

July 1980

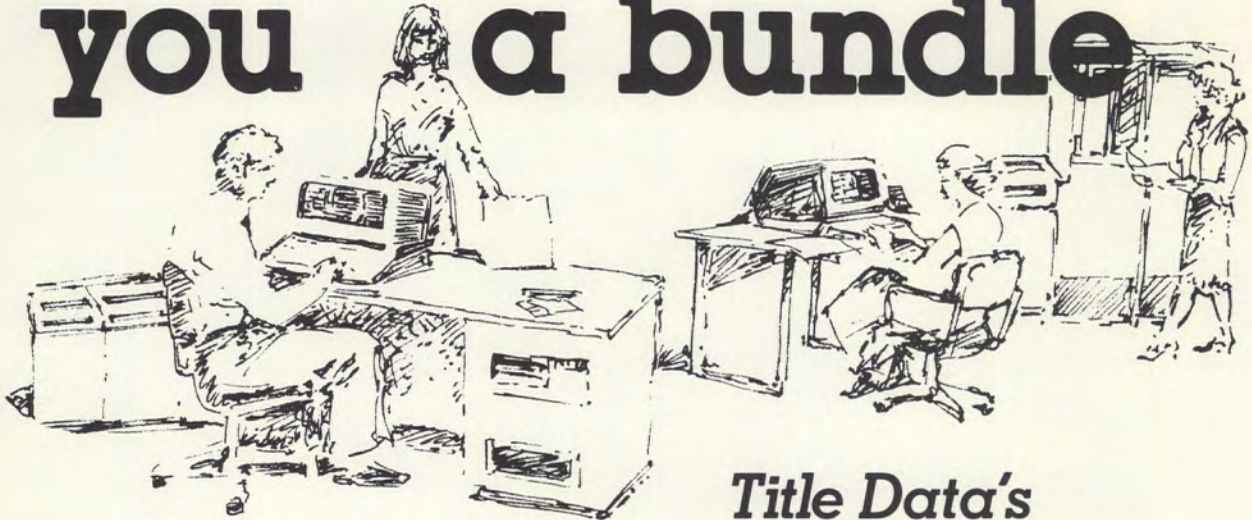
# TITLE NEWS

Duel In New Jersey's Pine Barrens:  
Private Property Rights Versus  
Conservation.





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# TITLE NEWS

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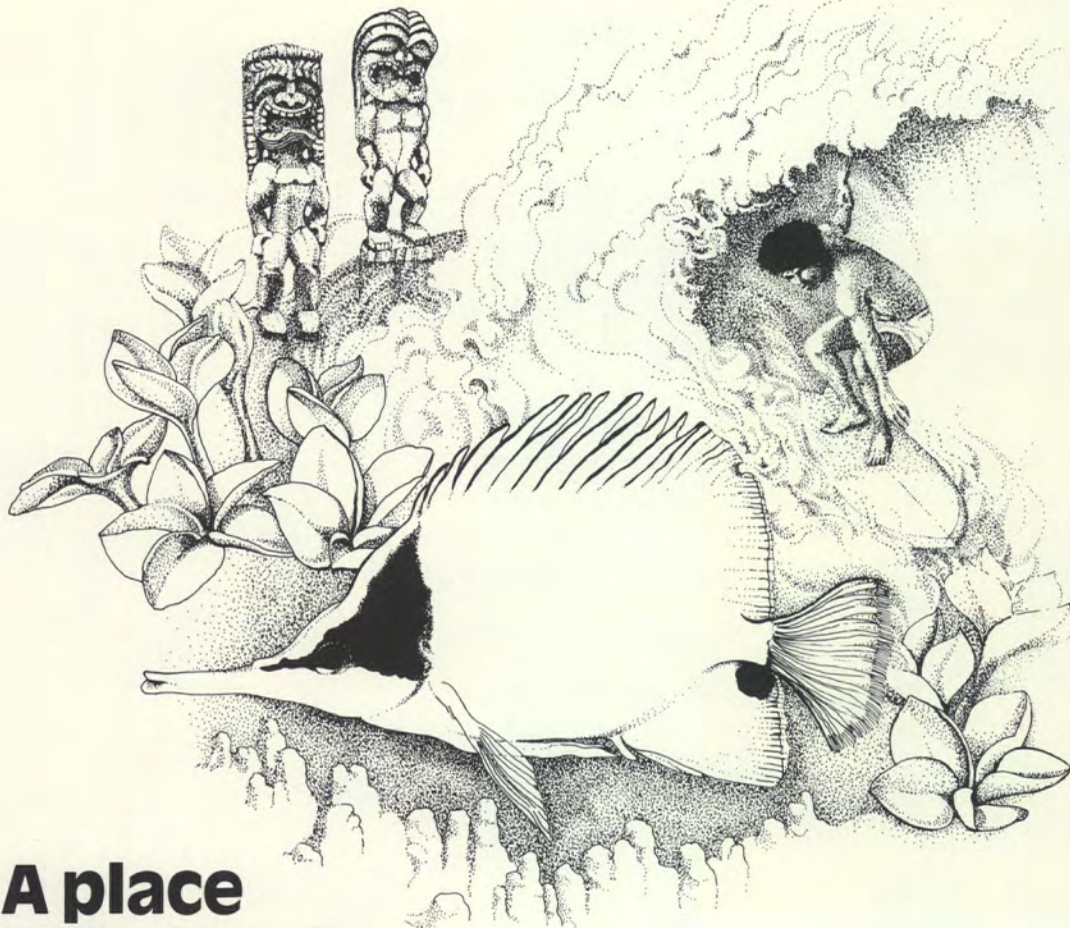
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## **A Message From The Chairman, Abstracters & Title Insurance Agents Section**

**I**ndependence Day. Freedom . . . parades . . . picnics . . . fireworks . . . political speeches . . . hot weather . . . holiday . . . hot dogs. What does the Fourth of July mean to you? If you don't like flag waving or if you think this country is going to the dogs, then this message is not for you.

If we close our shores, if we close our pocketbooks, if we close our minds to new ideas, then our country could become a second rate nation. But, if we welcome freedom-loving people, are willing to share our bounty, and will welcome and encourage positive change, then our country will continue to be the "Land of Hope and Opportunity." We need in this country a new infusion of freedom-seeking people to remind us of our heritage.

One of the most beautiful sights I have ever witnessed was the television coverage of New York Harbor on July 2-4, 1976, when the tall ships with sails reaching to the blue sky congregated in commemoration of our nation's 200th birthday. Watching, too, was "Miss Liberty" standing high above the harbor as she beckoned, "Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tost to me, I lift my lamp beside the golden door."

Let us take this July to remind ourselves of the things that have made us what we are—the arsenal of freedom, a country with a constitution, a government of laws rather than of men, a hearty people who stand ready to help a neighboring country in need, yet who stand ready to defend our shores against an enemy that would dare threaten our security.

I make no apology for waving the flag. I love America. I love what America means to the world. May we always be free.

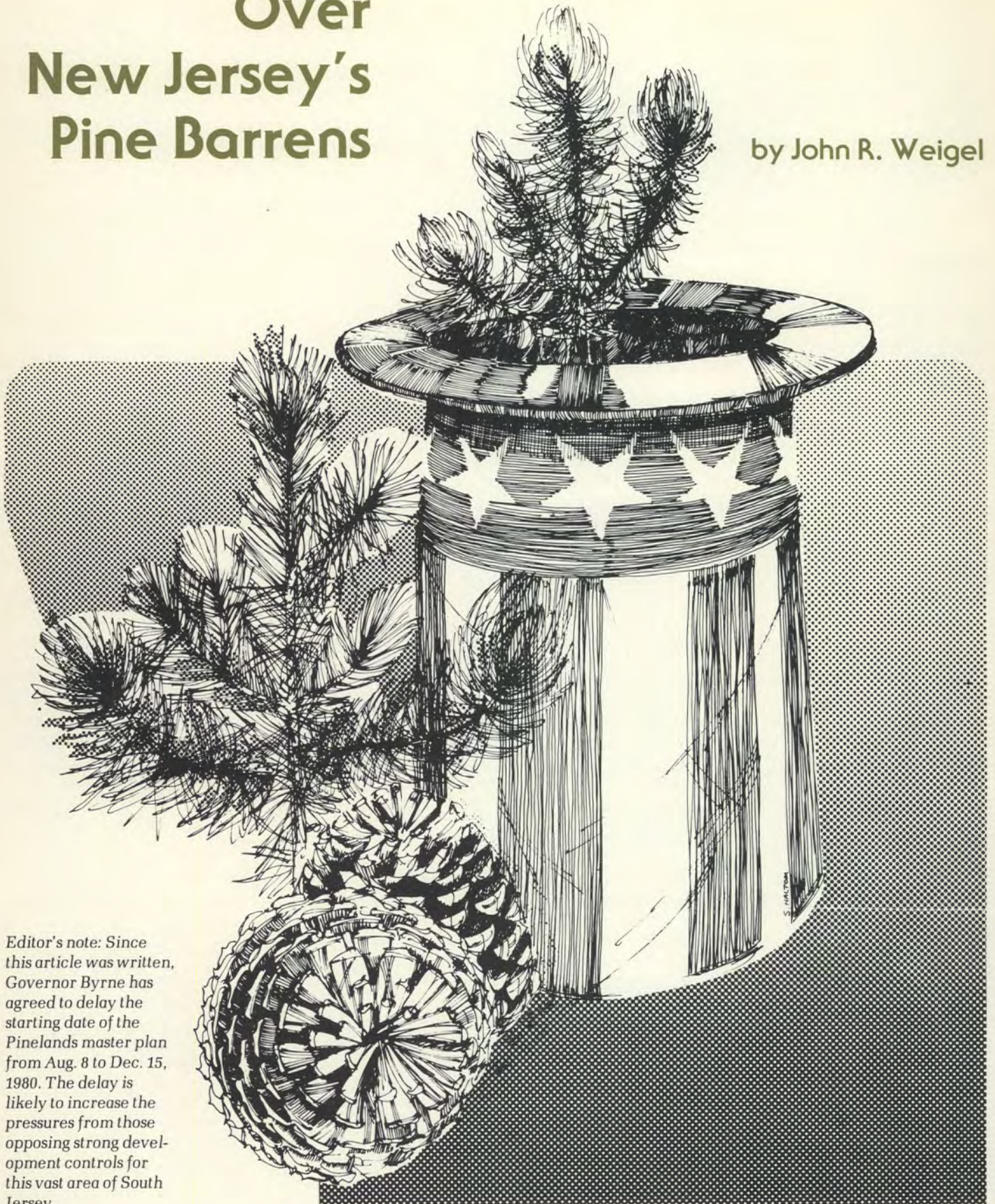
In October many of us will have the opportunity to visit our newest state for the first time. It is not too late for you to make your plans to attend the ALTA Annual Convention.

