss of our independence in running our own business but the title insurance companies are forcing us, by some practices that are very nearly the issuance of casualty insurance, not title insurance, into such risks that a small operator cannot survive except in the counties that have such a small population that it isn't feasible for the major companies to move in. Fortunately, there is still a large part of this state's area where the return on their investment would not be high enough to interest them.

It is to be hoped that the title insurance companies will continue to have use for the abstractor and his plant, at least in modified form, at the heart of their operation. After all this is what differentiates title insurance from casualty insurance. If this practice is continued perhaps the outlook for the abstractor is not quite so bleak.

Missouri



Borden Stoll
Clinton County Abstract
Company
Plattsburg, Missouri

In rural counties, abstracts remain as the prevailing form of title evidence in Missouri. But title insurance without abstracts is strong in urban areas, and will increase its share of the market in the years ahead.

Abstractor-agents in our state usually find it easy to sell title insurance in transactions where there is no abstract—since a new abstract will cost more than title insurance. There are even inroads being made by title insurance in abstract-dominated rural counties; this happens when people from cities buy local property and request title insurance because of its advantages.

Besides all this, there are of course some rural counties where abstractors no longer make new abstracts.

An example of the growing market influence of title insurance is found in Clinton County, which although rural is not typical among other rural counties because of its nearness to the metropolitan areas. Clinton County is 40 miles from Kansas City, 30 miles from St. Joseph and is 32 miles from the Kansas City International Airport.

Many Clinton County farms are being subdivided into smaller acreages (mini farms) and into subdivisions. On title to these, title insurance is issued in

nearly all cases. Our company now does about 60 per cent of its business in title insurance and this continues to increase. Among the reasons for the market growth is buyer demand for title insurance and our work in telling people the advantages of it over abstracts. Title insurance is preferred over abstracts in our company because it involves less work and time, and thereby assures a more reasonable profit.

Abstracts will not disappear in rural areas of Missouri for some time because they are familiar and accepted. But title insurance is the key to the future for the market in our state.

Oklahoma



Earl Harper
Southern Abstract Company
Bartlesville, Oklahoma

Before anyone holds himself out as an expert (in any field), he should either have a flowery introduction by a biased friend or he should establish by statements of fact the success of his past profound predictions and mention the degree to which they have come true. Since I have been asked to comment on where abstracting is today in Oklahoma, and where it seems to be heading, I can only report: I am the expert who predicted, some 13 years ago at the Oklahoma Land Title Association annual convention that within 10 years, Oklahoma would be an all title insurance state. With my expertise thus established, I now proceed.

Most of our progress toward title insurance (and I do believe it is progress), is a result of one of two things: price and/or service. Price is not difficult to understand, but service is a many faceted subject. Usually, when we think of service, we relate to speed but service is much more than this. Service, in the form of title insurance, includes convenience, a familiar product and a

known quantity. The efforts of the title insurance industry toward standardization of policy forms is primarily responsible for the "familiar product" and "known quantity." National institutions, both in the lending and franchise business, need, or at least feel that they need, both a nationally known title insurer and a standardized title policy. This requirement places the one-county abstractor out of the national market, except in his role as a title insurance agent.

At one time the attitude of the abstractor and his employees was the principal determining factor in the speed with which title insurance moved into a given area. I believe this is no longer true. It is the attitude of the consumer which has become the dominant factor in the decision for change.

There are situations here in Oklahoma that, at the present time, still create a demand for abstracts. One of the remaining factors in the need for abstracts is the inability to place, prior to exploration, a value on oil and gas leases, mining leases and mineral estates. I am sure that these problems will be solved and, when they are, title insurance will surely move forward in this field also.

To get back to the question as to the abstract's future in Oklahoma, I now must predict that the abstract will not die in Oklahoma for many years, but it will change to such a degree that many of the old timers in our profession will give you quite an argument as to whether or not it is in fact still an abstract—and by our present standards, the old timer may be right.

Forgive my homey approach, but I believe title insurance is to some abstractors and attorneys as the elephant must have been to the cave man—scared the heck out of him at first, but as the cave man did, we soon enough find a way to make it work for us.

The true apex in title evidencing will come by feeding information into your "Little Giant" computer as to the present condition of the title, and then as instruments are filed in the various recording offices, the "effect" of the instrument will be fed into the computer, rather than all the information presently indexed in various manners. Thus, the computer will show title in John Doe, and the newly recorded deed

is examined and found to be correct in form and sufficient to convey title to Bill Brown. The computer will automatically check John Doe for judgments, tax liens, etc., and if none are found, it will "dump" John and announce the new owner to be Bill. At this point, if you need a title policy, you will receive only current information from which to write your policy. This, my friends, is the way it is going to be in Oklahoma someday, even if I have to do it myself.

South Dakota



Arthur Johnson
Roberts County Abstract
Company
Sisseton, South Dakota

Abstracting is alive and well in South Dakota, at least for the present time. Many things have and many things will effect what happens to the title evidence industry in South Dakota—state laws, automation, inflation and of course the availability of personnel. It used to be that the abstractor had become such an animal because his father and grandfather before him were such. The trend in South Dakota has been for an attorney or a firm of attorneys to purchase the plant and entice the older employees to stay on, at least long enough to train someone else. I would wager that well over one half of the title plants in South Dakota are owned by attorneys. The day of the so called "Simon Pure" abstractor is almost extinct. The South Dakota Land Title Association would like to have been able to furnish some type of school to train title people. But, because of finances, it is out of the question. Consequently, the training has to be the on the job type and to find people who are willing to learn as they work is almost impossible.

In South Dakota we labored for many

years with our fees set by the state legislature. Most of us trembled when anyone suggested going to the legislature for an increase in our fees. "Let those sleeping dogs lie," was the quote most heard when such a move was suggested. Finally, out of sheer desperation for its financial life, the Association took action and in 1971 presented a bill to the legislature to correct the oppressive and outdated fee schedule and yet which would protect the public. The legislature passed and the Governor signed H.B. 811, which in effect repealed and reenacted SDCL 36-13-25 to read as follows: "The South Dakota Abstractors' Board of Examiners shall by rule or regulation, adopted pursuant to SDCL 1-26, establish a schedule of fees for doing business under the provisions of this chapter and shall furnish to each licensed abstractor a copy of such schedule and amendments thereto. It shall be unlawful to exceed the schedule established by the Abstractors Board of Examiners."

This, along with our plant law which reads in part, "Any person desiring to engage in or continue the business of abstracting of title to property within the state must first obtain a certificate of registration, file the required bond and comply with the other requirements of this title" and "such person shall have a set of abstract books or set of indices or other records showing in a sufficiently comprehensive form, all instruments affecting the title to real estate which are of record or on file in the office of the register of deeds of each county wherein said person seeks to engage in compiling abstracts of land titles and shall first obtain a certificate of registration, file the required bond, and comply with the other requirements of this title and the rules and regulations of the Abstractors' Board of Examiners made pursuant to law", has helped the abstractor in South Dakota to become a full-time title man and not a part-time Realtor, insurance agent, abstractor and what have you.

In the smaller counties in the state, abstracting accounts for 90 per cent of the title business. The larger counties and cities are experiencing a great increase in title insurance but, by and large, it is still not a very large part of title evidence in South Dakota. Being an agricultural state, most banks and loan

companies keep on asking for the abstract of title and the attorney opinion. I am sure that, in the not too distant future, title insurance will become the only method of title evidence and abstracting will have gone the way of the Torrens system. The need will always be there for title men well versed in their occupation, but fewer and fewer people will be entering the field. Therefore, it behooves all of us to keep up with the industry and the laws so that we will be able to change with the times.

