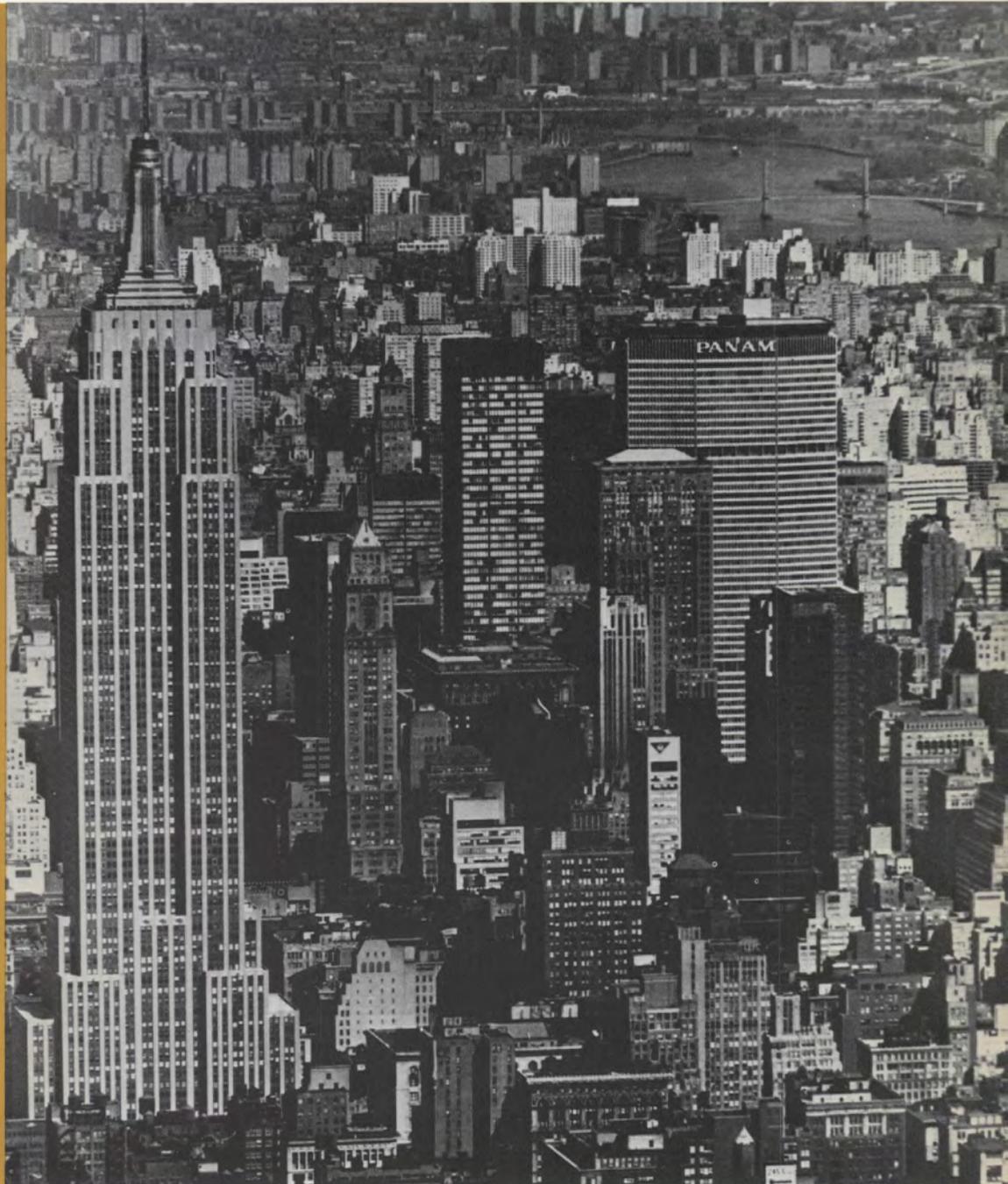


Title News

the official publication of the American Land Title Association



*New York City:
1970 Annual
Convention Site*



June, 1970



President's Message

JUNE, 1970

It is difficult during the early part of May to write something coherent that will appear in print in June. The world seems to have gone a bit mad. Hopefully, by the time you read this, President Nixon's courageous gamble will have paid off; there will be more evidence that inflation is being licked; students will be back in classes; and money will be a bit cheaper.

We can always hope. In the meantime, we can go about our job of producing good title evidence in the form of title insurance policies and abstracts that owners and investors can rely upon. Get out the Code of Ethics and read the first paragraph again.

Our state association annual conventions are blooming all over the place. I have been privileged to attend many of them. The insatiable thirst for knowledge and new ideas in our profession is evident at every one of them. Also evident is the ability to have some fun. It seems to me that the people at these conventions are one of the few stable elements in an unstable world.

Let us hope my hopefulness for early June will be justified.

Sincerely,

Thomas J. Holstein



HOW HAS YOUR PORTFOLIO PERFORMED IN THE RECENT STOCK MARKET?

If you are a TRUST OFFICER, FUND MANAGER, or SECURITIES ANALYST, are you satisfied with the information and management tools which you are using to make investment decisions? Have you considered using a computer in the management of your portfolios?

In recent years considerable advancements have been made in the development and use of computerized market analysis, stock selection and portfolio management tools. Using these tools, portfolio managers are developing a sensitivity to particular stock and stock market conditions which is significantly aiding them in making timely and profitable investment decisions.

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- portfolio management reports
- portfolio analysis and performance reports for your clients

These computer services are offered in addition to **TELETITLE** (an on-line, computerized title plant update and search capability) and other computer services to help you cut your operational costs and improve your operational efficiency.

For additional information, please contact Donald E. Henley, Executive Vice President, at the address below.



HW SYSTEMS, Inc.

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Telephone: (213) 277-4321

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

Annual Convention Planning Progresses



Activity moves into high gear early this summer in preparation for the 1970 ALTA Annual Convention, which will be held October 14 through 17 at the Waldorf-Astoria Hotel in New York City.