Thomas S. McDonald



# The Duel Over New Jersey's Pine Barrens

by John R. Weigel



*Editor's note: Since this article was written, Governor Byrne has agreed to delay the starting date of the Pinelands master plan from Aug. 8 to Dec. 15, 1980. The delay is likely to increase the pressures from those opposing strong development controls for this vast area of South Jersey.*



A recent federal study found that New Jersey's Pine Barrens is "the most extensive remaining wild land tract" in the Middle Atlantic region. It is particularly valuable as open space because it is located within 50 miles of the major metropolitan areas of New York and Philadelphia. Underlying the land is the 17-trillion-gallon Cohansey Aquifer which contains enough pure water to supply New Jersey's needs for years to come. In recent years, however, housing developments and other construction have nibbled away at the fringes of the Pine Barrens, reducing the area from 2,000 to 1,500 square miles and threatening to pollute both surface and underground waters.

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**"The New Jersey Land Title Insurance Association has been requested by New Jersey Environmental Protection Commissioner Jerry Fitzgerald English to work with her staff, the attorney general's office and the state bar association in establishing uniform standards for acquisitions of lands and easements."**

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On Oct. 13, 1978, the U.S. Congress, in a pilot project designed to save what it could of the Barrens' remaining million acres, designated them as the "Pinelands National Reserve." (See the National Parks and Recreation Act of 1978 (Public Law 95-625).

The "national reserve" approach to land conservation is new. The plan is to buy the most ecologically valuable portions and restrict development on the rest. The state and federal governments already own some 230,000 acres in the reserve. These holdings include state parks and forests and parts of federal military reservations.

Pursuant to the federal act, Secretary of the Interior Cecil Andrus on Dec. 10, 1978 requested New Jersey Governor Brendan T. Byrne to establish a commission to draw up a plan for managing the reserve. The federal law calls for "interim protection of the area" while the plan is being devised, with the federal govern-

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*Mr. Weigel is executive director of the New Jersey Land Title Insurance Association and general manager of the New Jersey Land Title Insurance Rating Bureau.*

ment to provide \$26 million for planning and acquisition and the state adding funds of its own in a sharing arrangement of 75 percent federal money and 25 percent state money.

### **Moratorium Imposed**

On Feb. 8, 1979, Governor Byrne signed Executive Order No. 71 by which he created a 15-member Pinelands Planning Commission and ordered what amounted to a temporary building moratorium. This controversial executive order provided that the moratorium would end at the earliest of three dates: the date the New Jersey Legislature enacted legislation consistent with the executive order, the date the U.S. secretary of the interior approved a comprehensive management plan for the Pinelands as set forth in the federal act, or 18 months (Aug. 8, 1980) from the date of the executive order. In signing the executive order Governor Byrne said that "continuing random and scattered development" threatened the rare plant and animal life of the Pine Barrens, as well as its scenic rivers and the quality of its underground water.

The Home Builders League of South Jersey estimated that a "halt in the development of the Pinelands could result in a \$900 million loss to the New Jersey economy" and a loss of 3,000 jobs a year. Although the moratorium did not absolutely ban all construction, its effect was to bar most construction.

The core area of the Barrens consists of 576 square miles of its least developed and most ecologically sensitive section and is known as the "preservation area." Virtually no growth is allowed in that section. Surrounding this "preservation area" are 925 square miles in which limited construction is permitted if it is found that such building will not damage the pines ecology. This section is known as the "protection area." The one million acre Pinelands National Reserve constitutes 20 percent of the total land mass of the state of New Jersey.

### **Builders Protest**

On Feb. 16, 1979, the New Jersey Builders Association filed a notice of appeal to the Appellate Division of the Superior Court of New Jersey challenging the validity of Executive Order No. 71. The basic contention of the New Jersey Builders Association was that Governor Byrne possesses no power, constitutional or otherwise, to limit construction in the Pinelands region.

On March 6, 1979, while the matter was pending unheard in the Appellate Division, the New Jersey Supreme Court cer-

tified the case on its own motion because: "... the executive order, by its express terms, might remain effective for as long as 18 months. Assuming that this court ultimately declared the order unconstitutional, the degree of hardship caused plaintiff and others similarly situated would increase proportionately with the length of time that elapsed before a judicial declaration of nullity." *New Jersey Builders Association v. Byrne*, 80 N.J. 469, 472 (1979), 404 A. 2d 32.

The seven-member New Jersey Supreme Court heard oral arguments on May 9, 1979. On June 28, 1979 the New Jersey Legislature enacted the Pinelands Protection Act to take effect immediately. (See N.J.S.A. 13:18A-1 to 13:18A-29.) When the New Jersey Supreme Court on July 5, 1979 decided the New Jersey Builders Association's challenge, it held that the issue concerning the validity of the executive order's provisions was moot because of the passage of the Pinelands Protection Act.

The stated purpose of the Pinelands Protection Act is to regulate "the development and use of land in the pinelands area, providing for the planning and management thereof, creating a Pinelands Commission, prescribing the jurisdiction, powers and duties thereof." The legislative declaration is informative of the broad reach of the act itself:

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**"The plan is to buy the most ecologically valuable portions and restrict development on the rest."**

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"The legislature hereby finds and declares that the pinelands area comprises pine-oak forests, cedar swamps, and extensive surface and ground water resources of high quality which provide a unique habitat for a wide diversity of rare, threatened and endangered plant and animal species and contains many other significant and unique natural ecological, agricultural, scenic, cultural and recreational resources; that the continued viability of such area and resources is threatened by pressures for residential, commercial and industrial development; that the protection of such area and resources is in the interests of the people of this state and of the nation; that such protection will require the coordinated efforts of all relevant municipal, county, state and federal agencies; that the Congress and President of the United States have demonstrated a recognition of these facts through the enactment of section 502 of the 'National Parks and Recreation Act of 1978' (PL 95-625); and that it is now