Minnesota



P. R. Welshons
Dakota County Abstract
Company
Hastings, Minnesota

To understand where abstracting is today in Minnesota and where it is headed you must first understand Minnesota. We are one of the most under-organized states in the union when it comes to title reporting. We have 87 counties in Minnesota. From these 87 counties we have approximately 60 members of the Minnesota Land Title Association and American Land Title Association who actually do abstracting. These 60 members who abstract are made up of corporations, partnerships, elected registers of deeds and probably an individual or two who is none of the foregoing. We also have one elected county abstract clerk in this state. Last, but not least, all registers of deeds in the state are required by law to abstract upon demand. In counties where there is a private abstract company or two, the register of deeds sometimes refrains from abstracting as long as the private company gives the public the same or better service than they would get from the register of deeds. In our state there are less than a half dozen companies that abstract in more than one county

and there are probably less than a dozen counties that have more than one abstract company. Physically, Minnesota is composed of the seven-county metro area of St. Paul-Minneapolis with one other city of the first class (Duluth), with about six other major but smaller centers of population and the balance of the state rural. Minnesota has a total population of approximately 4 million. The largest county population is slightly over 960,000 and the smallest county population is 3,423.

In the beginning, all registers of deeds operated their offices on the fee system and abstracting was a part of the income of the office. As the major population centers developed, private abstract companies set up in competition with the register of deeds abstracting and, as fees increased, the fee system was done away with in individual counties and then, seven years ago, it was done away with statewide. Registers of deeds who abstracted as registered abstracters were allowed to keep their abstracting fees and receive a lower salary or they had the option of turning over all fees, including abstracting to the county and receiving a salary in line with the other county officials in their county. In some of the smaller counties the abstracter does not feel that there would be enough annual business to warrant the expenditure of the funds necessary to get up a private abstract company and maintain it through the years. This gives lead to one of the most serious problems facing the Minnesota Land Title Association at this time. As new registers of deeds are elected, usually without any background in abstracting, they prefer to get the higher salary and turn the fees for abstracting over to the county. This way their income is guaranteed and if they should show a profit from their abstracting they have the basis of requesting a larger salary. We have another problem developing in this state. When an abstracter in one of the smaller counties dies or retires, quite often the county will buy up his business and turn it over to the register of deeds. These registers of deeds are not too anxious to join the MLTA and ALTA as they consider themselves registers of deeds first of all and abstracters secondly. If this trend continues, the day will come when the only private professional ab-

stracting done in Minnesota will be done in the larger counties.

Abstracting is, at this time, still the main method of title reporting. Title insurance is used in the major population centers and is slowly spreading out in the rural areas, but, as yet, it is used as a supplement to abstracting and not a replacement therefor. There have been a limited number of subdivisions in Minnesota that have gone the route of "pure" title insurance. These are basically townhouse and condominium subdivisions. Title evidencing of this nature has not been too well received by the legal profession in this state and will probably be slow in spreading.

The rural nature of our state, which has a large bearing on all trends and developments, is also influential in the present lack of automation in our industry. As in other facets of our development, automation is getting its foot in the door in the metro area and is spreading or will spread, slowly, into the rural areas. However, all indicators point to the continuation of the present abstracting system in Minnesota for the foreseeable future.

Illinois



Gary Anderson
Decatur Title Corporation
Decatur, Illinois

The following observations are to a great extent a compilation of ideas and thoughts from privately owned abstract companies in all parts of Illinois.

If one general trend for the state can be determined, it would be that each abstract operation differs from another. There is little or no consistency in pricing, speed or service, or extent of mechanization. The general statewide trend is a lesser demand for abstracts and a correspondingly increased demand for title insurance.

Cook County (being Chicago) and

approximately five or six surrounding metropolitan counties are totally title insurance and have been for some time. This is due mainly to Chicago Title Insurance Company's influence in that market area. To my knowledge, there are no independent abstract companies left in the metropolitan Chicago area. Counties in the northern and central part of the state, and especially those counties with population centers in excess of 50,000 persons, are experiencing a higher proportion of new title insurance orders as compared to abstracts. In my opinion, in the next 10 to 20 years, areas such as these will be 90 per cent or more title insurance.

The southern portion of Illinois and the more rural counties in the rest of the state are experiencing a fairly consistent demand for abstracting. My best estimate would be that abstracting accounts for 80 per cent of all orders in these areas.

I think it could be concluded that there are two primary controlling factors as to the rate of changeover from abstracting to title insurance. In nearly every county the local abstractor also has an agency relationship with a title underwriter. The local abstractor's own view as to the preferred form of title evidence and the profit structure of each form of title evidence will to a great extent determine whether he does or does not encourage his local customers to "convert" to title insurance. The second factor is what law school the local attorney attended. Illinois has seven accredited law schools. The graduates from the University of Illinois, located in Champaign-Urbana, are taught virtually nothing about title insurance and in fact are encouraged to use the abstract form of title evidence. The six law schools in the metropolitan Chicago area know virtually nothing about abstracts and train their graduates in the use of title insurance. It is obvious that our new lawyers are coming out of both types of law school with a definite prejudice toward one form or the other of title evidence.

Regarding the use of modern micro-filming equipment, copying equipment and computerization, it is my general feeling that, taken as a whole, we are somewhat behind both the east and west coast in modernizing our record retrieval systems. Many offices today

still rely only on typewriters. Some offices have begun to use microfilming for duplicate record purposes and still other offices use microfilming technology in producing current orders. There seems to be a trend towards the increasing use of Xerox and other high quality photocopy machinery.

This of course brings to the fore the question of the proper function of an abstractor. An abstract consisting of complete photocopies of original instruments obviously has a higher degree of accuracy than one that is typewritten and "outlines" as "abstracts" particular instruments. Some of the offices in Illinois have reported to me that ever increasing customer pressure for speed has induced them to use photocopy techniques. Another view is that an abstractor's true function is to give the examining attorney only that portion of a particular document that is needed for a proper title examination. In my particular county, it is my feeling that we would meet general resistance to a photocopy abstract.

To my knowledge no abstract company, other than those offices owned by a title underwriter, has instituted any degree of computerized record retrieval.

A common comment received from all offices who responded to my request for information was that it is becoming increasingly difficult to obtain, train and retain qualified personnel. Training still consists almost entirely of "in-house" procedures; although the Illinois Land Title Association does periodically hold seminars for members' employees.

It is a general feeling in many offices that, in the long run, either by regulation or by direct action, the government will attempt to take over our businesses. It is my personal feeling that the Torrens system in effect in Cook County is the best example that could be shown to government that private enterprise can be much more effective and responsive to the consumer. If the government in fact does start performing the business of title evidencing, it would be my opinion that it would be in name only, and that most likely that they would buy my company and possibly re-hire me under a civil service classification to run it for them—thereby creating an additional level of management and the related costs that accompany such top-heavy management situations. As in

most cases of "socialization", the ultimate public cost would greatly increase in the form of an indirect tax subsidy.

Another general concern of independent abstractors (a concern that I personally do not share) is as title insurance gains a greater degree of acceptability, that title insurance underwriters will by economic pressure force wholesale mergers and sales among independent abstract companies. This fear is heightened by an observed trend on behalf of title underwriters to use an ever-increasing amount of casualty-type underwriting in evaluating their risks. Several different offices have indicated to me that if the title insurance business becomes more casualty oriented, the need for accurate and complete record plants will decrease in importance. This particular argument contains a great degree of logic; however, it would appear to me that privately owned abstract companies can perform the searching function at a substantially lesser cost with regard to administration and overhead. Until the reverse is true, it would be my opinion that most title underwriters see no economic justification in absorbing smaller abstract companies. Additionally, the anti-trust laws now on the books should afford some protection.