Results of initial planning under ALTA President Tom Holstein and Tom Quinn, president, New York State Land Title Association, promise a full measure of the excitement of New York City to the land title professionals, members of their families, and guests who will be present.

Three prominent guest speakers already have accepted invitations to address the Convention. They are Allan Oakley Hunter, new president and chief executive officer, Federal National Mortgage Association; Dr. Norman Vincent Peale, well-known clergyman; and Edward A. Touma, an authority on business operations.

Dr. Peale originally was scheduled to speak at the 1969 ALTA Convention in Atlantic City, N.J., but was forced to cancel the engagement because of an unexpected illness.

Local 1970 Convention arrangements being developed by the New

York Association include accommodations for sightseeing and taking in other attractions, which can be arranged through facilities at the Wal-

Post-Convention Tour to Portugal

A one-week Post-Convention Tour will leave New York City October 18 for Lisbon and the famous Algarve sea resort area in Portugal.

The tour price of \$305 per person covers all items except optional tours—and includes plane fare, hotels, and meals.

Those interested are advised to send \$50 per person as soon as possible to World Cultural Travel, Inc., Suite 450, 1100 Connecticut Avenue, Washington, D. C. Sixty seats have been reserved on a jet flight to Lisbon. The remainder of the cost should be sent to World Cultural Travel, Inc., no later than September 11.

More detailed information about the tour may be obtained by writing the ALTA office in Washington.

dorf. An outstanding program for the ladies also is being planned by the host Association, and arrangements have been made for interested persons to obtain theater tickets. Those wishing to make theater arrangements are asked to contact Liberty Ticket Agency, Groups Unlimited, Inc., 15 Central Park West, New York, New York 10023, as soon as possible concerning requests for shows and dates.

The acceptance of invitations by President Hunter, Dr. Peale, and Mr. Touma exemplifies the truly exceptional Convention program that is taking shape. A number of other outstanding speakers will be announced as acceptances are confirmed.

President Hunter heads a government-sponsored private financial institution popularly known as "Fannie Mae", which holds the largest residential mortgage portfolio in the world and provides market liquidity and stability in FHA and VA loans.

He is a former Congressman from California, formerly served as general counsel of the U.S. Housing and Home Finance Agency (predecessor

Continued on page 9

Title News

the official publication of the American Land Title Association

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LaCrosse County Title Company
LaCrosse, Wisconsin

Vice President

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Chicago Title and Trust Company
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ON THE COVER: Activity is gaining momentum in preparation for the 1970 ALTA Annual Convention, which will be held October 14-17 at the Waldorf-Astoria Hotel amid the sparkle and excitement of New York City. For a report on Convention developments, please see the opposite page.

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GARY L. GARRITY, Editor

Proposed ALTA Constitution and By-Laws Amendments Concern Membership

(Editor's note: In accordance with Article XI, Amendment or Revision, ALTA Constitution and By-Laws, the following proposed Constitution and By-Laws changes regarding membership were initially presented to the Association membership at the 1969 ALTA Annual Convention in Atlantic City, N.J. These amendments will be submitted for approval at the 1970 ALTA Annual Convention in October in New York City. They are published here to provide an opportunity for ALTA members to study them in advance of the upcoming convention. Sentences shown below in italics contain proposed changes. The sentence shown in bold face type is proposed for deletion. All other sentences shown are proposed to be left as they now exist in the Constitution and By-Laws.)

* * *

PROPOSED SUBSTITUTE AMENDMENT TO SECTION 2 OF ARTICLE III

* * *

Sec. 2. Affiliated Associations:

(a) With the approval of the Board of Governors any state, regional or territorial association of abstractors or of title insurers, or of both abstractors and title insurers **BUT NOT MORE THAN ONE SUCH ASSOCIATION REPRESENTING EITHER SUCH GROUP IN ANY STATE, REGION OR TERRITORY** may affiliate with this Association. (Region, as used herein, shall mean two or more states forming a continuous geographical area.) Its application for affiliation shall be accompanied by a certified

copy of its constitution or articles of association or incorporation and of its by-laws, together with applications of those of its members in good standing who or which have applied for membership in this Association and a certification of their eligibility for membership therein.

(b) An affiliated association shall possess such rights and privileges in this Association as are provided by this Constitution and By-Laws and as may be from time to time prescribed by the Board of Governors of this Association.

(c) Any affiliated association (i) may, at its option, undertake to collect and remit membership dues in this Association of those of its members who are or become members of this Association, and (ii) may also, at its option, require as a condition

* * *

for membership therein or in this Association that a prospective member having his or its principal place of business in the state, region or territory represented by such association be or become a member of both associations, but such requirement shall not affect membership in this Association of any existing member or of any prospective member who by reason of multiple state or territorial operation, may be eligible to apply for membership in this Association from another state, region or territory.

(d) If an affiliated association imposes the requirement as provided in paragraph (c) (ii) of this Section, then an applicant for membership in this Association which does business within the area served by such affiliated association and which is not within the exception to such requirement, as set forth in such paragraph, shall not be qualified for membership in this Association until such applicant has become a member of such affiliated association unless:

(i) The applicant certifies to this Association that it has applied for and been denied membership in such affiliated association or that it has submitted a completed application for membership therein which has not been acted upon by such affiliated association for a period of at least 180 days, or that it has been informed by such affiliated association, or an official thereof, that it is not eligible for membership therein; and

(ii) The applicant is otherwise qualified for membership in this Association; and

(iii) This Association has notified such affiliated association of the filing of the application for membership in this Association by such applicant and has requested written information from such affiliated association of the reasons for either the denial of such applicant's application for membership in the affiliated association, or its failure to act on the applicant's application

Continued on page 13

Excellence Prevails at Mid-Winter

An impressive program and the charm of New Orleans won out over an air controller work slowdown April 1-3, and a near-record attendance resultingly was posted at the 1970 ALTA Mid-Winter Conference in the Crescent City.