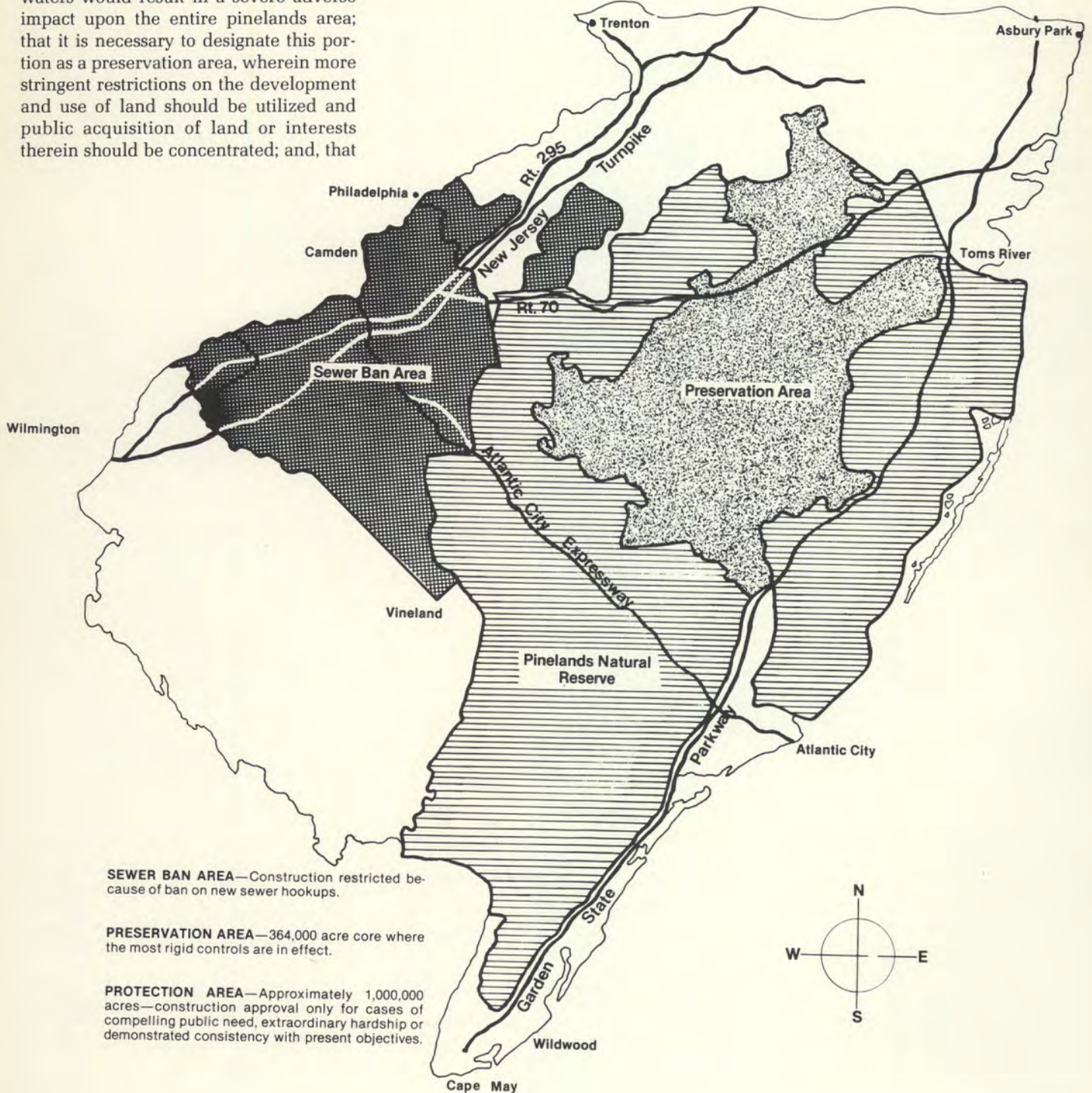
necessary to implement the afore-cited federal act and insure the realization of pinelands protection through the establishment of a regional planning and management commission empowered to prepare and oversee the implementation of a comprehensive management plan for the pinelands area.

"The legislature further finds and declares that a certain portion of the pinelands area is especially vulnerable to the environmental degradation of surface and ground waters which would be occasioned by the improper development or use thereof; that the degradation of such waters would result in a severe adverse impact upon the entire pinelands area; that it is necessary to designate this portion as a preservation area, wherein more stringent restrictions on the development and use of land should be utilized and public acquisition of land or interests therein should be concentrated; and, that

in order to facilitate such acquisition, and otherwise to effectuate the provisions of this act and the federal act, it is further necessary to establish certain notice requirements and procedures for the purchase of land or interests therein in such area.

"The legislature further finds and declares that the current pace of random and uncoordinated development and construction in the pinelands area poses an immediate threat to the resources thereof, especially to the survival of rare, threatened and endangered plant and animal species and the habitat thereof, and to the maintenance of the existing high quality of surface and ground waters; that such development and construction increase the risk and extent of destruction of life and property which could be caused by the natural cycle of forest fires in this unique area; and, that, in order to effectuate the purposes and provisions of this act and the federal act, it is necessary to impose certain interim limitations upon the local approval of applications for development in the preservation area, and upon certain state and local ap-

provisions of this act and the federal act, it is necessary to impose certain interim limitations upon the local approval of applications for development in the preservation area, and upon certain state and local ap-





provals in the pinelands area, all as hereinafter provided." N.J.S.A. 13:18A-2

As noted, the effort that is currently underway is targeted at the Aug. 8, 1980 deadline by which the management plan must be completed. In the meantime, the state law bars development in the preservation and protection areas except that which is approved by the Pinelands Commission in accordance with law or which is specifically exempted.

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**"Many pineland titles are based on adverse possession; many record titles have been abandoned and very little of the area has been surveyed."**

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The commission regulates any use, subdivision or construction for which local planning or zoning board approval or a state permit would be needed. Application to the commission need not be made for plans to improve an existing home or to construct or improve a building used solely for farming or horticulture. You are also exempt if you want to build a house for your own use in the protection area on a lot you owned as of Feb. 7, 1979, as long as that lot either has adequate sewer service or is larger than one acre. Finally, any development in the protection area not defined in the law as "major" does not need commission approval unless it requires a separate state permit. According to the state law, a "major" development is any subdivision of land into five or more parcels; any construction or expansion of five or more existing housing units; any construction or expansion of a commercial or industrial use or structure on a site of more than three acres; or any disturbance of more than 5,000 square feet of land except for farming or horticulture.

### **Applying For A Permit**

In applying to the Pinelands Commission for a development permit, an applicant must provide the basic details of the proposed project and must provide a statement verifying that local authorities know about the development application and that it conforms to local land use regulations. If there is any known adverse environmental impact from the project, the applicant is required to furnish an analysis of design alternatives that would minimize the damage. The applicant is also required to provide copies of any permits he already has obtained and a listing of those that he still needs to obtain.

Notice of the filing of an application for development permit is published in the weekly bulletin of the New Jersey Department of Environmental Protection. Citizen comments on any application are permitted within 15 days of the publication.

The Pinelands Commission can approve a project in the preservation area (the heart of the Pines) only if it finds that the project is needed to meet a "compelling public need" or to "alleviate extraordinary hardship." Furthermore, the project must be consistent with the purposes of the Pinelands Protection Act, and it must not result in "substantial impairment" of the Pinelands resources.

The preservation area overlaps with the "critical area" designated by the Department of Environmental Protection (DEP) to protect water quality in the central Pinelands. The Pinelands Commission does use the critical area water quality standard for projects within that boundary. If you want to install a septic system in the critical area and you get the commission's approval, you will have to meet the DEP standard, although you still have to get the department's customary permit. The commission's rule is that projects should meet all prevailing water quality standards and should not degrade existing water quality in situations where no standards apply.

The Pinelands Commission has adopted interim standards to gauge a project's environmental impact. Protection of the Pinelands' water quality is the chief concern. Consideration is given to potential harm caused by sewage disposal, stormwater runoff, and proximity to surface water bodies. Other standards focus on threatened plant and animal species, air quality, impact on culturally significant sites, interference with public land acquisition, and compatibility with the frequent fires needed to maintain Pinelands vegetation.

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**"Rep. Hughes believes that the moratorium is too stringent and has usurped the rights of some property owners."**

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In order to show a "compelling public need" for a project, other governmental agencies must verify that the public health, safety and welfare require a project to go ahead before the Pinelands management plan is completed. Also, the project must be the only available means to meet the need, and public benefits must outweigh any public losses. Acceptable projects in this category might in-

clude a school needed to ease overcrowding or a sewer line needed to correct a health problem.

### **Extraordinary Hardship Criteria**

In order to demonstrate "extraordinary hardship," the applicant must show that he:

- received local approval for his project prior to Feb. 8, 1979 and made a substantial commitment of money or resources;
- received local approval prior to Feb. 8, 1979 and borrowed money which he cannot repay unless allowed to build;
- bought property before Feb. 8, 1979 to build a house for his family and can show that a delay will hurt him financially, or
- needed to develop property he owned prior to Feb. 8, 1979 for health or safety reasons.

In any situation, the applicant has to show that going ahead with the project is the only way to solve his problem.

The Pinelands National Reserve is slightly larger than the state-created Pinelands area. It extends east of the Garden State Parkway and dips a few miles further south into Cape May County. The Pinelands Commission's management plan will apply to the reserve. Until that plan is adopted, however, the state's development rules apply only to the Pinelands areas designated by the state act (the preservation and protection areas). The zone in which certain projects require approval under New Jersey's Coastal Area Facility Review Act (CAFRA) (N.J.S.A. 13:19-1 et seq.) overlaps with the preservation area in one place—along the Mullica River west of the Garden State Parkway. The projects here are under the commission's jurisdiction. Otherwise, the usual CAFRA permits must be obtained for projects along the coast, including those located in the Pinelands National Reserve. In general terms, CAFRA regulates land uses in a statutorily defined coastal zone in order to preserve coastal areas from inappropriate development and to provide adequate environmental safeguards for the construction of facilities in the coast area.