Most abstract companies price their product on a per page or per item basis, plus a certificate charge. The price for a finished abstract bears absolutely no relationship to the value of the land it represents. Our prices are in effect fixed, and our costs as in all small businesses are being pushed up by our inflationary economy. Our only long range solution is an ever increasing pattern of price increases accompanied by as many efficiency moves as we are capable of thinking up. If we are forced to increase our prices because of the inflationary pressures, our customers then become a little less satisfied with our product. Their attitude toward the value of our product has and will continue to have an important effect upon our elected representatives regarding proposed regulation of our industry. If I had the answer to this problem, I would not be sitting behind this desk; rather, I would be hiring myself out as a consultant to the title industry.

In no way can this brief summary of abstracting in Illinois be taken as all-

inclusive. It is my best effort after analyzing my own personal observations, after talking with many other persons in our business both personally and over the telephone, and after receiving written responses from many others to my request for information. Other people in the business could easily take the same information that I have had at my disposal and come to different conclusions. However, this has been a good exercise in forcing many of us in Illinois to take a hard look at today as we try to gauge tomorrow.

Wisconsin



Nic Hoyer
Wisconsin Title Service
Company
Milwaukee, Wisconsin

The future for abstracting in Wisconsin is not bright. Metropolitan Milwaukee, which has approximately one-third of the population of the state, is almost 100 per cent title insurance. In several smaller metropolitan areas the ratio is roughly 50-50 and, depending on the size of the community, scales down from there. These percentages are changing considerably every year with more emphasis being placed on title insurance.

Wisconsin is blessed with many small lakes, national forests and nature preserves. This has made the state a desirable vacation area. Many people from Chicago, Milwaukee and Minneapolis have bought vacation homes in the northern areas of our state and coming from a metropolitan area have insisted on using title insurance. Many lenders in the smaller communities are finding that it is difficult to warehouse a loan unless the mortgage is covered by a mortgage title insurance policy.

Recently, the Wisconsin Title Insurance Rate Service Organization filed with the Wisconsin insurance commissioner an abstract surrender credit. This

will permit an abstracter to give credit toward the cost of a title insurance policy when an abstract that meets the minimum standards of the local bar association, certified to a date within six months of the date the current seller took title, is presented at time of application and surrendered. The credit shall be an amount up to the equivalent of 50 per cent of the applicable original search and examination charge. In no case shall the credit exceed \$100. This credit should also hasten the demise of the abstract.

On April 26, 1974, the State Bar of Wisconsin adopted abstracting standards which provide among other things that an abstract need only reflect those instruments which appeared in the chain of title within the past 30 years. These standards, which were developed with the assistance of some of the members of our Wisconsin Land Title Association, are not, in my opinion, sufficient to sustain the continued use of abstracts.

Even though I feel the future for abstracting in Wisconsin is not bright, I do feel the future for the abstracter is bright. It is bright if he becomes an agent for one or more title underwriting companies and becomes knowledgeable of title insurance. If he does not downsell title insurance, it will more than make up for dwindling abstract revenues. The abstracter who becomes most knowledgeable of title insurance will be the most successful abstracter in his community and will provide another service for his customer.

Michigan



William Quinn
Brooks Abstract Company
Lansing, Michigan

Transfer of title to real property today leaves very little to chance or imagination but, in order for us to

understand this, we must first go back in history to the early days of our English ancestors, prior to the time when writing became common in use.

First of all, land or the use of land was transferred by the public delivery of possession of the land together with a symbol, which was agreed would represent the land, such as a branch or twig, or even a handful of the earth. The delivery of the land and symbol took place in the presence of the neighbors. The next step was to have someone who could write draft a record of the transaction. This paper then was sealed and preserved as evidence of the transfer.

Later on, as writing became more common, written deeds with actual signatures or marks of the parties were used to transfer title. As people began to move around rather than staying in one place all their lives, laws were passed permitting the filing of deeds, mortgages and other documents affecting the title to land in a central place.

At a relative early date recording laws were passed requiring the filing or recording of all instruments affecting the title to land with a county official called the register of deeds.

At first the attorney representing a new purchaser or lender would go to the county office and make a diligent and careful search of all documents affecting the title to the piece of land to be purchased or offered as security for a mortgage to the lender. As the volume of recordings grew this became quite a cumbersome undertaking and brought about the birth of the abstract of title and subsequently the abstracter.

The early abstracts were a compilation of all the original instruments affecting title to a parcel of land. These instruments were then bound together and submitted to the purchaser's attorney for examination and advice to his client as to the acceptability of the title offered. However, this concept of abstracting was quickly abandoned because of conveying smaller parcels of land out of the original parcel.

The abstracter then prepared a condensed compilation of all grants, conveyances, wills, probate and judicial proceedings, including all types of liens and encumbrances released and unreleased, affecting the title of a particular parcel of land as recorded in official records. He then prepared an abstract

of these documents in a written condensed form. This abstract was then surrendered to the new purchaser or lender for their attorney's examination. Every real estate transaction is always contingent upon seller furnishing satisfactory evidence of a marketable title.

Some abstracters are again reproducing the entire recorded document, resulting in bulky abstracts and often illegible entries. This practice remains a controversial subject among the examining attorneys. Some like to see the whole document and determine what they need, others do not want to take the time to extract the information they need from the photocopy. A continual training program is necessary in order to correctly abstract the instruments and inflation continues to be a problem. Fringe benefits and salaries are costing more every day.

In the past few years a new form of title evidence has become popular: namely, title insurance. Title insurance was first conceived of, and it has developed and it now flourishes, for the purpose of promoting commercial fluidity in the field of real estate by providing sound, reliable evidence of title to land.

Each introduction of a new method or device has provided some gain in title security, but as each new method has developed, the dispersion of ownership in an increasing population, higher and more complex land uses, and increasing land values have created excessive demands upon the prevailing system of evidencing title. The prevailing system always fails somehow to meet the increasingly stringent demand for title security.

The title insurance policy has been evolving toward broader and broader coverage and, today, title insurance is not merely an insured attorney's opinion, nor is it merely an insured guarantee of record title status. The protection afforded by the modern title policy includes many title hazards which are not discoverable by any search of the record, however exhaustive and however accurate the examination of title may be.

I think it is fair to say that there is no more secure or universally acceptable method of title assurance now available than the modern title policy. Title insurance recognizes that the status of title actually depends upon far more than can actually be discovered by consulting

the public record of a title. It depends, for example, upon every document in the chain of title being a genuine document and not a forgery. It depends, sometimes, upon the question whether the document was actually delivered or not. Title only passes by deed when the document is actually delivered to the grantee. Thus, a deed which has been prepared and signed and which has been stored by the grantor in his desk to be delivered at some future day does not pass title, even though it is found by the grantee and recorded.

Title depends upon the grantor being of sound mind, and it depends upon the grantor being of full age. Title depends upon the parties to a deed truthfully disclosing their marital status. Title sometimes depends upon the regularity of court procedure and the truth or falsity of affidavits. Sometimes it depends upon a correct interpretation of law. Sometimes title depends upon whether a deed was actually paid for or not. It may have been given without consideration to evade creditors. Or it may be in fact only a mortgage.

Title insurance, therefore, approaches the title problem by proposing to insure against all title hazards, whatsoever, excepting only those matters eliminated from the protection of the policy by a short schedule of exceptions.

This approach is in contrast to the abstract of title which does not purport to assure or guarantee title at all but only purports to accurately disclose the record of the title. Title companies spend considerable time and money encouraging the cure of title defects, in addition to assuming title risks. The result is greater security of titles for the successive chain of owners of a piece of real estate.

More and more abstracters are becoming agents for title insurers, and many abstract plants have computerized or partially computerized their operations.

Computerization has pointed out the need for a uniform land code throughout the nation. Many states have had authorization to adopt a system of plane coordinates for several years, but little use of it has been made. Assignment of parcel identifier numbers would be a very expensive and time consuming project, and would probably eliminate the county office of register of deeds. A

state office would be more logical in order to insure uniformity of regulations. Presumably, parcel identifier numbers would eliminate errors in describing property across the entire country, but would create another blow to the small abstract companies.