Tales of air traffic delays punctuated conversation at a highly successful Ice-Breaker that opened the Conference April 1. But the pleasant climate of usefulness that traditionally characterizes a Mid-Winter soon prevailed, and, after adjournment April 3, many ALTA members departed commenting that the 1970 Conference had been one of the most significant in recent years.

Three excellent guest speakers made important contributions to Conference informational input.

Insurance Commissioner J. Richard Barnes of Colorado, who heads a National Association of Insurance Commissioners committee to prepare and encourage implementation of a model title insurance code for that organization, brought those in attendance an up-to-date picture of his committee's activity. He said he expects the NAIC model code to be presented for adoption to the NAIC Laws and Legislation Committee in June, and he urged titlemen to cooperate in future activity to implement the code in various states. Commissioner Barnes said the NAIC model code parallels the existing ALTA Model Title Insurance Code in many areas. He added that national use of the NAIC model code, coupled with good regulation, will help title companies.

An informative discussion on land use trends, including developments regarding higher density dwelling units, was presented by William R. Smolkin, president of a New Orleans-based marketing and management consulting firm whose clients include the National Association of Home Builders. His analysis of current and future trends was considered particularly outstanding by many in the audience.

Expert insight into the complexities of the federal Truth-in-Lending regulation was presented in a talk by Milton W. Schober, assistant director, Division of Supervision and Regulation, Board of Governors, Federal Reserve System. Included in his re-

marks was an emphasis on real estate problems related to the regulation—problems that he deems to be of greatest importance to the land title business. Schober defined the right to rescind certain transactions as the No. 1 Truth-in-Lending problem of title companies—and he reviewed and discussed the criteria necessary to establish that a transaction is rescindable.

The regular Conference program was accompanied by meetings of ALTA's hardworking committees—headed by separate sessions of the Board of Governors and the Executive Committee. Among the numerous matters handled by the Board were the following actions:



Chester McCullough, left, visits with ALTA President Tom Holstein and wife Nora during the 1970 Mid-Winter Conference at the Roosevelt Hotel in New Orleans.

—Agreement to seek assurance that the land title industry is excluded from provisions of the federal Fair Credit Reporting Act as proposed, and to oppose standardization and reduction of mortgage loan settlement costs by the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs as called for under the federal Emergency Home Finance Act as proposed.

—Establishing a new class of ALTA associate membership for counsel for mortgage bankers pursuant to Article III, Section 1, of the Association Constitution and By-Laws; determining that a closed session for active ALTA members be held during the Mid-Winter Conference and Annual Convention each year.

—Adopting a resolution in which ALTA agrees to cooperate in any decision by Congress to convert this nation to the metric system, and to assist in a National Bureau of Standards study of this subject, although it is stipulated in the resolution that ALTA finds no advantage in converting land titles to the metric system.

—Approving a request by the ALTA Research Committee to make quarterly land title industry marketing studies.

—Receiving an Executive Committee report that the 1974 Annual Convention will be held at the Americana Hotel in Bal Harbor, Fla., and the 1975 Annual Convention will be held in Chicago. (In 1971, the Mid-Winter will be held March 3-5 at the Hotel Del Coronado, San Diego, and the Annual Convention October 3-6 at the Statler Hilton, Detroit; in 1972, the Mid-Winter will be held March 1-3 at the Regency Hyatt House, Atlanta, and the Annual Convention October 1-4 at the Astroworld Complex, Houston; and in 1973, the Annual Convention will be held September 30-October 4 at the Century Plaza, Los Angeles, with the 1973 Mid-Winter dates and site to be announced.)

ALTA members received a preview of a highly-significant activity of the Association Public Relations Program when three public service radio spots recorded by Lorne Greene of NBC Television's "Bonanza" were played

at a General Session. The spots are part of a package of eight ALTA home buyer education announcements distributed nationally in May to approximately 5,500 AM and FM radio stations.

Committee work and progress reports added to the atmosphere of a traditionally busy Mid-Winter. During the two Conference General Sessions, reports were heard from these Association committees: Public Relations, Federal Legislative Action, Constitution and By-Laws, Standard Title Insurance Forms, Improvement of Land Title Records, Liaison, Research, Liaison with Mortgage Bankers Association of America, and Young Titlemen.

A resolution citing the numerous contributions of the late William Gill, Sr., an eminent titleman and past president of ALTA and the Oklahoma Land Title Association, to the land title industry was adopted at the closing General Session. He died last December from injuries suffered in an automobile accident in Oklahoma City. Copies of the resolution were sent to his widow and to the Oklahoma Land Title Association.

Information-packed meetings of the Abstracters and Title Insurance Agents Section and the Title Insurance and Underwriters Section were held the afternoon of April 2.

Officers of state and regional land title associations met during the Conference, and executives of these associations held a breakfast discussion with ALTA staff members—as both groups took advantage of an opportunity to collectively consider matters of common interest. In addition, state association executives and guests met at the close of the Conference for a publications workshop sponsored as an activity of the ALTA Public Relations Program.

Although the Conference schedule was full, ALTA members somehow found time to visit with old friends and meet new ones—and to enjoy the attractions of New Orleans. As the Conference adjourned, it seemed incredible that so much activity had been completed in such a brief period of time.

Abstracters Confer At Round Tables

Round table discussions on topics of general interest to abstracters and agents proved highly successful at the Mid-Winter meeting of the Abstracters and Title Insurance Agents Section.

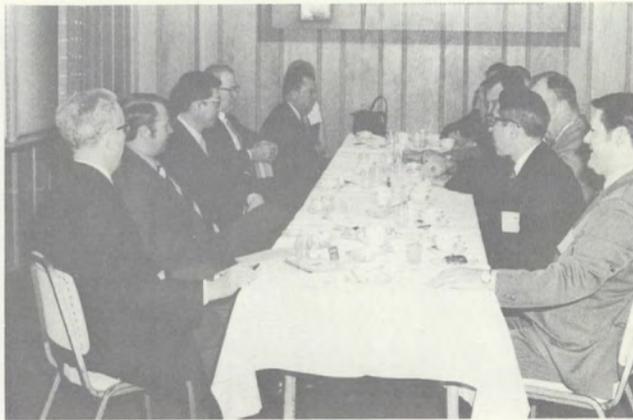
Topics at individual round tables were improvement of efficiency, agency operation, personnel training and retention, advertising, office procedure, and mechanization. Section members served as discussion leaders.