After an application is filed with the Pinelands Commission for a development permit, the staff makes a site inspection. If the applicant wants to install a septic system, the New Jersey Division of Water Resources determines whether the applicant meets the water quality standards. Specialists study the impact of the proposed project on special Pinelands resources such as historical sites, endangered species, and cranberry bogs. The



staff may develop conditions aimed at making a project, which meets the other requirements, environmentally acceptable. For example, the applicant might be asked to limit removal of trees on his lot, take steps to minimize runoff, or plant only natural vegetation that would not have to be fertilized.

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**"The Home Builders League of South Jersey estimated that a 'halt in the development of the Pinelands could result in a \$900 million loss to the New Jersey economy'."**

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After the staff function has been completed, it forwards its findings to the executive director of the Pinelands Commission. The executive director recommends to the commission that the application either be approved, approved with conditions, or denied. If approval is with conditions, the applicant is informed of those conditions and asked to agree to them. If the applicant does not agree to the conditions, the staff will consider design options proposed that he proposes.

The applicant can contest a recommendation of denial or of approval with conditions he finds unacceptable by asking for a hearing by a state administrative law judge. The request must be made to the commission within 15 days of receipt of the recommendation. After taking testimony at a hearing and receiving any written comments, the administrative law judge makes a report to the commission which either adopts, modifies, or rejects the findings. The commission then votes on the application. If the commission finally turns the applicant down, he can, within 45 days of the commission's action, file an appeal to the Appellate Division of the Superior Court. Even if the commission approves a project, the applicant must secure all required permissions from local government and any other required permits before the project can actually be commenced. Conditions that are attached to an approval by the Pinelands Commission are made a part of the local building permit, and the local building inspector has the responsibility of seeing that the conditions are met. To the extent that its staffing level permits, the commission does attempt to check on projects under construction to see that conditions are being observed.

Through Jan. 4, 1980, the Pinelands Commission had approved 893 new housing units in the seven-county Pinelands area (Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Ocean

counties). They included 77 houses requested by single families for their own use, and 816 subdivision lots or other units requested by developers. The commission received denial recommendations on 78 single family applications and 3,489 other residential units (primarily subdivision lots). In a few of those cases, where the applicants chose not to exercise their option for an administrative hearing, the commission recently issued final denials. The commission has approved 165 applications since the state's Pinelands Protec-

tion Act became law in June 1979. The approvals included 77 single family applications, 42 other residential, and 46 in a miscellaneous category covering commercial, industrial and utility projects. Applications recommended for denial or actually denied during the same period totaled 119. They included 78 single family, 31 other residential, and 10 miscellaneous.

The latest figures show that since the Pinelands law was passed, growth pressure seems to have been the most intense

Very few cases can truly be called landmark cases, but *Just v. Marinette County* 56 Wis. 2d 7, 201 N.W. 2d 761 (Sup. Ct. 1972) falls in this category because of the land use notions that it advances.

The facts, briefly, are as follows: In July 1967, the Wisconsin Department of Resource Development promulgated a model Shoreland Zoning Ordinance. On Sept. 19, 1967, Marinette County adopted a Shoreland Zoning Ordinance, effective Oct. 9, 1967. The ordinance was designed to meet standards and criteria for shoreland regulation which the legislature required. For purposes of the ordinance, shoreland was defined as lands within 1,000 feet of the normal high water elevation of navigable lakes, ponds, or flowages and 300 feet from a navigable river or stream or to the landward side of the flood plain, whichever distance is greater.

Under the Wisconsin shoreland program, all county shoreland zoning ordinances have to be approved by the Department of Natural Resources prior to becoming effective. If a county does not enact a shoreland zoning ordinance which complies with the state's standards, the Department of Natural Resources may enact such an ordinance for the county. The Marinette County Shoreland Zoning Ordinance states that uncontrolled use of shorelands and pollution of navigable waters of Marinette County adversely affect public health, safety, convenience, and general welfare and impairs the tax base.

#### **Districts Designated**

The Shoreland Zoning Ordinance divides the shorelands of Marinette County into general purpose districts, general recreation districts, and conservancy districts. The ordinance provides for permitted uses and conditional uses. One of the conditional uses

requiring a permit is the filling, drainage or dredging of wetlands, as defined in the ordinance. The ordinance requires a conditional-use permit for any filling or grading of any area which is within 300 feet horizontally from any navigable water and which has surface drainage toward the water and on which there is filling of more than 500 square feet of any wetland which is contiguous to the water or filling or grading of more than 2,000 square feet on slopes of 12 percent or less.

In April of 1961, several years before the passage of the Marinette County Shoreland Zoning Ordinance, the Justs purchased 36.4 acres of land along the south shore of Lake Noquebay, a navigable lake in Marinette County. The land had a frontage of 1,266.7 feet on the lake and was purchased partially for personal use and partially for resale.

Prior to the adoption of the Marinette County Shoreland Zoning Ordinance, the Justs sold five parcels having frontage and extending back from the lake some 600 feet. The property involved in the lawsuit was the remaining land which included 366.7 feet of frontage on the lake. The southerly one-half contains a stand of cedar, pine, various hard woods, birch and red maples. The northerly one-half, closer to the lake, is barren of trees except immediately along the shore. The land owned by the Justs is designated as swamps or marshes on the U.S. Geological Survey Map and is located within 1,000 feet of the normal high-water elevation of the lake. The property is included in the conservancy district and is classified as "wetlands." Consequently, in order to place more than 500 square feet of fill on the property, the Justs were required to obtain a conditional-use permit from the zoning administrator of the county.



in Burlington County where 142 applications for a total 11,821 housing units were filed with the commission. In Atlantic County, where a population boom has been predicted because of the success of the casino gambling in Atlantic City, 178 applications were filed for 5,360 units. Ocean County has produced 53 applications with 8,190 units. The Commission is now reviewing proposals for 99 applications involving 10,784 new housing units in Burlington County, 87 applications for 3,574 units in Atlantic County,

and 31 applications for 7,869 units in Ocean County (these are the three most active of the seven Pinelands counties). Several of the largest applications were originally turned down in the spring of 1979 by the Development Review Board, a temporary agency which reviewed applications following the issuance of Governor Byrne's executive order but before the state Pinelands law was passed. Applicants that were denied by the review board were given a chance to resubmit their projects to the Commission, and

most took that route.

The state act has no rules governing land sales in the protection area. In the preservation area, however, if you are selling more than ten acres you must give 60 days notice to the New Jersey Department of Environmental Protection before you sign a contract. Otherwise, the contract can be declared void. The same rule applies if you are selling only an option to buy the land or an interest in it. No notice is required if you are selling a structure located on less than ten acres or if the sale is between husband and wife, parent and child, brother and sister, or grandparent and grandchild.

### Pinelands Easements Purchased

The Pinelands Commission is not itself buying land. The law requires that the commission identify land which the state should either buy outright or obtain easements on to preserve Pinelands features or to provide recreation sites. That information will be included in the management plan. In the meantime, the federal and state governments are making money available to buy, or obtain easements on, particularly sensitive parcels. Transactions are being handled by the New Jersey Department of Environmental Protection. The government's aim is to preserve enough of the Pinelands in its present undeveloped state so that the region's unique features will be maintained. By selling easements, landowners who agree not to use their land for ecologically harmful activities are compensated for the restricted use, and yet retain ownership. Easements may limit the use of a tract to farming or recreation, or simply prevent it from being developed. Burlington County has a separate Pinelands easement program.

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**"The law requires that the commission identify land which the state should either buy outright or obtain easements on to preserve Pinelands features or to provide recreation sites."**

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The New Jersey Land Title Insurance Association (NJLTIA) has been requested by New Jersey Environmental Protection Commissioner Jerry Fitzgerald English to work with her staff, the attorney general's office, and the state bar association in establishing uniform standards for acquisition of lands and easements. English said that she was looking for the "highest professional advice" to the end that "the public will have the highest confidence in our

In February and March of 1968, six months after the ordinance became effective, Roland Just, without securing a conditional-use permit, hauled 1,040 square yards of sand onto this property and filled an area approximately 20 feet wide. More than 500 square feet of this fill was upon wetlands located contiguous to the water and which had surface drainage toward the lake.

### The Real Issue

The Wisconsin Supreme Court noted that it was not seriously contended that the Justs did not violate the ordinance. The real issue was whether the conservancy district provision and the wetlands filling restrictions were constitutional. The Justs contended that these provisions and restrictions amounted to a constructive taking of their land without compensation. Marinette County and the state of Wisconsin argued that the provisions and restrictions were a proper exercise of the state's police power and did not so severely limit the use or depreciate the value of the land so as to constitute a taking without compensation.