There is little or no regulation of the title industry in the state of Michigan at the present time. The Michigan Land Title Association is presently preparing a proposed model title insurance code for presentation to the Michigan Legislature, adoption of which would be beneficial to the title insurance underwriter, abstractor-agent, and consumer as well.

In summary, I would say that abstracting is a continual process of changes and learning. While the use of the abstract is declining in Michigan and title insurance is increasing, it will likely be a number of years before the title policy only is accepted. The lenders are requiring mortgagee policies but many people still prefer an abstract of their title. New ways of rendering continued good service and personal contact with the customer will continue to be the prime concern of the abstract and title industry.

Kansas



Earl Field

Field Abstract & Title Co.
Hays, Kansas

I have been asked to give my opinion as to where abstracting stands today in Kansas. It is always difficult to draw a conclusion in a world that is constantly changing so I must hasten to say that the opinions given here are only the observations of a small town (country) abstracter from western Kansas.

It has been my observation that the practices of the abstracters in the western half of Kansas are quite different than those of the eastern half of the state. Very little title insurance is used

in western Kansas. Realtors, savings associations, banks and the public in general all are familiar with the abstract and a transaction without it does not seem complete. In the eastern half of Kansas, just the opposite is prevalent, with the use of title insurance predominating. It is my belief that title insurance will increase in popularity in the next 20 years; however, it will take time to educate the people as to its merits and to make the gradual conversion.

Kansas today needs changes in our licensing laws as well as an up-to-date plant law. This we need for the protection of our profession and to assure better and more efficient title service to our clients. It is always difficult to convince a state legislature of needs such as these, and especially so in a society where everyone is consumer oriented. However, the Kansas Land Title Association will continue its efforts along this line and I believe the time will come when we can expect related legislation.

Our Association must create and meet new developments with our eyes wide open to its weaknesses and its strengths, and to know and realize where our interests lie as well as giving the greatest possible service to the public in general. It is through the hard work of our Association that our business or profession has been and is constantly being elevated in the minds of the public. I sincerely believe that we must be ready to accept changes as well as to initiate ideas for the betterment of title service. Some of the changes we will see in the future may hurt some and benefit others, but it all must be viewed as to what is best for the entire Association.

As this is written Kansas is preparing for its fourteenth Kansas Abstracting & Title Insurance School, to be held in Salina, Kansas. This school has done much to train and assist abstracters throughout Kansas and each year it is well attended. Not only does it train personnel, but it also provides an opportunity to exchange ideas and solve problems common to all. I believe this is something that will continue in the years to come here in Kansas.

Kansas abstracters have come a long way in the past 30 years and I believe they will continue to improve their

services to maintain the high standards the public has a right to expect of our profession.

North Dakota



Mrs. Irene Fraser
Cass County Abstract
Company
Fargo, North Dakota

When I was asked to write a paper on where abstracting is today in North Dakota, my first reaction was, what is there to write about and who really cares, especially those not living in North Dakota.

On second thought, I decided I am going to boast a bit about North Dakota. To me, it is a great state, it is home and has great potential. Having been privileged to do a lot of traveling throughout the United States, and not being the shy type, I have received the message many times that you must be a bit odd to want to live in North Dakota, or even mention the fact you hail from such a remote spot in the nation. Immediately I come to the defense of my home state, and make known the good points, of which there are many. We breathe fresh air, enjoy four very distinct seasons—spring can be beautiful, warm summers that can be hot, lovely autumn and winter (that by the national news has to be next to the north pole). We do have cold weather during the winter, but many times the winters are very mild as well.

Most of North Dakota is very flat and our largest industry is agriculture. The eastern portion or the Red River Valley is one of the nation's best wheat producers with other small grains as well—such as—barley, oats and flax. Other popular crops that have become part of our economy are sugar beets and soy beans. North Dakota can boast of the fact that it is the largest durum wheat producer in the United States. Corn and

other feeds such as hay are important crops for the many cattle raised in the state. The extreme western part of our state has the "badlands," which are very picturesque, and hold enchantment and beauty for the tourist and Dakotans as well. Much of the badlands is grazing land for range cattle, buffalo herds and other wild life.

For a number of years the western part of the state has been the center of oil activities; with the recent fuel and energy shortage, there is a new flourish of interest and action in the oil fields. With the House and Senate in Washington both kicking around the bill concerning strip mining, there is related speculation in North Dakota. Strip mining has great potential, for the hills in western North Dakota have a great deal of coal under them. This would mean job openings and would benefit the whole economy of the state.

What has all this to do with abstracting? All of the above activities have great effect on our economy as owners and operators of abstract and title plants—so it means business in our various plants. There is concern each year how crops are in the surrounding areas, if crops are poor it has its effect on business, whatever type it is. The abstracter finds his business is based on all facets of the economy—the available money, interest costs, taxes and building costs.

In recent years, the trend has been for the farmer to move to the city and farm from there. The farmer wants to live in the city and enjoy better schools and cultural life, while the former city dweller wants to give his family a taste of a more rural life, with the more isolated surroundings. Sounds as though we are going in circles, doesn't it?

Any available land which is fairly close to a city can go on the market for most any price and be sold to a developer. Subdivisions are springing up and very much in demand. Tracts large enough for recreational facilities also are in great demand, people seem to be looking for the feeling of space.

North Dakota has 52 counties and about the same number of abstract and title companies. We are among the states controlled or regulated by state laws; however, this was by the choice of the members of the North Dakota Title Association. Each abstract company

must maintain its own records, be licensed by the state board of examiners and adhere to the fees set by legislation.

Through the state association the members are informed as to legislative changes and needs. At our state conventions, it was the policy for several years to hold a school of instruction on the first day. We found management was attending the school which was intended for those new in abstracting or employees of companies. To be more helpful to the new employee or trainee, the training school is now being held annually on a date other than convention time. When people know their work they are much happier and better employees, and the employer is richer for it. Happy and informed employees are the best source of public relations a company can have. Attending a public relations session some time back, I recall a quote from the speaker: "We cannot project an image, we can only reflect what we really are."

Our Association tries to promote unified abstracting methods. We all have our little idiosyncracies but basically our methods are very similar. Many companies microfilm the daily papers being recorded and abstract, with readers from the instrument as they are needed for an abstract. Our office uses the hand typed card system, which is the instrument abstracted onto a five by eight card, which is numbered to coincide with the numerical system used by our register of deeds. After indexing daily, orders are made from the indexes, the cards pulled and attached to the abstracts; when the final check is made, any of our employees can type up the abstracts even though seasonal help does not know what to delete from an original instrument. We find keeping copies of each abstract and filing them is most helpful. I am sure this sounds like an outmoded system, but we are concerned in giving the best service possible. Our best recommendation for our service is our satisfied customers, and they have spoken.

There are many mechanical and photographic systems available and in use by many companies. We just have not found one that can excel in the service we are able to give at the present. Until we find that type of modernization we will save our money. The Xerox 7000 does beautiful work in reproducing ab-

stracts for us from our master copies, which we use for all new additions and subdivisions where there are a number of lots in each one. It is a great time saver as well as storage saver. Many abstracters throughout the state are using various types of mechanized equipment. The important thing is how efficiently you are serving your customer.

Title insurance is becoming more important and requested more each year as our cities are going through their urban renewals and face liftings. Smaller towns are getting sewer and water systems, much of this being financed by the federal government through their various agencies. Insurance companies are building office buildings or financing hotels and motels. Out-of-state lending agencies, all of these request title insurance, and we do see growth in this type of title evidence; it does simplify closings for such concerns. The single family home owner and local lending agencies seem to prefer the evidence furnished in an abstract.

The developer faces the inflationary costs of construction which have risen at an unparalleled rate during recent months. Land costs are rising rapidly. Mortgage costs with the high rate of interest are almost at an all-time high. With the inflation, the consumer faces high prices for the home he purchases, only he knows how high he can or wants to go.