Abstracters and agents participated in discussion of three topics of their choice. At the close of the discussions, Section Chairman John Warren called on the leaders to present summaries of the conversation at their respective round tables.

Before the discussions began, reports were presented by the following representatives of Section committees: Jim Vance, errors and omissions in-

Continued on page 9

ALTA Vice President Al Long addresses the Convention at top, left, and a question from the floor receives close attention at top, right. Second row: Excellent presentations are made by three Convention guest speakers, who are, from left, Insurance Commissioner J. Richard Barnes of Colorado; William R. Smolkin, president of a marketing and management consulting firm; and Milton W. Schober, assistant director, Division of Supervision and Regulation, Board of Governors, Federal Reserve System. Third row: Titlemen listen to a General Session commentary at left; Al Pentecost adds a comment at right while John McDermitt (at right) lends an ear. Bottom row: At left, Dick Pendergast, chairman of the executive advisory committee, International Council of Industrial Editors (facing camera), leads a critique of a state land title association magazine during a publications workshop sponsored as part of the ALTA Public Relations Program; at right, ALTA Executive Vice President William J. McAuliffe, Jr. (left) and state and regional land title association executives join in a breakfast discussion of matters of mutual interest.





urance; Leonard Bartels, schools; Otto Zerwick, plants and photography; and Bill Galvin, organization and claims.

ANNUAL CONVENTION—continued from page 2

of the U.S. Department of Housing and Urban Development), and has been engaged in the private practice of law in California.

Dr. Peale has been minister of Marble Collegiate Church in New York City since 1932. Some 200 newspapers carry his weekly column, "Confident Living", and his book, *The Power of Positive Thinking*, was at the top of the best seller list for three years. Through speeches and electronic and print media, his messages have reached millions throughout the world.

Mr. Touma will address the Convention on "Automation, Organization, Classification, and Retrieval of Title Information". He is a professor of management at Niagara Community College and a consultant to the National Retail Merchants Association. In addition, he is a consultant and staff member to the temporary president of the New York State Senate.

Additional information on the 1970 Convention will be sent to ALTA members in coming weeks. Plan now to attend this important event.

Edward Kent Named NJLTIA Secretary

The New Jersey Land Title Insurance Association has retained Edward F. Kent, an attorney, as secretary, according to an announcement by John H. McDermitt, Association president.

Kent recently was an assistant dean at the Columbia University School of Law following retirement from the Army.

Underwriters Hear Panel Discussions

Panel discussions on electronic data processing in the land title industry; claims; and use of the ALTA single form policy were featured at the meeting of the Title Insurance and Underwriters Section held during the 1970 Mid-Winter.

Section Chairman Jim Hickman opened the program by introducing

the EDP panel, which covered subjects ranging from updating title plant records, to plant computerization, to joint plant ownership. Panelists were Ed Grskovich, Jim Vorhies, and Jack Edwards.

Participating in the panel discussion on claims were Jack Tickner, Ivan Peters, John Osborn, John Connelly, and Jack Jensen.

Panelists discussing single form policy use included Joe Smith, Roy Hill, Walter Sprouls, Joe Watson, Jim McKillop, and Ernie Billman.



Mrs. Marjorie Bennett serves as discussion leader during a round table session on improving efficiency at the Abstracters and Title Insurance Agents Section meeting. The round tables proved to be a highly successful feature.

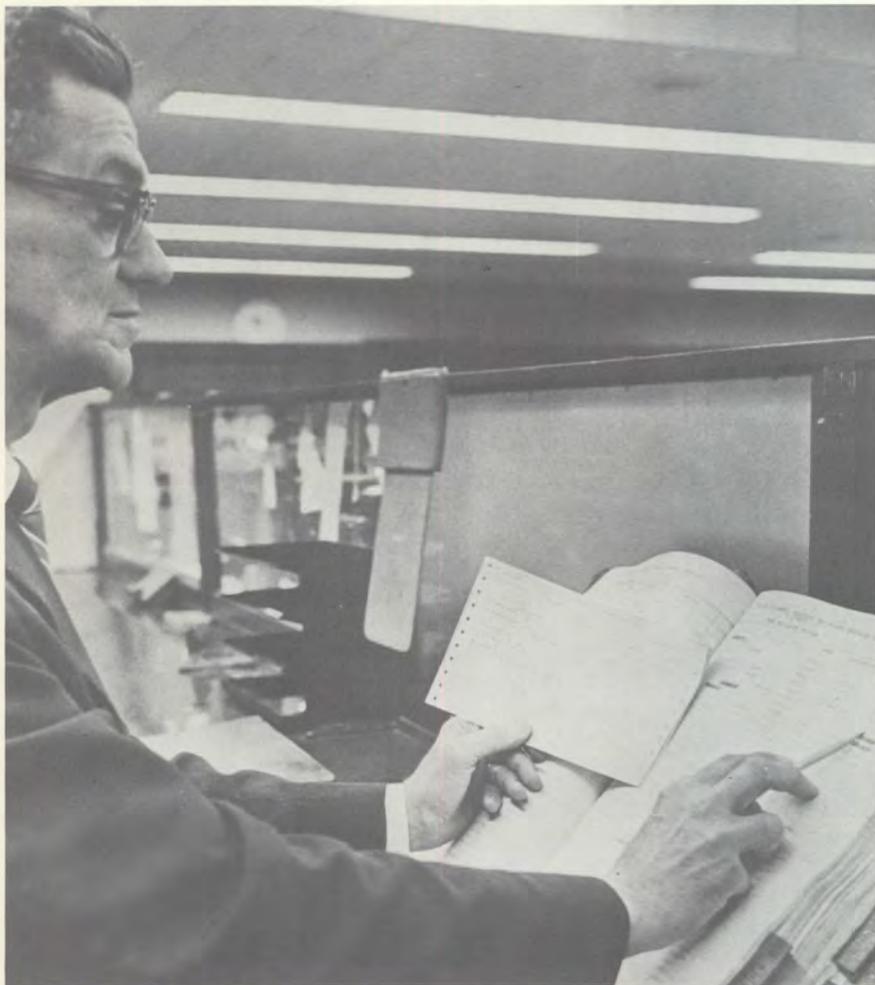


Ed Grskovich leads off a panel discussion on electronic data processing in the land title industry during the Title Insurance and Underwriters Section meeting. Seated are fellow panelists Jack Edwards (right) and Jim Vorhies.