In upholding the constitutionality of the ordinance, the Wisconsin Supreme Court held:

- The purpose of the ordinance was to protect navigable waters and public rights therein from degradation and deterioration which result from uncontrolled use and development of shorelands.
- The protection of public rights may be accomplished by the exercise of police power unless the damage to the property is too great and amounts to confiscation.
- Whether a taking has occurred depends upon whether the restriction in question practically or substantially renders the land useless for all reasonable purposes.
- The necessity for monetary compen-

sation for loss suffered by an owner through police power restriction arises when restrictions are placed on property in order to create a public benefit rather than to prevent a public harm.

- Changing of wetlands and swamps to the damage of the general public by upsetting the natural environment and natural relationship is not a reasonable use of land which is protected from police power regulation.

- While loss of value is to be considered in determining whether a restriction constitutes a constructive taking, value based on changing the character of land at the expense of harm to public rights is not an essential factor or controlling.

The late Chief Justice Hallows, who wrote the *Just* opinion, asked, "Is the ownership of a parcel of land so absolute that man can change its nature to suit any of his purposes?"

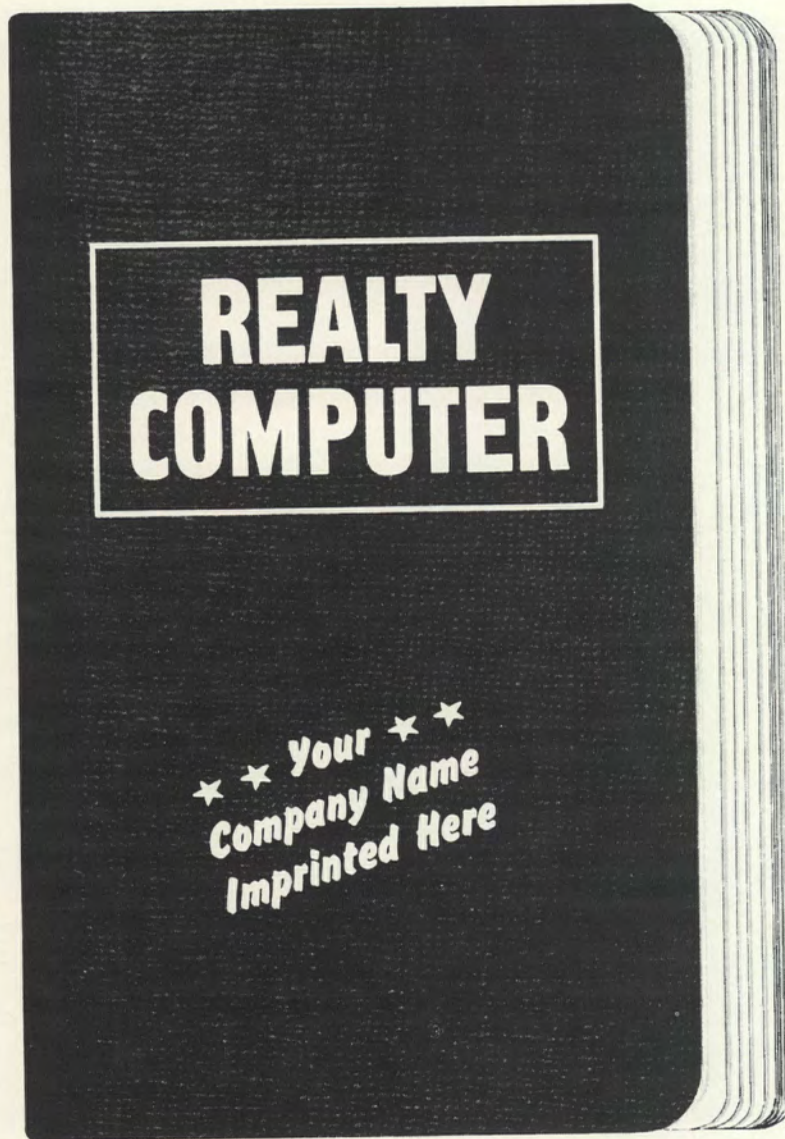
He answers his own question as follows: "An owner of land has no absolute and unlimited right to change the essential natural character of his land so as to use it for a purpose for which it was unsuited in its natural state and which injures the rights of others. The exercise of the police power in zoning must be reasonable and we think it is not an unreasonable exercise of that power to prevent harm to public rights by limiting the use of private property to its natural uses.

"This is not a case where an owner is prevented from using his land for natural and indigenous uses. The uses consistent with the nature of the land are allowed and other uses recognized and still others permitted by special permit."

These basic notions from the *Just v. Marinette County* decision can be expected to be resorted to by the courts in other jurisdictions as efforts are made to limit private land use decisions on environmentally sensitive land.



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procedures." A general guide to the work in devising acquisition procedures is provided by U.S. Department of Transportation, Federal Highway Administration, Federal-Aid Highway Program Manual, Volume 7 (Right-of-Way and Environment), Chapter 2 (Acquisition Functions), Section 4 (Administrative Settlements, Legal Settlements and Court Awards). At our initial meeting, English indicated to NJLTIA that acquisitions would take place over an extended period of time and on the basis of established priorities. She stated that the first priority would be given to acquisitions intended to bind together parcels that are presently relatively close to one another and owned by some level of government and to acquisitions which will provide access from public roads to parcels in government ownership that are presently not accessible directly from any public road.

### Pineland Title Problems

As is well known within the title insurance industry, there are enormous title problems in many pineland areas. For years title insurance companies, in general, were not willing to insure titles in most pineland areas, and it has only been in recent years as development pressures have increased that title insurers have reconsidered insuring what are often referred to as "pineland titles."

Many pineland titles are based on adverse possession; many record titles have been abandoned, and very little of the area has been surveyed. A number of the surveys and maps that do exist are known to be in error with the physical scene on the ground not conforming to the survey or the filed map.

Until recent years most of the areas were sparsely populated. Among the early settlers were Hessian soldiers who deserted the British Army during the American Revolution and who sought a life of their own away from population centers. Over the years families intermarried and, invariably, lived out their lives in a very isolated existence.

It has been only in fairly recent times that much of the Pinelands has been considered anything but virtually worthless. Back in the 1920s newspapers even sold subscriptions by offering as an added inducement a 25' x 100' lot in the Pinelands. These lots were unbuildable unless adjoining lots were assembled. Swindlers promoted and sold pineland property to unsophisticated purchasers who never visited it and, often, had no idea what the property was like and where it was actually located. It is little wonder that pineland titles have long been viewed as

among the most problem-ridden in New Jersey.

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**"The struggle between the developer and the conservationist is one that in recent years has been repeated time and time again."**

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### Acquisitions Funds Cut

Bickering has recently developed between state and federal officials over the sincerity of the federal commitment to protect the Pine Barrens. The dispute centers around a decision by the Interior Department to cut \$6 million in Pinelands acquisition funds from the 1980 federal budget. The original allocation for this purpose was \$12 million. In testimony before a House appropriations subcommittee on April 15, 1980, an Interior Department official stated that the cut was not based on a decision to back off from the promise to help protect the Pinelands but on the state's slow rate of using the money for land purchases. Faced with the need to reduce federal spending, he said, the department had decided that \$6 million could be cut without threatening the integrity of the Pinelands effort.

The executive director of the Pinelands Commission, however, insists "that the money has not been spent because the Interior Department is dragging its feet" and has not accepted guidelines for purchases. He said that the state was faced with a dilemma because the Interior Department would not give it money to buy land until the department had approved the Commission's guidelines.

U.S. Rep. William J. Hughes, much of whose district lies in the Pine Barrens, puts some blame on the state for not using the funds. Hughes, who has been a strong opponent of the 18-month moratorium, asserted that the moratorium made it unnecessary to buy any land. "The concept behind the acquisition money was that it should be used to protect the most endangered areas of the pinelands," he said, referring to the 460,000-acre core area. "The moratorium makes that unnecessary."

Rep. Hughes believes that the moratorium is too stringent and has usurped the rights of some property owners. "The federal legislation that set up the pinelands program did not call for a moratorium," he said. "As long as there is a moratorium, nothing is in imminent danger and therefore money isn't needed to purchase lands."

As the Aug. 8, 1980 deadline for approval of a comprehensive management

plan for the Pinelands approaches, newspapers have started to pick up information on the draft document scheduled for release in June 1980. According to the May 12, 1980 *Trenton Times*, the draft preservation plan prepared by the Pinelands Commission restricts development "to little more than 10 percent of the South Jersey Pinelands' one million acres." The newspaper goes on to state that if the U.S. Department of Interior approves the plan it "would be a major blow to the state's housing industry." According to the *Times*, low-density housing would be allowed in 175,000 acres designated as rural. Another 110,000 acres would be restricted to agricultural use. The building restrictions are designed to "cluster" developments and avoid spotty construction throughout the million-acre reserve.

The Pinelands Commission executive director has stated that about 250,000 additional housing units will be needed in the Pinelands within ten years, and the plan will provide for nearly that amount. He stated that open spaces surrounding the growth areas could be used for development if the need for housing has been underestimated. The proposed plan will continue the ban on virtually all construction within the preservation zone and would further add to it some 300,000 acres of what is called the Forest District, stretching across Ocean, Atlantic, and Cape May counties, where construction would be limited to 17 units per square mile. In existing towns and developments, certain new construction would be allowed provided it can be shown to be consistent with existing development.