In spite of the above appraisals, the outlook for North Dakota in the field of abstracting and title insurance is bright, and continued growth is very evident.

Nebraska



Donald Bell
Bell Abstract and Title, Inc.
Plattsmouth, Nebraska

Although I have only been in the business a relatively short time (11

years), I can give a brief analysis of the trend in Nebraska.

My county is Cass and the courthouse is in Plattsmouth, which is approximately 20 miles south of Omaha, having a population of approximately 7,000. Cass County has about 20,000 people and is about 15 miles wide north and south and 35 miles wide east and west. Basically, it is an agricultural county. However, in the last 10 years two recreational areas for both seasonal and permanent housing have opened up. A third area is about to open.

When I came into the business, it was strictly abstracting. Although my company, then Thomas Walling Company, was a title insurance agency, we didn't write any policies. When the first recreational area subdivision opened with about 250 lots, title evidence thereon was strictly title insurance because the number of pages and exhibits made abstracts prohibitive from a cost standpoint. Although I handled title insurance on this subdivision, my overall volume at the time was 95 per cent in abstracting.

With the second recreational area opening up (2,000 lots with only about 100 having improvements so far), title evidence once again is all title insurance. By the time a third area is under way, again totally with title insurance, I estimate that my overall volume will be about 75 per cent abstracting with the gross split around 50-50 between abstracts and title insurance.

I recently opened another office in Sarpy county, the county between Cass county and Douglas county—the latter including Omaha. Sarpy county is one of the 10 fastest growing counties in the United States. Although my experience in Sarpy county is not too great at this time, I find that the trend is mostly title insurance—about 75 per cent to 25 per cent over all. One of the many reasons, I believe, is that the real estate salesmen and brokers feel that a sale can be consummated faster with title insurance than with abstracting and a title opinion. From my conversations with other people in the title business in Sarpy county, I believe their percentages are about the same as mine—25 per cent abstracting and 75 per cent title insurance.

From my conversations with abstracters and title men in Omaha, the trend is about the same with the exception of

the title companies that have contracts with the larger savings and loan associations; then, the percentages are reversed—70 per cent abstracting to 30 per cent title insurance.

In Lancaster county—which includes the state capital, Lincoln—it is still basically an abstracting county with about 75 per cent of the volume in abstracts. But there again I believe the trend will favor title insurance as time goes by.

In the next largest populated areas including Grand Island, Hastings, and Kearney—which are basically in the center of the state—the percentage of business in abstracting is about 93 per cent.

In the balance of the state, which includes some fair size communities and counties, it is about 99 per cent abstracting. But in talking to people throughout the state, they all feel it will eventually come to more title insurance and less abstracting—just as it has been moving in my particular case.

In the future, it probably will be reversed completely across the state in favor of title insurance—and in 20 years it probably will be strictly computerized.

Following are results of a survey that I conducted for selected other communities in Nebraska to determine percentages and types of business volume now being experienced by abstract and title concerns there.

Sidney—95 per cent abstracting, 2.5 per cent title insurance, 2.5 per cent other (real estate).

Grant—23 per cent abstracting, 0 per cent title insurance, 77 per cent other (law).

Aurora—29 per cent abstracting, 1 per cent title insurance, 70 per cent other.

Benkelman—30 per cent abstracting, 1 per cent title insurance, 69 per cent other.

Scottsbluff—99 per cent abstracting, 1 per cent title insurance.

Valentine—98 per cent abstracting, 2 per cent title insurance.

Hebron—99 per cent abstracting, 1 per cent title insurance.

West Point—12½ per cent abstracting, 0 per cent title insurance, 87½ per cent other (law and income tax).

Seward—100 per cent abstracting.

Pierce—44 per cent abstracting, 1 per cent title insurance, 55 per cent other (10 per cent savings and loan, 45 per cent property and casualty insurance).

Blair—70 per cent abstracting, 30 per cent title insurance.

Fremont—98 per cent abstracting, 2 per cent title insurance.

Tekamah—48 per cent abstracting, 2 per cent title insurance, 50 per cent other (law).

Tekamah—98 per cent abstracting, 2 per cent title insurance.

Ord—90 per cent abstracting, 0 per cent title insurance, 10 per cent other (real estate).

Lexington—100 per cent abstracting.

Chadron—98 per cent abstracting, 1 per cent title insurance, 1 per cent other (maps and real estate).

Grand Island—95 per cent abstracting, 5 per cent title insurance.

Wahoo—97 per cent abstracting, 3 per cent title insurance.

Beaver City—100 per cent abstracting.

Hastings—90 per cent abstracting, 10 per cent title insurance.

New Jersey



Patrick Kehoe Equitable Title and Abstract Company New Brunswick, New Jersey

In reporting on abstracting in the State of New Jersey, both economics and the history of land titles in the state must be considered.

New Jersey is the smallest of the Middle Atlantic states and yet an unbelievable number of statistics apply. It ranks eighth in total population, containing the heaviest incidence of population per square mile of any of the 50 states. It contains more roads per square mile of area and more railroad trackage than any other state. It has a coast line only three miles less than its sister state of New York and a shore line of about 50 miles less. Every county contains at least one college. It ranks among the leaders in all types of industry both heavy and light. There is also presently being considered in the legislature a plan to place at least one million acres of farmland into protective agricultural preserves. The one million acres represents about one fifth of New Jersey's total land mass. There is a cabinet post for environmental protection and a well financed and articulate group engaged in preserving the unspoiled and

natural beauty of its resources free from exploitation.

The shore areas entice millions of visitors and residents for summer vacations. The northwestern portion of the state encourages winter sports. Since New Jersey lies between New York City and Philadelphia, it is the bedroom for many who work in those cities and their environs. Strategically located, with a 12-lane turnpike bisecting the state, it also acts as a conduit between the northeast states and those to the south and west.

In determining how land titles are derived in New Jersey we must review how the state came into being. In March of 1664, Charles the Second granted to James, Duke of York, a large tract which included among other lands New Jersey, Long Island, Connecticut, Massachusetts and the islands off their coasts. In June of the same year, James Duke of York granted the lands which are now New Jersey to John Lord Berkley and Sir George Carteret. Unfortunately, the Dutch contested the ownership of the area and it was not until February of 1674 that a peace treaty was signed and the land restored to the English. In June of 1674, Charles the Second confirmed the former grant to James Duke of York and in turn the Duke granted a new conveyance to Sir George Carteret for the eastern portion of the state. Lord Berkley sold his one-half interest for 1,000 pounds to Edward Byllinge, who claimed the western portion. On July 1, 1676, a quintipartite deed was executed among the proprietors whereby East Jersey was confirmed to Sir George Carteret and West Jersey to Edward Byllinge, William Penn, Gawen Lawrie and Nicolas Lucas, with the partition line running generally from the northwest point of the state to just north of Atlantic City.

All land titles today emanate from these two proprietary groups. Oddly enough, the two groups have different corporate arrangements. This is odd, because, on the death of Sir George Carteret, William Penn, who was also a West Jersey proprietor, and eleven associates, purchased East Jersey for 3,400 pounds (about \$17,000) and created the Board of Proprietors of the Eastern Division of New Jersey. Lawrie and Lucas were two of the associates. The proprietors found this to be such a

heavy financial burden that each took in a partner. Later the 24 shares were divided into quarters making the total rights outstanding at this time, 96. Through loss by descent, or otherwise, there are 91½ shares still in existence, many of them held by descendants of early colonial families and the other shares having disappeared.