Chicago Title Computer System Aids Accuracy

Greater accuracy through one-time handling of data is a major advantage realized in Chicago Title and Trust Company use of a computer system to analyze histories of 1.3 million parcels of land in Cook County, Illinois.

The system has been instrumental in significantly reducing the examining cycle, according to Edward N. Grskovich, Chicago Title vice president-management systems. Functions of the system include researching reference files, processing new data af-



Information that formerly had to be hunted in the huge book shown here now is rapidly and efficiently printed out by a Chicago Title computer on forms such as that being held in the above photograph.

fecting land title status to keep the files current, and printing portions of title insurance policies.

Through this computer-based approach, data is entered as accurately as possible and is reproduced, as needed, for title examination and policy printout—maintaining its original accuracy.

Computer assistance begins with the receipt of a customer order for a title search. An examining unit—typically consisting of a staff of ten, equipped with three on-line EDP display terminals—assigns a project number to the order and forwards it to the tract book department. Next, an operator at an IBM 2260 display terminal enters the legal description of the property in an abbreviated form through the terminal's keyboard. This abbreviated form subsequently will be expanded so the description can be written out in full on policy documents.

The data then is edited as needed on the terminal unit's TV-like screen before information is transmitted to one of two IBM System/1360 Model 40 computers—where it is stored on magnetic strips in a large-capacity data cell. These storage cells contain a record of taxes, special assessments, court judgments, and a miscellaneous record identifying probate or other legal activity which could affect title to land.

From this initial entry, the system prepares a multi-carbon search form which is circulated, along with a project file, to appropriate departments within the company's title division. These departments then make inquiries of the computer-stored records pertinent to their areas of interest, and on the following day receive a printout of any exceptions to title which may exist.

An on-site inspection report completes the information profile and, when all search forms are completed, the project file then is delivered to the appropriate examining unit for final disposition.

The system not only has been adapted to the concept of individual examining units, but also has helped improve the concept, Grskovich said.

association corner

state



NELTA Organizes At April Meeting

Bruce H. Zeiser, Lawyers Title Insurance Corporation, Boston, was elected first president of the New England Land Title Association at its organizational meeting April 8 in Hartford, Conn.

Other newly-elected officers are C. Willis Thompson, Title Guarantee Company of Rhode Island, Providence, vice president; and Richard S. Forrest, Chicago Title Insurance Company, Hartford, secretary and treasurer.

An attendance of more than 100 was reported at the meeting. Representing ALTA were President Thomas J. Holstein of LaCrosse (Wis.) County Title Company; Lawrence A. Davis,

New officers of the New England Land Title Association, elected at its organizational meeting in Hartford, Conn., visit with ALTA representatives. From left are Thomas J. Holstein and Lawrence A. Davis, Jr., ALTA president and Membership and Organization Committee chairman, respectively; Bruce H. Zeiser, NELTA president; ALTA Executive Vice President William J. McAuliffe, Jr.; and C. Willis Thompson and Richard S. Forrest, NELTA vice president and secretary-treasurer, respectively. In the other photograph, NELTA members take advantage of an opportunity to visit during a break in program proceedings.

Jr., Lawyers Title, Pittsburgh, chairman of the Association's Membership and Organization Committee; and Executive Vice President William J. McAuliffe, Jr.

After an organizational meeting to

adopt articles of association and elect officers, NELTA then presented a program in traditional format.

Larry Schwartz, Connecticut attorney, discussed "Problems of the Condominium".

Participants in a panel presentation on "Unusual Title Risks" were Seymour Fischman, Security Title and Guaranty Company; Theodore Moss, Pioneer National Title Insurance Company; Boyce C. Outen, Lawyers Title; and John P. Turner, Chicago Title Insurance Company.

Another panel discussion on "Titles and the Customer" included participation by Thomas J. Carens, Massachusetts attorney; James A. Mooney and Gordon T. Neale, Rhode Island Hospital Trust Company; and Albert E. Saunders, Jr., Phoenix Mutual Life Insurance Company.



names
names in the news
 names
 names



BARRETT

Wilbur A. Barrett has been named manager of the Morristown, N.J., branch of American Title Insurance Company's New York-based Guaranteed Title Division.

* * *

The board of directors of First American Title Company of San Bernardino, Calif., has elected **C. Vincent Figgins** vice president.

* * *



O'CONNELL

Pioneer National Title Insurance Company, Seattle, has announced the appointment of **Thomas P. O'Connell** as regional marketing manager for the company in the states of Washington, Oregon, Montana, Wyoming,

Idaho, and Alaska. The appointment is to a newly-created position.

* * *



PERAINO



LISENBERG

Roy T. Peraino, president and chief executive officer, The Continental Bank, and **Herbert M. Linsenberg** have been elected directors of The Title Insurance Corporation of Pennsylvania, Bryn Mawr, Pa.

* * *

Theo. V. Brumfield has been elected secretary of St. Paul Title Insurance Corporation, St. Louis. He succeeds Norman C. Strus, who retired early this year, but who will continue as a consultant to the St. Louis Metropolitan Division of TIC.

* * *

The following elections were announced at the annual stockholders meeting of The Title Guaranty Company of Wyoming, Inc., Casper: **Roy P. Hill, Jr.**, president; **Dan Price**, **Jim Christenson**, **Kenneth Araas**, **Ray Odell**, **David Kidd**, vice presidents; **Milton Coffman, Jr.**, secretary-treasurer.