The proposed plan needs the approval of both the Pinelands Commission and the U.S. Department of Interior. After that, the commission has one year to implement the plan by bringing the zoning laws of the affected 52 municipalities into compliance with it. Even after that process has been completed, the Pinelands Commission will have the authority to approve or disapprove construction applications filed with the municipalities.

No matter what form the management plan finally takes, it seems inevitable that future construction in New Jersey's Pinelands will be severely limited. To some, this is seen as yet another unwarranted intrusion by government on the rights of the individual. Private property rights are taken away; jobs are lost; the economy of the region is adversely affected. To others, the effort to contain future development of the Pinelands is seen as the means by which an irreplaceable natural asset will be preserved for present and

*(continued on page 21)*



## Pacific Archipelago Site of

**T**he lush and enchanting Hawaiian Islands await the arrival of ALTA members Oct. 14-17 for the Association's 74th Annual Convention. The Hilton Hawaiian Village Hotel in Honolulu will host this year's convention, which promises to be among the most informative and exciting ever.

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**"Close to four million people vacationed in Hawaii last year, with over 40 percent of these visitors there for a re-run of past pleasant times."**

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Visitors to Hawaii describe exotic landscapes of rugged mountains descending to stretches of white sand beaches, the constant brush of the soft trade winds, dancing palm trees with their gifts of coconuts, verdant tropical forests, rows of swaying sugarcane, the ever-present scent of flowers, the warm Hawaiian personality and greetings of orchid leis. It is little wonder that the word paradise is used synonymously with Hawaii. The *New York Times* reported that close to four million people vacationed in Hawaii during 1979, with over 40 percent of these vacationers there for a re-run of past pleasant times. Indeed, the Hawaiian Islands are many people's vacation dream.

### **Business Program**

ALTA members attending the 1980 Convention will enjoy a mixture of business and vacation. The business program includes two general sessions, section and

committee meetings and a number of workshops. One workshop will feature a debate on federal versus state regulation of the title industry. Another will focus on how to conduct an in-house training program.

Scheduled Convention speakers include Arthur B. Laffler, an economist from the University of Southern California; Robert Novak, nationally syndicated political columnist; Irving H. Plotkin of the Arthur D. Little, Inc. research firm, and Thomas S. Jackson, ALTA General Counsel and senior partner of the Washington, D.C., law firm of Jackson, Campbell & Parkinson. In addition, many industry members will speak on their areas of expertise and participate on panels.

The annual meeting of ALTA members fosters collective learning and elbow-to-

elbow problem-solving. As ALTA President Robert C. Bates said at the ALTA 1980 Mid-Winter Conference, "The mission of our association has been to deal with the important problems as well as opportunities which face the industry and cannot be dealt with on an individual or local basis."

When not meeting over title industry matters, convention-goers will have ample choice of recreational and sightseeing activities. Typical of the sporting activities available to the Hawaii visitor are sailing, water-skiing, swimming, deep-sea fishing, snorkeling, tennis, golf, horseback riding, hiking and sun-basking on the palm-adorned beaches. For the more adventuresome, the islands offer surfing, scuba diving and hang-gliding.

**On the island of Hawaii, the breathtaking coastline Palis, shown here between Popoli and Waipio, is a sight not to be missed.**





# Paradise ALTA Meeting

## The Islands

Some time set aside for sight-seeing is a must for the traveler to Hawaii. Each of the state's eight islands has its own character and striking features. The islands are Oahu, Hawaii, Maui, Kauai, Molokai, Lanai, Kahoolawe and Niihau.

Oahu is the island on which Honolulu and Waikiki beach lie. Nicknamed "the gathering place," Oahu holds the state capital, major business and commercial activity, the university, airport, and many of the museums. About 80 percent of the state's population lives on Oahu.

Yet Oahu also has its vast green valley between the sharp mountain ridges, pineapple farms and small fishing ports which are rural characteristics of all the Hawaiian islands.

Special places to visit on Oahu include the Polynesian Cultural Center, Pearl Harbor and the *USS Arizona*, Nuuanu Pali, Diamond Head, Queen Emma's Summer Palace and the beaches at Kahana, Kailua and Makaha.

The Polynesian Cultural Center, found on the north shore of Oahu at Laie, is a village reminiscent of the Polynesian culture of pre-European settlement days. Along with its village replica of the ancient Hawaiian culture, there are representative villages of many other Polynesian islands.

Nuuanu Pali, or Pali drive, is along the Pali mountain ridge overlooking a wide tropical valley and the aqua coast. Diamond Head is the extinct volcanic crater which is visible from Honolulu. Queen Emma's Summer Palace holds relics of the Hawaiian monarchy.

Within Honolulu itself, noteworthy attractions are the Bishop Museum and Planetarium which houses the thrones, crowns and artifacts of the ancient monarchies and is the archeological center for the Pacific; the Foster Botanic Gardens, and the Mission houses which remain from when the first missionaries arrived in the mid-1800's.



One of the strange and erratic lava formations on the island of Maui is Iao Needle in beautiful Iao Valley shown here reaching up to the clouds.



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The island of Hawaii is the largest of the islands and much more rural and less populated than Oahu. Hawaii's attractions are as diverse as they are exotic. Major ones include the area surrounding Hilo, where orchids and anthurium grow field after field, cultivated for the making of Hawaiian leis; Kileau and Mauna Loa craters which are still active volcanos, and Akaka Falls State Park with 420-foot waterfalls. The Kona beach area is reputed for its fishing. Black sand beaches—resulting from lava flows—are found at Panalui and Kauna.

The industry of the "Big Island," as Hawaii is called, is agriculture. Sugarcane, coffee, cattle and macademia nuts are its products.

### The Valley Island

Maui is the third most well-known island. It is affectionately called the "valley island," because it is mostly lowland stretched between the tall peaks of the West Maui Mountains at the island's western edge and the Mount Haleakala Crater in the east. Mount Haleakala is the largest dormant crater in the world and a reputedly beautiful spectacle.

Maui offers the attractions of both spectacular virgin landscapes and the allure of its towns, with their flavors of past cultures and sparkle of modernity. Lahaina was the monarchical capital of Hawaii until 1845 and many of the royal buildings have been preserved. During the 1800s, it was a whaling center and this influence is still apparent.

The town of Hana on the island's eastern tip appears to have never entered the 20th century. The drive from Kahului airport to Hana is highly recommended. It travels along the coast passing waterfalls, lava flows, through small fishing villages and amid tropical growth.

On the west side of Maui, the towns of Kaanapali Beach, Kapalua Beach and Wailea Beach are modern resorts of dazzling luxury.

### The Garden Island

The island of Kauai, "the garden island," is just that—a richly foliated emerald isle where the livelihood of the residents is the cultivation of sugarcane and pineapples.

Kauai was the island first discovered by the Europeans in the 1820s. It is also the site of the filming of the movie *South Pacific*.

Exceptional places on Kauai are the Fern Grotto and Waimea Canyon, the Hawaiian version of Arizona's Grand Canyon.

Molokai is a tiny island not much traveled but an ideal place for learning of the pure Hawaiian native culture. Its inhabitants are pineapple and sugar growers and fishermen.

The state's other three islands, Lania, Kahoolawe and Nihau are tiny recluses reserved for particular purposes. Lania is almost completely owned by Dole Company and is cultivated for pineapple production. Nihau is privately owned and Kahoolawe is used by the U.S. Navy and Air Force.

The ALTA convention package offers options of pre-convention and post-convention tours. Although Honolulu offers the glamour, flourish and cuisine of a tropical resort city, the most unique and truly exquisite beauties of this island-paradise are to be found beyond the periphery of its major city.

Mid-October temperatures in Hawaii hover in the 70-78 degrees Fahrenheit range. The island ways are relaxing and casual, therefore casual dress is recommended.

## ALTA's Jackson Testifies At Bar

ALTA General Counsel Thomas S. Jackson testified at hearings of the Council of the Virginia State Bar on two advisory opinions concerning the unauthorized practice of law. These two advisory opinions were submitted to the Virginia Supreme Court for consideration regarding adoption of rules on what constitutes the unauthorized practice of law. The recommendations resulting from the recent hearings, which took place June 19, are expected to be submitted to the State Supreme Court as well.

Jackson said the two advisory opinions would rule out competition between lawyers and title companies in real estate closings services that need not be performed exclusively by attorneys. During the hearings, Jackson advised members of the bar that the move to prohibit laymen from holding closings and filling in standardized forms would enhance the business of lawyers at the expense of competitors and would be contrary to the best interests of the home buying public. He also said it is constitutionally improper for a body composed of lawyers to determine the extent to which laymen or salaried lawyers employed by title companies may compete with lawyers in private practice.