Severances of title from the Board are made according to a system originated by James Alexander, one of the early surveyor generals, in 1718. After the Board approves an application for a title, a warrant for a survey is issued and recorded by the registrar, directing the surveyor general to make a survey of the land. He refers the application to a deputy who makes the actual ground survey and plan and files it together with a return of the survey. This must contain an accurate plotting of the property, a computation of the area, a detailed description by metes and bounds, an attestation by the chain bearers, and a certification by the deputy. Upon this survey return by the deputy, the surveyor general makes a certification to the Board. From colonial days and prior to the recording act, this was the actual severance of the title from the Board and sufficient authority to vest the fee simple title in the first owner. The Board uses the same method today, with some modifications, and also issues a quit claim deed which is recorded.

Conveyances today are executed for lands still owned by the Board, and the courts have held they hold title where there is no owner found of record. This latter instance occurs in those cases where, because of the declination of North, contiguous parcels surveyed at different times show a pie-shaped wedge between them. In amassing large tracts of acreage this occurs, such as in the acquisition of the Earle Naval Depot where over three hundred deeds from the Board for these small slivers were obtained. We know of one instance where a church was granted the right to use property by a township in the late 1600's. No deed was ever issued. In recent years major renovations required the congregation obtaining a mortgage. There was no evidence of title except the minute book of the township in minute Book 1 which is in the New Jersey Historical Society's archives. The

Board of Proprietors surveyed the land and executed a quit claim deed over 250 years after the church first occupied the premises. We have caused to have a deed drawn for a two-chain-wide strip which had never been severed from the Board. Although we sometimes complain about the accuracy of surveyors, we discovered that a return by the surveyor general in July of 1788 impinged upon a previous survey made by the surveyor general in May of 1788 of a parcel of 50 acres which started from a different beginning point.

The Board of Proprietors of East Jersey still meets twice a year—once in the former capital of East Jersey, Perth Amboy, which is the location of the only Colonial royal Governor's mansion still in existence. (I suppose I will get arguments about that, but the other two are reconstructions.) The last royal occupant was Governor William Franklin, son of Benjamin Franklin, who, at the outbreak of the revolution, left for England and died there, having been disowned by his father.

Quite differently, the Council of Proprietors of West Jersey was created by a document, which is really a book, entitled, "The Concessions and Agreements of the Proprietor, Freeholders and Inhabitants of the Province of West Jersey in America," which was dated March 3, 1676. This agreement also includes methods of governing and settling disputes and is actually a constitution. The West Jersey Board is divided into 100 shares, which are also fragmented so that anyone holding a one-thirty-second portion of a share is entitled to vote for members of the council. The council consists of nine members and the surveyor general. The members of the council are still chosen in an anachronistic manner. Five proprietors are annually elected to membership on April 10. The meeting is held at the northwest corner of High and Broad Streets at high noon. At Gloucester City (some 20 miles distant), on April 13, four more members are elected at a ceremony held on Gloucester Green at the site of an old buttonwood tree. Both sites are still marked. The 10 then meet at the offices of the West Jersey Proprietors in Burlington. Their method of land distribution is slightly different than the East Jersey proprietors. A return with the surveyor general is filed

in both cases, but to buy land you must first find a proprietor who has acquired what is called "proprietary rights," which is a right to purchase a certain amount of acreage (which he has acquired either as a dividend or by purchase). After the proprietor with such rights is located you must bargain with him as to a price. When this is agreed upon, the surveyor general surveys and returns and title vests in you. At the present time a deed is given, which is recorded.

I have been fortunate in having been able to examine the original deed to the Proprietors of East Jersey, which is in gothic script on parchment and easily readable—the document being about three feet wide and about 6 feet long, the letters being at least half an inch high. The registrar for many years, George J. Miller, brought some of the documents to meetings of our land title association as well as permitting me access to the office of the surveyor general. Through the good office of Raymond B. Heston, who is connected with West Jersey Title and Guaranty Company, who arranged to have some of the records of the West New Jersey Proprietors brought to one of the meetings which among other things included the "Concessions and Agreements," etc., many more of our members were privileged to examine these bases of all land titles.

Perhaps I have taken too much space in setting out the economic features which must be considered and the original method of land distribution which still, in rare cases, operates to convey title. If so, I apologize.

Since the time of the original separation of title from the Board of either East or West Jersey, conveyances as well as other legal documents have been recorded in the office of the clerk of the county in which the premises are located. There are 21 counties in New Jersey with 21 recording offices. Wills are also recorded in the county as are proofs of descent in the surrogates offices. Another recording office which is infrequently used for the recording of deeds and probate of wills, is what used to be known as the prerogative court, which was a division of the chancery court. Since the new constitution of 1947, and the reorganization of the courts, this function continues but under

the aegis of the superior court.

There are two branches of abstracting in New Jersey. One consists of those searchers who are employed by search companies who search the records of the clerk of the superior court of New Jersey, whose office is in the capital at Trenton. His office is searched for judgments against any name in the chain of title for 20 years last past. If a judgment is found whether against your exact or a similar name it is reported to the attorney. They also search the records of the United States District Court for federal recognizances or judgments and bankruptcies. An additional function is checking the Secretary of State's office for corporate status reports and instruments filed under the Uniform Commercial Code. So far as the abstracter who searches the county records is concerned, there is no licensing requirement in New Jersey for any abstracter nor is there any regulation governing the financial responsibility, the ethics, the ability nor the honesty of those who hold themselves out as abstracters. The history of abstracting is one in which responsible and competent searchers, many of whom were attorneys, or held law degrees, searched the records and taught by a system of apprenticeship the requisites of the profession.

Until 1931, there was no authoritative treatise concerning real estate titles. Milton N. Lieberman published a book in that year which was rather modest, consisting of less than 400 pages. It has since grown to two volumes of about 1,500 pages and is part of the New Jersey Practice series and an excellent reference, as well as an authoritative and scholarly treatise. A system of independent searchers grew up who were well qualified and as independents provided the title reports for title insurance companies and attorneys. Some title companies trained their own searchers and with the depression these fine professionals were let go. They became independent searchers and the title companies, until comparatively recently, particularly in the north end of the state, depended on their services for title reports. In 1931, they formed an organization called the Title Abstracters Association of New Jersey which today has about 350 members. I believe this is the only association in the country

which is an organization of the searchers and which, for many years, has been affiliated with the American Land Title Association. Many of the searchers who were charter members of the organization, or joined soon after, are still members, although they are no longer active as abstracters.

The state of New Jersey employs about twelve searchers who are constantly in the various counties and who search exclusively for highway purposes. They are civil service employees and must take examinations for advancement. They also are given courses in searching. This is the only group of searchers, to my knowledge, who have both pedagogical as well as practical training. Needless to say many of them, after they learn the business, either strike out as independent searchers or become employees of some abstracting or title company.

Many searchers, in their seventies today, are still active in the profession. Since they were self-employed for many years and were unable to provide for their future, they continue. If the truth were to be told, I doubt whether they would retire even if they became wealthy. They still enjoy their work.

A peculiarity in abstracting in New Jersey is that, although from colonial days titles were based on a division which ran generally north and south, over the years both the practice of real estate law and the business of abstracting have followed trends that differ in the northern and southern part of the state, while the demarcation line runs generally through the waist of the state from east to west. In the north, attorneys generally control the searching of the title and the issuance of the title report. They order the county search and the concomitant searches and surveys, read the title and prepare the report for the title company on an approved attorney basis, with the attorney receiving whatever commission the title company pays. With this system the independent searcher can survive and prosper.

In the southern part of the state, the Realtor handles the requisition for the search through a title company and performs the work the attorney is accustomed to do in the northern portion. The title company employs its own searcher and the independent searcher is scarce as hen's teeth in the southern

section. The Realtor rather than the attorney collects the title insurance commission as well as his commission for selling the premises. Criticism of this latter practice has caused a legislative inquiry and it is hoped that legislation will compel the attorney to once again represent the purchaser rather than leaving him to the tender mercies of the Realtor and settlement clerk.