The following were elected to the board of governors: **Robert R. Rose**,

Jr., chairman of the board, **J. Owen Evert**, **Norval Currence**, **H. J. Clare, Jr.**, **E. U. Johnson**, **Donald P. Kennedy**, **Oscar Beasley**, **Martin Peterson**, **William T. Nightingale, Jr.**, **Kidd**, **Odell**, **Coffman**, and **Hill**.



ROOD



REEVES



ADELMAN



HIGLEY

The following men have been elected to the board of governors of Chicago Title and Trust Company: **Henry F. Rood**, chairman of the board, and **Gordon C. Reeves**, president, Lincoln National Corporation; and **Robert J. Adelman**, chairman of the board, Arthur Rubloff & Co.

Chicago Title also has announced the election of **J. Leonard Higley** to vice president and associate general counsel.



DONALDSON



SKLAR



EICKHOFF



UPDIKE

Lawyers Title Insurance Corporation has announced the following elections: **Robert F. Donaldson, Jr.**, manager of the Columbus, Ga., branch office; **Gerald W. Sklar**, title officer at its Richmond, Va., branch office; **John T. Eickhoff** and **Ralph E. Updike**, title officers, and **Jack H. Johns**, assistant vice president of sales, at its Indianapolis office.

* * *



BOLLUM



OLSEN



SIEGERT

Land Title Insurance Co., San Diego, has announced the following pro-

motions: **Robert H. Bollum**, executive vice president; **Darwin D. Olsen**, vice president, counsel, and secretary; **Jean A. Siegert**, vice president.

* * *



MARTIN

Herbert L. Martin, a 20-year veteran in the land title industry, has been named manager, title insurance information services, HW Systems, Inc., a Los Angeles-based computer system development firm.

PROPOSED ALTA CONSTITUTION AND BY-LAWS AMENDMENTS—continued from page 4

for membership therein, or the reasons why such applicant is not eligible for membership in such affiliated association; and

(iv) The Board of Governors of this Association, by a two-thirds vote of the whole Board of Governors, approves such application for membership in this Association after full consideration of all information furnished by the affiliated association, or, in the event that no

Branch Dedicated By Commonwealth

Dedication ceremonies have been held for Commonwealth Land Title Insurance Company's new West Chester (Pa.) branch office located at Darlington and Market Streets. Commonwealth previously had conducted business from another West Chester location.

The new office includes settlement facilities and a title plant—the first in Chester County—to provide faster, more efficient title searches and capabilities to better serve the needs of attorneys, real estate brokers, and Realtors.

Robert Sweeney is plant supervisor, assisted by John Rapp.

such information is received by this Association within 90 days following request therefor, approves such application by such two-thirds vote after expiration of such 90 day period.

A member of such affiliated title association without full voting rights therein may not, unless otherwise eligible, be elected to active membership in this Association.

PROPOSED AMENDMENT TO SECTION 3 OF ARTICLE III

Sec. 3 Qualifications for and Election to Membership:

Except as provided in Section 2 hereof election to membership of any class in this Association shall require the affirmative vote of a majority of the whole Board of Governors. Applications for active membership, in addition to the requirements of Section 1 of this Article and of Section 2 thereof, if applicable, shall contain evi-

dence satisfactory to the Board of Governors of applicants reputation for integrity, reliability and responsibility in all business and professional relationships and that applicant owns, or leases, and occupies a bona fide office for the production of title evidence, staffed with applicant's own employees and located in one of the states or territories of the United States or in the District of Columbia.

Part VI: ALTA Judiciary Committee Report

(Editor's note: Members of the ALTA Judiciary Committee have submitted over 400 cases to Chairman John S. Osborn, Jr., executive vice president and general counsel, Louisville Title Insurance Company, for consideration in the preparation of the annual Judiciary Committee Report. Chairman Osborn reports that 142 cases have been chosen from this number for the report. Earlier installments may be found in the November and December, 1969, and the February, April, and May, 1970, issues of *Title News*.)

* * *

USURY

United States v. Desert Gold Mining Company, 282 Fed. Supp. 614 (Arizona, 1968)

In 1961, the United States issued patents for 8,200 acres of land to defendant who mortgaged the property in 1962. In 1963, the United States sued to rescind the patents on the ground that they had been obtained by fraud or mistake. The mortgagee had no notice of the fraud or mistake, but under Arizona law the mortgage loan was usurious.

Held: The patents could be rescinded against the mortgagee as well as against the patentee. Although the mortgagee was otherwise innocent, the fact of usury prevents him from being a bona fide purchaser.

Comment: The authority cited by

the court in support of its holding seems somewhat shaky. This appears to be another case where the existence of title insurance influenced the court's decision; in fact the court specifically points out that the mortgagee may look to the title insurer for relief, although the existence of title insurance would seem to have no bearing on the issues involved.

Terry v. Teachworth, 431 S. W. 2d 918 (Texas, 1968)

Suit by borrower against lender to declare usurious and void loan secured by lien on real estate. Interest rate specified in the note was 6½%. In addition, the lender made other charges, including an "origination fee" which was in effect brokerage for securing loan from local bank to which lender pledged borrower's note to secure the money to make the original loan. Additional charges were made for supervision of construction, issuing checks to subcontractors and other services which the court says, in effect, were performed for the lender's benefit as well as that of the borrower. While the jury found that there was no intention on the part of the lender to charge usurious interest, nevertheless found that the aggregate of all the charges were intended as interest on the loan. Where the charges all together exceeded the regular legal rate of 10% per annum and the jury found the charges were intended as interest, the loan was held to be usurious and the defend-

ants liable for all statutory penalties for exacting usury.

Alterr v. Wilshire Mortgage Corporation, — Ariz. —. 448 P. 2d 859 (1969)

In a mortgage foreclosure action, the mortgagor defended on the basis that the note was usurious. Judgment below was for the mortgagee, and the mortgagor appealed. The court held that the interim construction lender must supervise the construction at all stages to prevent costly or even disastrous delay and that a proper charge for such supervision is not interest. However, when a fee is charged for processing an FHA application, and the borrower must pay the fee in order to get the loan, the fee is interest. The court further held that where a loan is discounted, or "points" taken out, the amount of the discount or points are interest, and so must be spread over the entire term of the loan in order to determine whether the maximum allowable interest is exceeded.