Jackson articulated the principles suggested by ALTA to the state bar regarding the handling of land title examinations and closings that should be the law in the interest of the public using title services. Briefly, they are that the filling in of forms of deeds and other instruments of title is something a layman can do; that issuing a commitment to issue title insurance is not rendering an opinion as to the state of the title but is a contractual tender of insurance which a title insurance company, through its agent or agents, may do without being guilty of unauthorized practice of law; that the issuance of a title insurance policy is not the rendering of a legal opinion; that the handling of closings is not limited to persons licensed to practice law; that the bar may not exclude laymen from competing with lawyers in the foregoing activities; that nothing contained in the foregoing shall constitute any concept that a layman may give legal advice, and that title insurance companies and their agents in all instances should insist that each party to a transaction knows that he is entitled, if he chooses, to have independent counsel represent him.

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# State Supreme Court Overturns Knudson

## Important Tideland Case Decided

by Robert Reyburn

**Editor's note: In an article appearing in the December 1979 issue of *Title News*, the author addressed general problems the title industry faces in California with respect to wetlands titles. Since that time, the California Supreme Court decided one of the cases cited in the article. In this article, Mr. Reyburn analyzes the court's decision in the case.**

In the case of *City of Berkeley v. Superior Court of the State of California; Santa Fe Land Improvement Co., George Murphy, Real Parties in Interest*,<sup>1</sup> the California Supreme Court held that lands acquired by conveyances from the Board of Tideland Commissioners to land owners along the San Francisco Bay within the limits of the city of Berkeley which had not been filled were subject to what in effect amounts to a tideland trust easement. According to the decision, such conveyances, although purporting to transfer a fee simple title, were deemed to have been made, reserving to the people of California certain rights for commerce, navigation and fisheries.

The four to three decision of the court did nothing to support such judicially recognized doctrines as *stare decisis* normally applied to rules of property of long standing. What the decision did do, however, was to overrule the previous state

Supreme Court decision of *Knudson v. Kearney*.<sup>2</sup>

In addition, an 1870 act of the legislature,<sup>3</sup> which granted authority to a special Board of Tideland Commissioners to sell certain property landward of a waterfront line, to be established free of the state public trust for commerce, navigation and fisheries, was found to be ineffective to terminate said trust. The court did, however, confirm the titles transferred into private ownership by the Board of Tideland Commissioners. But, by retroactively reimposing said trust 65 years after *Knudson*, the present owners of affected lands which are currently wet have been deprived of a significant and valuable property right without compensation.

### Pre-Berkeley Decision Law

Many acts affecting various portions of San Francisco Bay adopted by the California Legislature were utilized to foster development of harbors and to establish waterfront or bulkhead lines with water of sufficient depth to handle large ships. Lands behind the established harbor lines were sold into private ownership and became useless for navigation as a result of filling.

As early as 1854, the California Supreme Court held that such grants made pursuant to waterfront improvement acts vested absolute title in private grantees, free of the trust (*Eldridge v. Cowell*, 4 Cal. 80). Subsequently, the legislature adopted

the Act of March 30, 1868 to establish a waterfront line in the city of San Francisco further into the water beyond the lines established by the earlier acts. By this act, the state created an agency known as the Board of Tideland Commissioners. This board was given the authority to sell all the state's interest in property landward of the waterfront line thus established, subject to the prior requirement that it reserve adequate land for facilities needed for navigation and commerce.

The 1870 Act, which is the subject of the *Berkeley* decision, amended and supplemented the 1868 Act granting authority to the board to include lands within five miles of San Francisco for the purpose of establishing waterfront lines in other areas surrounding the Bay, and similarly conferred authority upon the board to locate waterfront lines at appropriate locations in each area to promote navigation and commerce.

As in the 1868 Act, the board was required to reserve sufficient property for facilities necessary and appropriate for navigation and commerce prior to disposing of property landward of the waterfront lines.

Then, in 1915, the state Supreme Court, upon review of the acts of 1868 and 1870, decided that grants by the Board of Tideland Commissioners to private parties freed the subject lands from the public trust for commerce, navigation and fishery and conveyed an absolute fee title (*Knudson v. Kearney* 171 Cal. 250). Since that time, many Appellate and State Supreme Court decisions have cited *Knudson* with approval. The state of California, through its attorney general, successfully

<sup>1</sup>26 Cal. 3d 847a and 26 Cal. 3d 515, 1980

Mr. Reyburn is a member of the ALTA Wetlands Committee. He is vice president and manager of underwriting practices for Pioneer National Title Insurance Co., Los Angeles, Calif.

<sup>2</sup>171 Cal. 250, 1915

<sup>3</sup>Cal. Stats. 1879-70 Ch. 388 (The 1870 Act)



supported the *Knudson* holding in *Alameda Conservation Association v. City of Alameda* (264 Cal. App. 2d 284 (1968)). Land and improvements worth over \$3 billion are presently within the area conveyed by the board pursuant to the 1868 and 1870 acts.

### The Berkeley Majorities' "Decision"

The court held that submerged lands and lands subject to tidal action conveyed by board deeds under the 1870 act are subject to the public trust. The original decision held that filled lands whether or not substantially improved are free of the trust to the extent such lands are not subject to tidal action, *provided that the fill and improvements were made in accordance with applicable land use regulations.*

The italicized portion of the decision was subsequently stricken from the court's judgment. Thus, the court's final holding was that filled lands were free of the trust, but that lands presently covered with water were subject to the trust. The majority was unsatisfied that the 1870 act clearly expressed or implied sufficient intent that its purpose was to further navigation or another trust use.

It is extremely difficult to follow the court's reasoning in disapproving *Knudson*. The principal legal basis was the court's finding that the 1870 act did not fall within the limitations laid down in the seminal case decided by the U.S. Supreme Court in 1892 entitled *Illinois Central Railroad Co. v. Illinois* (146 U.S. 387).

The *Illinois Central* case involved the transfer of 1,000 acres of tide and submerged lands in Lake Michigan to the *Illinois Central Railroad Co.* by the Illinois Legislature. The land represented a substantial part of the Chicago waterfront. Among other things, the grant limited the railroad from obstructing the harbor or impairing public navigation.

Four years later, the legislature revoked the grant and the court upheld the legislature's action in again resuming its exercise of the trust rights which had previously been abdicated in favor of the railroad.

In discussing the 1868 and 1870 acts, the majority appeared to place great weight upon the fact that the two acts granted authority to the board over 56,400 acres or 88 square miles of San Francisco Bay of which 22,299 acres were conveyed into private ownership. The court opined that *Illinois Central* holds that a state may not grant to private persons tidelands as vast in area as the board was authorized to sell by the 1870 act even if the *Knudson* court would have been justified in con-

cluding that said act promoted navigation. The fact that 14,447 acres or 24 square miles of board-deeded land is still covered by the waters of the Bay was judged by the majority as further proof that the plan for harbor development or improvement of navigation was not fulfilled.

In its reexamination of *Knudson*, the majority discounted it ostensibly because:

- The state was not a party and
- It relied on the 1868 act to interpret the 1870 act, and the *Knudson* opinion was based upon "short" briefs which barely mention the tideland trust.

In addition, the court majority reached the controversial conclusion that legislative history of the 1868 act confirmed that the grants were not intended to free the public trust. Further justification for the court's decision was attempted by mentioning fraud and widespread abuse in the disposition of tidelands. The fact that a relatively small number of corporations owned large sections of unimproved land in the Bay also bothered the majority.

In overturning the long established "Rule of Property" decided in *Knudson*, the court found that "it would be more injurious to the public interest to perpetuate the error. . . ." than to overturn *Knudson*.

### Impact Of Decision

It was generally believed that the *Berkeley* decision would not have a serious impact on the title insurance industry. Our adversaries told us that we had won the case. When one considers that the state of California and the city of Berkeley were attempting to avoid the previous grants of land conveyed by the board, the effect of the decision is certainly not as severe as it might have been.

The greatest impact is the fact that the *Berkeley* court retroactively applied the

trust to lands which under the *Knudson* holding, had been free of the trust for 65 years. Property owners acquire property based upon conditions existing at the time of purchase and subject to applicable laws in existence at that time. Title insurers issue title policies on the same basis.

One must be indeed clairvoyant to be able to establish underwriting practices for the issuance of title insurance policies at the present time in such a manner that future actions of the judiciary declared to apply retroactively will have no effect. There is no doubt that there is potential for great loss by property owners who are unable to develop land found to be subject to the tidelands trust because of inability to secure approval of local governments. At least one local agency has been advised that it can now disapprove issuance of a permit without worry that such an act would raise a claim of inverse condemnation. The court's willingness to make such a ruling ostensibly for the public benefit certainly should give us pause to consider if it is not a precedent for the same court or other courts to make further retroactive rulings which deprive property owners of substantial rights.

The *Berkeley* decision was a close call by a divided court. A review of the dissenting opinion appears to many, including this writer, to be based more upon legal analysis and logic than that of the majority.