With the tremendous growth in population within the last 20 years, and the mortgage service companies becoming active in the home financing field, out of state companies have aggressively competed for their business. With the proliferation of work and the opening of these offices, abstracting, rather than a profession, has become an assembly line business in many cases. The offices are run by salesmen and they promise a service that the old time abstracter finds difficult to live with.

Daily take offs have become an expensive proposition and, since only a minor portion of the instruments are ever used by the title company with one or two exceptions, this is not done, nor has it been the practice in many years. Although the indices in New Jersey are not part of the record, this is the only tool the searcher has in the recording office. The Title Abstracters Association of New Jersey is backing legislation to make the indices part of the record particularly since there is the general feeling, supported somewhat by case law, that any error on the part of the abstracter is his liability whether or not the name was misindexed or not indexed. We are gradually acquiring support from the title companies and the bar. Perhaps in the not-too-far distant future the public as well as the abstracter will be protected for the errors of a register's office.

There is only one county in New Jersey where a block and lot system is used in abstracting. This is backed up by the name index and records. Since the balance of the state was not mapped until a comparatively recent date, many of the 530 odd municipalities, not even having a tax map until within the last two or three years, and some still unmapped, we must depend on the old system of working from a large tract and following its peringrations until it reaches the present owner through the names of the persons who have been in

title for the past 60 years. Those who have built up a title plant over the years find them extremely valuable.

There is one municipality in the state which foreclosed for non payment of taxes on over 13,000 parcels. They are still selling off some of these premises and the conveyances exceed this number since they have subdivided acreage into smaller plots in some instances. To run this analysis takes some time. Some of the newer ones in the game skip this entirely. Since, over a period of time, the municipalities change their lot designations as to lot and block number and even as to size of a lot, it is almost an impossible task to feed this as computer fodder. We have asked and talked about this for years since we realize some method must be found to save space, which in this state is most valuable and expensive.

I have attended the conventions and mid-winter meetings with the main thought in mind of computerizing either my title plant or the county records. Many of my colleagues have examined the matter at demonstrations and exhibitions and have been unable to come up with a workable system.

Even the method of computerizing the indices is subject to much criticism and possibly is fraught with the danger of error. A most frightful danger is the problem, which has occurred in my home county, of the computer people making an error in setting up the names, either not putting them in the proper order, or in one instance omitting a heavy name entirely. When errors were brought to the attention of the company providing the service, incorrect pages were taken out of the book and corrected pages inserted at night or on weekends when no abstractor was available to notice the substitution.

One county clerk attempted to remove the books from the shelves and substitute microfilm cassettes. Before he completed the task he was defeated for election, so we are unable to know at this time what will transpire in that county. We had foreseen utter chaos. Picture if you will, 30 to 50 abstractors who require viewing anywhere from 10 to 1,000 instruments. An educated guess is approximately an average of 100 per search. Cassettes would have to be obtained from an employee of the recording officer, an empty viewer would have

to be found, you would run the tape to the book and page you required and read the instrument to see if it affected you. For the next book and page the same process would again take place. Consider the quality of the microfilm taken from records which were never noted for clarity, the number of viewers, which are not cheap, the space for viewers, and the electrical connections which would have to be installed.

The question as to whether an interruption of service would damage or produce a poor or unreadable image is a very real problem in the northeast. All of these being considered, it has been the judgment of the Title Abstractors Association that nothing would be gained and a great deal lost by the use of microfilm. There has been one innovation which we welcome, that is the microfilming of the recorded instruments and the reproduction on a reduced scale. This permits the storage of 2,400 pages in one space on a bookrack where 600 pages formerly occupied the same space.

Fortunately most of the county clerks, registers of deeds and surrogates are somewhat sympathetic to the needs of the abstractors. Many have had no realization of the importance of the papers filed or recorded in their office. In this state, until comparatively recently, a notice of *lis pendens* was the only indication on the record that a condemnation or partition had been commenced or completed. The award of the commissioners was filed with the clerk of the court, in the chancery division, in the state capital. Since some recording officers thought these instruments took up needed space being used very seldom, they requested permission from the state archivist to destroy them. Until it was brought to the attention of the state librarian by the Title Abstractors Association that with the destruction of the *lis pendens* no notice existed in the county that lands had been taken or partitioned, these were destroyed.

In considering the future of abstracting in our state, prophecy is difficult. With the competition for mortgage money, many of our lending institutions invested their funds in other states, much of it on the west coast where higher interests rates prevailed than were permitted in New Jersey. This,

together with the general state of the economy, caused a great deal of strain among the abstractors who were independents. There were also layoffs by the title companies of persons on their staffs. Although there has been some improvement in the last two or three months, unemployment, which in some areas runs 6 or 7 per cent, does not give much hope for persons considering the purchase of a home, which is the backbone of the abstracting industry.

Although courses in title abstracting have been given over the last few years by Rutgers University, I taught a couple of years myself, the students for the most part are not the persons interested in taking up title abstracting as a living. At least that was my experience. Young people are coming into the business but mostly as employees of title or abstract companies. They are generally limited to the assembly line technique I mentioned before.

There will be a need for title abstractors for at least another generation unless some fantastic new method is devised of searching and interpreting land title records. Before the various governmental subdivisions required the services of prosecutors, defenders, attorneys for the various municipal boards etc., many young attorneys used to search titles until they built up a practice. Since they are now assured by either retainers or fees a modest sum which will pay the rent, they no longer avail themselves of this part-time employment. Many attorneys have a minimum knowledge of land titles and have no desire to broaden their experience. They leave it all in the hands of a title company. If the title company office is run by one familiar with titles there is no problem. Unfortunately this is not always the case. Many legal secretaries have more knowledge of titles than some so-called title officers. Where the training of future abstractors lies in the hands of these poorly-trained mentors, the profession will suffer.

I believe that title abstracting will provide a rewarding future for quite a few people in the state. About half of the abstractors are women and they will be able to help out part-time in those cases where family responsibilities become paramount. Hopefully, with the assistance of the Title Abstractors Association, whose requirements for membership are more than cursory, and with

the help of those searchers who are a credit to the profession, and the wish on my own part to have the abstracters licensed so the public and the title companies are better protected from inept and incompetent persons, there will emerge, I am sure, abstracters who will be a credit to us all. □

LADIES—Continued from page 5

that delightful species—the female. Valuable door prizes before and after Mrs. Kerdyk's performance.

Then there's the ladies' luncheon on Monday, neatly sandwiched in between a champagne reception and an outstanding performance of the stage play, "I DO! I DO!", all in the glamorous Bal Masque Theatre of the Americana.

On Tuesday afternoon the ladies will compete for trophies in the golf, fishing and tennis tournaments.

On the all-important question of what to wear—Florida offers plenty of room for individualism. The atmosphere is too leisurely for rigid rules. Keep in mind the keynote is comfort and first on the list are swim suits and beach ensembles. In fact, the Ladies' Hospitality Suite will be established on the ground level adjoining the pool and you are encouraged to use this "suite away from your suite" as a combination meeting place, cabana and entertainment center. Daytime favorites among the ladies are slack outfits and shorts-and-tops. Pant suits are still popular. "Colorful and casual" describes the South Florida look during daylight hours, with emphasis on light-weight materials. For cocktail parties and nightclubbing you will see a great many long skirts and dresses, many of them in bright floral and even patchwork patterns. Traditional cocktail dresses are always in style. Gaining favor rapidly for evening wear are the newly styled two and three-piece pajama outfits.