VENDOR and PURCHASER

Humble Oil & Refining Co. v. Westside Investment Corp., 428 S. W. 2d 92 (Texas, 1968)

Held: A valid option to purchase land is properly exercised so as to be binding upon the seller where the option is timely and unqualifiedly exercised even though such unqualified exercising of option is preceded by letter exercising option but proposing amendment to the option agreement and requesting the seller's agreement thereto.

Case of first impression.

White Point Co. v. Herrington, 268 A. C. A. 495 (Cal., 1968)

The buyers brought an action for specific performance of the executory escrow instructions. The instructions provided in part that the purchase money secured note to the defendant sellers was "to have Release Clause attached providing for partial releases at \$3,000 per acre". The court denied the buyers specific performance on the basis that the partial release clause constituted a material term of the escrow contract

and that is patent uncertainty voided the entire agreement. The escrow contract was rendered ambiguous and where parol evidence of the transaction between the parties failed to remove the ambiguity as to a material term of the agreement, specific performance must be refused.

In Holiday Inns of America, Inc. v. Knight, 70 A. C. 341 (Cal., 1969)

The defendant owners granted to the optionee the exclusive right and option for a five-year period to purchase the property. Plaintiffs are the successors in interest to the optionee. The option contract provided for an initial payment of \$10,000 and for four additional payments of \$10,000 to be made directly to the optionors on July 1 of each year, commencing in 1964, unless the option was exercised or cancelled before the next such payment became due. It was further provided for automatic cancellation of the option without notice in the event the payments were not made on or before the prescribed date. The option contract was amended by the parties when they executed escrow instructions which provided that the annual payments were to be deposited in escrow with Security Title Insurance Company and that in the event Security Title did not receive the \$10,000 annual payments by July 1, and upon receiving notice from the optionors to cancel the option, the escrow was to be terminated without further instructions.

The initial payment of \$10,000 and the annual payments for 1964 and 1965 were paid. In 1966 plaintiffs mailed a check for \$10,000 to defendant dated June 30, 1966, which the defendant received on July 2. Defendant returned the check to plaintiffs stating that the option contract was cancelled. Subsequently plaintiffs deposited a \$10,000 check with Security Title which was tendered to defendant, but this check was also returned to the plaintiffs.

Plaintiffs brought this action in declaratory relief seeking a judicial declaration that the option contract was in full force and effect. The

Supreme Court concluded that the plaintiffs were entitled to relief from forfeiture and directed the trial court to enter a summary judgment for them. The court reasoned that plaintiffs had bargained for a five-year option with the price payable in five installments, that each payment of the \$10,000 installments was partially for an option to buy the land during that year and partially for a renewal of the option for another year up to a total of five years. It is this right to renew that would be forfeited by requiring payment strictly on time. The plaintiffs have not received what they bargained for and have lost more than the benefit of their bargain. They will suffer a forfeiture on that part of the \$30,000 attributable to the right to exercise the option during the last two years.

Baldwin v. Anderson, 40 Wis. 2d 33, 161 N. W. 2d 553 (1969)

The purchasers were justified in rejecting title where, as here, whether the purchasers had title to the lots as described by the government survey depended on facts which could only be proved by parol, i.e., whether the location of the river had changed as the result of avulsion or accretion, creating doubt as to who had title to some 31 acres of land lying between the river as it flowed when the survey was originally made and the river in its present course.

Walsch v. Deanovich, 43 Wis. 2d 71

The area within which the court can exercise its discretion in passing on a motion to confirm or set aside a judicial sale can be best characterized as one of degree, i.e., if there is a mistake, misapprehension, or inadvertency, the inadequacy of the bid in relation to value need not be so great as to result in an injustice, but if only an inadequacy of price exists, it must be of such magnitude as to render the price unfair in the judgment of a reasonable man and to confirm the sale would constitute or result in manifest injustice.

J. & S. Corp. v. Mortgage Associates, Inc., 41 Wis. 2d 418—164 N. W. 2d 221

Sec. 281.03(1) Stats., makes im-

material the time when the holder of the unrecorded conveyance or encumbrance, in fact, received his interest; as to those rights that arise out of the legal action, he is a subsequent purchaser unless his conveyance or encumbrance has been recorded prior to the filing of the lis pendens; hence all parties who are not holders of a recorded interest in land at the time of the filing of a lis pendens are subsequent purchasers.

WARRANTIES

Allen v. Wilkinson, 250 Md. 395, 243 Atl. 2d 513 (1968)

On July 27, 1964, P and wife purchased a completed house in a development from D, the builder. On February 13, 1966, and on various occasions after that date the basement became flooded resulting in damage to the house and personality. P and wife filed a declaration, sounding in contract, against D for damages. D demurred and the lower sustained the demurrer, without leave to amend. Appeal affirmed.

As the law of this State stands today, except in unusual circumstances, there is no implied warranty in the sale of a completed residence. There is a trend in some courts to find that an implied warranty exists where the houses are mass produced and sold to individual purchasers by a builder-developer. While there is some merit in the newer view that sales of some types of realty should be covered by an implied warranty, similar to the warranty implied in the case of many sales of goods and personal property today, we think that such a change should be made by the Legislature rather than by the courts of this State.