It is possible that the last word has not been spoken on this matter. Counsel for Santa Fe have applied for a *writ of certiorari* to the U.S. Supreme Court. We must continue to promote the concepts that foster the stability to land titles and the preservation of private property rights if we are to avoid similar decisions in the future.

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# Seminar on The Role Of Title Insurance In Conveyancing To Be Held In Honolulu

A seminar on title insurance designed particularly for attorneys is scheduled from 9 a.m. to 5 p.m. on Oct. 18 at the Hilton Hawaiian Village in Honolulu.

The American Land Title Association, which in recent months held similar seminars in Boston, Atlanta and Milwaukee, has arranged for a faculty of experts to address the role of title insurance in Hawaii conveyancing. A \$65 registration fee covers the cost of the course handbook, lunch and the full day of classes.

The program includes such topics as title insurance coverage, forms in general use, the title insurance approach to current problems in real estate lending and investment, the use of title insurance by lenders and practicing attorneys and title claims.

Names and addresses of registrants and remittance, made payable to the American Land Title Association, should be mailed to The American Land Title Association, Suite 705, 1828 L Street, N.W., Washington, D.C. 20036.

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## Past President Dies At Age 73

Lloyd Hughes, 1959-60 ALTA president and a retired senior vice president of Transamerica Title Insurance Company of Colorado, died March 3, at age 73.

Mr. Hughes was born in Denver, Colo., and graduated from the University of Colorado. After serving in the Army Air Corps during World War II, he joined the Record Abstract and Title Insurance Co. and became company president. He also was president of Title Guaranty Co. before joining Transamerica.

During 1941-42, Mr. Hughes was president of the Land Title Association of Colorado. He was conferred the status of honorary member of both ALTA and his state association.

He is survived by his wife, Virginia Ramsey Hughes, his son, Penn, and a sister, Elisabeth Hughes Wingard.

## Former Oregon President Dead

Margaret J. Pigg, a past president of the Oregon Land Title Association and one of its honorary members, died March 26, at the age of 83. Mrs. Pigg was vice president and office manager of Oregon Title Insurance Co. in Pendleton and had been with the company for 49 years.

She was the first woman to be president of the Oregon Land Title Association.

Her husband, William F. Pigg, died in 1963.

## American Title Acquires Three

American Title Insurance Co. of Miami, Fla., acquired three branch offices from Central Wisconsin Title, Inc. The new offices, which now operate as branch operations of American Title, are located in Adams, Columbia and Juneau counties.

Gloria Kirking, district manager, supervises the operation of all three offices.

**Pine Barrens**—(from page 13)

future generations. The struggle between the developer and the conservationist is a classic one that in recent years has been repeated time and time again. Because the Pinelands National Reserve constitutes one-fifth of the state of New Jersey, the balancing of the interests of the developer and the conservationist involves continual monitoring by the public.



## Names In The News . . .

**Thomas G. Kenney** was elected chairman of the board of Transamerica Title Insurance Co. and named to the newly created position of corporate development manager. He formerly was president and chief executive officer.

Succeeding Kenney as president and chief executive officer is **Arthur E. Van Leuven** who is chairman and chief executive officer of Transamerica Financial Services.

A third major management change was the promotion of **Harley D. Brown** to executive vice president and chief operating officer for Transamerica Title. Formerly, Brown was senior vice president and manager of Colorado operations.

Kenney had been president of Transamerica Title since 1972 and chief executive officer since 1973. His experience with the title industry began over 30 years ago when he joined North American Title Insurance Co. which was acquired by Transamerica Title in 1964.

Van Leuven has been chairman of Transamerica Financial Services since 1979. In 1977, he was named president and chief executive officer and had been a director since 1971. He served as chairman of Transamerica Title from 1978.

Brown was a Transamerica senior vice president with responsibility for the company's Colorado, Utah and Michigan branch offices since 1979. He was manager of Colorado operations since 1976, having joined the company in 1958.

### Other Trans Promotions

Transamerica also recently announced the promotions of **James L. Roffe** to succeed Brown as manager of Colorado operations, and **Anthony T. Maisto** as Colorado assistant manager.

Roffe joined Transamerica 34 years ago, was appointed manager of the agency department in 1961 and manager of Arapahoe and Douglas counties in 1970. He is a past president of the Land Title Association of Colorado.

Maisto has served as regional manager of Colorado operations since 1973. In 1963 he was named Denver County manager, having joined the company in 1946.

News of Transamerica title people from other parts of the country include the awarding of the "Manager of the Year" title and trophy to **Frederick E. Pepper**, manager of the company's Lansing, Mich., office.

Pepper was chosen because of the market share, gross income generated and operating efficiency of his office, as well as his attitude toward his customers.

Pepper joined Transamerica in 1969 and served as Ingham, Eaton, and Clinton counties manager since 1975.

**Bradley J. London** was promoted to manager of Alaska operations for Transamerica. He formerly was manager in Anchorage and Juneau.

In Pendleton, Ore., **Susan Jo Chandler** was promoted to Umatilla County manager.



## Abstractors Errors & Omissions

### United Fire & Casualty Company

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# The Role of Title Insurance In Conveyancing

## A Title Insurance Seminar

This meeting is sponsored by the American Land Title Association  
In Cooperation with the Wisconsin Land Title Association  
9 a.m. to 5 p.m., September 11, 1980 in the Hyatt Regency, Milwaukee, Wis.

### Topics and Speakers:

**Title Insurance Coverage**—*Marvin C. Bowling, Jr.*  
Senior Vice President and General Counsel  
Lawyers Title Insurance Corp.  
Richmond, Virginia

*Robert T. Haines*  
Vice President and General Underwriting  
Counsel  
Chicago Title Insurance Co.  
Chicago, Illinois

**Use of Title Insurance by the Lender**—*Joseph F. Schoendorf Jr.*  
Schoendorf and Sorgi  
General Counsel  
Security Savings and Loan Association  
of Wisconsin  
Milwaukee, Wisconsin

**Use of Title Insurance by the Practicing Attorney**—*Allen N. Rieselbach, Esquire*  
Reinhart, Boerner, Van  
Deuren, Norris & Rieselbach  
Milwaukee, Wisconsin

**Title Claims**—*Roger Williams*  
Senior Vice President, Secretary and General Counsel  
Pioneer National Title Insurance Co.  
Los Angeles, California

Registration fee of \$65 per attendee covers meeting costs, handbook and lunch.  
Send names and addresses of registrants and remittance, made payable to the American Land Title Association:

American Land Title Association  
Suite 705, 1828 L St., N.W.  
Washington, D.C. 20036



# Calendar of Meetings

## July 10-13

Idaho Land Title Association  
Elkhorn at Sun Valley  
Sun Valley, Idaho

## July 11-12

Utah Land Title Association  
Holiday Inn Park City  
Park City, Utah

## July 17-19

Wyoming Land Title Association  
Laramie, Wyoming

## July 31-August 6

American Bar Association  
Honolulu, Hawaii

## August 7-9

Montana Land Title Association  
Edgewater Inn  
Missoula, Montana

## August 14-16

Minnesota Land Title Association  
Sunwood Inn  
St. Cloud, Minnesota

## August 15-16

Kansas Land Title Association  
Ramada Inn  
Topeka, Kansas

## September 6-9

Indiana Land Title Association  
Sheraton West Hotel  
Indianapolis, Indiana

## September 7-9

Ohio Land Title Association  
King's Island Inn  
Cincinnati, Ohio

## September 7-10

New York State Land Title Association  
Kutsher's Country Club  
Monticello, New York

## September 11-13

North Dakota Land Title Association  
Holiday Inn  
Fargo, North Dakota

## September 17-19

Nebraska Land Title Association  
Holiday Inn-Old Mill  
Omaha, Nebraska

## September 17-19

Washington Land Title Association  
The Alderbrook Inn  
Union, Washington

## September 24-27

Dixie Land Title Association  
Mobile Hilton  
Mobile, Alabama

## September 25-26

Wisconsin Land Title Association  
Playboy Club  
Lake Geneva, Wisconsin

## September 26-28

Missouri Land Title Association  
Almeda Plaza Hotel  
Kansas City, Missouri

## October 14-17

American Land Title Association  
Honolulu, Hawaii

## October 24-26

Palmetto Land Title Association  
Myrtle Beach Hilton  
Myrtle Beach, South Carolina

## October 26-29

Mortgage Bankers Association  
San Francisco, California

## October 30-31

Land Title Association of Arizona  
Westward Look Resort  
Tucson, Arizona

## November 5-8

Florida Land Title Association  
Don Cesar Hotel  
St. Petersburg Beach, Florida

## November 7-13

National Association of Realtors  
Anaheim, California

## November 16-21

U.S. League of Savings Associations  
San Francisco, California

## December 3

Louisiana Land Title Association  
Royal Orleans  
New Orleans, Louisiana

American  
Land Title  
Association

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