Whatever you wear, you can be assured a typical Florida welcome from these members of the Ladies Hospitality Committee:

Mrs. D. Frank Armstrong (Ro)
Mrs. George G. Balfour (Beverly)
Mrs. Marvin Brooker (Inez)
Mrs. C. J. Bryan (Dolly)

Mrs. J. H. Boos (Barbara)
Mrs. John Burgess (Linda)
Mrs. Robert Crisp (Pat)
Mrs. Peter Guarisco (Norma)
Mrs. Percy I. Hopkins, Jr.
(Mary Helen)
Mrs. Samuel Mansfield (Martha Jean)
Mrs. James H. McKillop (Sandy)
Mrs. Robert Niehoff (Louise)
Mrs. Jay R. Schwartz (Bunny)
Mrs. W. W. Wallace, III (Becky) □

ASK ME—Continued from page 5

bers of the Information Committee. ASK ME and these people will be your guides to fun, entertainment and sight-seeing available in Florida. ASK ME to learn this southern peninsula is full of opportunities for encounters with nature, history, the future and the international. There are so many varied attractions it was impossible to plan a single tour for "Play Day" so the ASK ME desk, placed near the Convention registration desk, will have people, pamphlets and prices ready to help you plan your free time according to your interests.

ASK ME about sightseeing within the local area. Are you interested in visiting a beautiful Japanese garden, authentically landscaped and structured with a lagoon, a dry stream made of thousands of ornate rocks and plants, zig-zaggy bridges, a charming little teahouse, antique stone carved lanterns and a smiling Hotei? The garden was a gift from Mr. Kiyoski Ichimura, a Tokyo industrialist, as an expression of his friendship to the City of Miami.

Or perhaps you want to go back in time to the Twelfth Century and stroll within The Cloisters of the Monastery of St. Bernard, better known as The Ancient Spanish Monastery, originally constructed in Sacramenia, Spain, around 1141. By 1925 the monastery had been reduced to a grainery and stable. Mr. William Randolph Hearst purchased the structure, had it dismantled stone by stone with each one catalogued, crated and shipped to the United States. Because of a series of misfortunes, Mr. Hearst was never able to accomplish the restoration. By 1965 the Cloisters had been reconstructed and was purchased by the Episcopal

Diocese of South Florida and today stands as a masterpiece of Romanesque and Cistercian architecture housing a small parish church and many objects of ancient art.

Some of the ALTA ladies may remember when we toured Villa Vizcaya during the convention in 1966. You may wish to return for six new rooms have been refurbished and are open to the public. For those of you who are not familiar with the lovely Venetian Palazzo on Biscayne Bay, it was built in 1916 by James Deering of International Harvester and houses his 20-year collection of sixteenth to eighteenth century art. Interested Dade countians have given their time and money to restore the palace and grounds and it is, as it was in the 1920s, the show place in Miami.

Do the flora and fauna of the area appeal to you? Dade county has many attractions distinctive to this climate. Seaquarium is a marine park where underwater sea life is viewed thru a huge window-ringed tank, where marine animals perform under a golden geodetic dome and where a monorail ride gives a panoramic view of the whole compound.

Parrot Jungle is sanctuary for more than 1,000 rare birds, with brilliantly colored macaws flying free among the lush tropical trees and macaws and cockatoos presenting a delightful show.

The Museum gives an amazing "real life view" of Florida, prehistoric to the present time. The Planetarium, largest of its kind in the world, presents shows which simulate the skies as seen from this world or other planets. These productions are presented with skills of astronomers, technicians, artists and narrators. It can be an unforgettable audio-visual experience.

On the international theme, the Miami area is now home for the majority of Cuban refugees. Fleeing from their homeland they brought with them their business ingenuity and have reestablished old businesses such as cigar making and have helped develop the garment industry second only in volume to the New York City Seventh Avenue district. A trip through a garment factory can be quite interesting, watching the processes of layout, cutting, assembling and seeing the finished garment with the opportunity of visiting the outlet store to shop.

Would you like a boat cruise to Villa

Vizcaya, Seaquarium or to Fort Lauderdale—touching the Everglades, gliding through scenic waterways and visiting an Indian village?

If you are not planning to take the ALTA post-convention trip to the Bahamas, you might like to take advantage of some of the famous Florida attractions. Disney World is delightful, Cypress Gardens is beautiful. And the Kennedy Space Center is fabulous with its tremendous vehicle assembly building and launch-site for Sky Lab.

Or go south to Everglades National Park and walk the famous nature trails. Beatrice Washburn, in a recent column in *The Miami Herald*, wrote, "The beauty of the Everglades is as though an artist had let himself go. It is in fact an artist's dream. The rarest birds live there, and possibly the ugliest alligators have found it their home for centuries. A jewel of a land which, too, stands now in danger of over building and modern improvements." While there you will learn why the Everglades is so important to life in South Florida. Drive on south on the Overseas Highway to quaint Key West for a coach train ride through the town, seeing former homes of President Truman, Ernest Hemingway, Tennessee Williams, Audubon, Edison. Watch the painstaking hand screening process for the lovely Key

West fabrics, gorge on delicious fresh-caught fish, visit two forts. One is maintained by the local garden club and the other has been converted into a delightful historical museum.

Is shopping one of your creative past times? Would you like to make dining out an international gastronomic experi-

ence? How about a horse or dog race? For the aesthetically inclined, did you know we have several small fine art museums? For all this information—and more—come to the ASK ME desk, talk to one of the volunteers who is wearing a yellow ribbon imprinted, ASK ME! I'M FROM FLORIDA. □

Services Held for Mrs. Alda McCulloch, Wife of ALTA Officer Philip McCulloch

Services and burial were June 29 in Richardson, Tex., for Mrs. Alda O. McCulloch, who died June 27 at a Dallas hospital, where she had been a patient for several days.

Mrs. McCulloch was the wife of ALTA Abstracters and Title Insurance

Agents Section Chairman Philip D. McCulloch. Chairman McCulloch is president of Hexter Fair Title Company, Dallas.

Besides her husband, survivors include two sons, her parents, a brother, two sisters, and one grandchild.

Reliance, Commonwealth Announce Plan For Merger in Exchange for Stock

Reliance Financial Services Corporation and Commonwealth Land Title Insurance Company have announced a plan wherein the title underwriter would be merged into Reliance in exchange for \$30 million of 10 per cent cumulative sinking fund preferred stock. The sinking fund can be increased by Common-

wealth's profit performance over the next six years.

This proposal is subject to approval by government regulatory authorities and boards of companies involved.

Reliance Financial Services Corporation is a wholly-owned subsidiary of Reliance Group, Inc., and is the holding company for the Philadelphia-based Reliance Insurance Companies. In 1973, Reliance Group reported net income of \$39.9 million on revenues of \$732.5 million.

Earlier this year, Provident National Corporation, a bank holding company, announced an agreement with the Federal Reserve Board through which it would relinquish control of Commonwealth by December 31, 1980.

McDonald Receives Honor as Surprise



Morton McDonald, Sr., right, chairman of the board of The Abstract Corporation, DeLand, Fla., and a past ALTA president, received the Algernon Sidney Sullivan Award from Stetson University in a surprise ceremony at its spring commencement. The award is presented annually during graduation exercises on behalf of the New York Southern Society on the basis of character, nobleness, and spiritual qualities of an individual. At the same ceremonies, his granddaughter, Marcia Ann McDonald, left, daughter of Mr. and Mrs. Morton McDonald, Jr., received her bachelor of arts degree in English.

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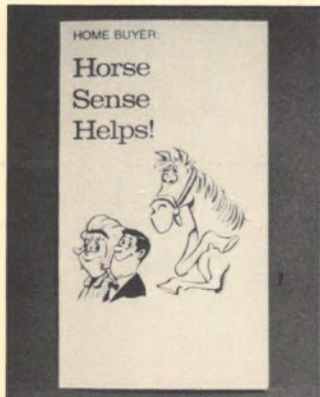
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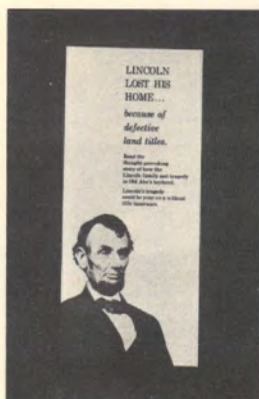
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