(Warranties Section
To Be Continued)

meeting timetable



1970

June 14-15, 1970
Wyoming Land Title Association
Downtown Motor Inn
Cheyenne, Wyoming

June 17-18-19, 1970
Illinois Land Title Association
Stouffers Riverfront Inn
St. Louis, Missouri

June 18-19-20, 1970
Colorado Land Title Association
Antlers Plaza
Colorado Springs, Colorado

June 24-25-26, 1970
Michigan Land Title Association
Holiday Inn
Traverse City, Michigan

June 24-25-26-27, 1970
Oregon Land Title Association
Sunriver Lodge
Bend, Oregon

June 25-26-27-28, 1970
Idaho Land Title Association
Shore Lodge,
McCall, Idaho

June 26-27, 1970
New Jersey Title Insurance Association
Governor Morris Inn
Morristown, New Jersey

July 19-20-21-22, 1970
New York Title Association
Whiteface Inn
Lake Placid, New York

August 13-14-15, 1970
Montana Land Title Association
Northern Hotel
Billings, Montana

September 10-11-12, 1970
Minnesota Land Title Association
Fairhills Resort
Detroit Lakes, Minnesota

September 10-11-12, 1970
Wisconsin Title Association
Conway Hotel
Appleton, Wisconsin

September 11-12, 1970
South Dakota Land Title Association
Kings Inn
Pierre, South Dakota

September 11-12-13, 1970
Missouri Land Title Association
Stouffers Riverfront Inn
St. Louis, Missouri

September 17-18-19, 1970
North Dakota Land Title Association
Ramada Inn
Minot, North Dakota

September 18-19, 1970
Kansas Land Title Association
University Ramada Inn
Manhattan, Kansas

September 24-25-26, 1970
Ohio Land Title Association
Statler Hilton
Cleveland, Ohio

October 14-15-16-17, 1970
ANNUAL CONVENTION
American Land Title Association
Waldorf-Astoria Hotel
New York City, New York

October 22-23, 1970
Dixie Land Title Association
Broadwater Beach Hotel
Biloxi, Mississippi

October 22-23, 1970
Nebraska Land Title Association
Lincoln, Nebraska

October 25-26-27, 1970
Indiana Land Title Association
Indianapolis Hilton
Indianapolis, Indiana

November 6-7, 1970
Land Title Association of Arizona
Tucson, Arizona

December 2, 1970
Louisiana Land Title Association
Royal Orleans
New Orleans, Louisiana

1971

March 3-4-5, 1971
ALTA Mid-Winter Conference
San Diego, California

October 3-4-5-6, 1971
ALTA Annual Convention
Statler Hilton
Detroit, Michigan

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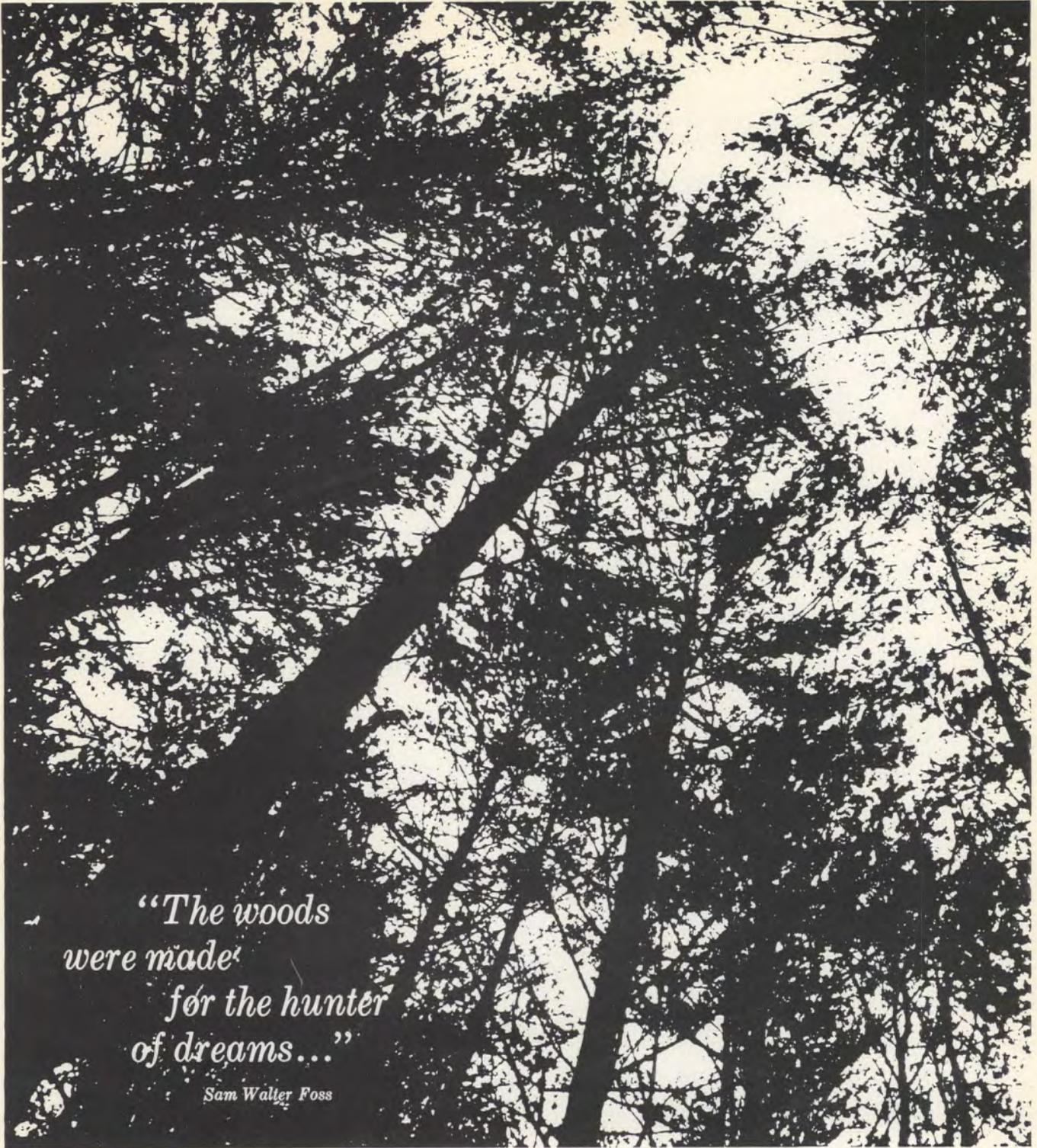
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