Future Interests—Trust for Accumulation—Rule against Perpetuities Applied to Testamentary Memorial Trust Fund—[Florida].—The plaintiffs' testatrix devised the bulk of her estate to the plaintiff trust company, in trust for the creation and preservation of a memorial fund in honor of her deceased husband and brothers. One-half the annual net income of the fund was to be invested in substantial investments for the purposes of the fund, and the other half was to be given in fixed proportions to nine designated charities.[1] The entire trust was designed to exist forever, and its sole purpose seems to have been to generate income for the annual gifts to the charitable beneficiaries. In a suit by the trustee and the executor for specific instructions as to their legal duties under the will, the trial court held that the trust was charitable and might continue indefinitely under the control and supervision of a court of equity. On appeal to the Florida Supreme Court by some of the heirs and residuary devisees, *held*, that since the primary intention of the testatrix was not charitable, but rather the creation and preservation of the memorial fund in perpetuity, the creation of the fund violated the common law rule against perpetuities and the former adjudications of the court, and that the illegality of the fund carried with it and rendered void the bequests to the charitable organizations. *Porter v. Baynard.*[2]

Much of our property law has evolved from a long struggle between landowners and the courts, the former endeavoring to contrive means of controlling the use and enjoyment of property for generations after their death, and the courts seeking to insure to each present generation the right to full enjoyment, possession, and power of disposition of the property it holds.[3] To prevent this fettering of property, a number of rules have been evolved by the courts. However, these rules frequently have not been adequately distinguished, nor have the reasons behind them been adequately stated and differentiated, with the result that much confusion currently exists as to their nature and application.

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seizure. But to do so would necessitate an added judicial determination of whether a given statute is "substantive" or "ministerial"—a determination which may involve the same difficulties as the classification of a statute as "substantive" or "procedural."

[1] Over half of the 502-page record of the case was concerned with the problem of whether one of the beneficiaries, the Theosophical Society, was a religious organization entitled to be considered a charity. The court, although it discussed the nature of a charitable trust in the abstract, failed to apply explicitly the fruits of its discussion. In reaching the conclusion that the trust is not charitable, the court did not indicate whether it was the memorial fund or the nature of the beneficiaries, or both, which rendered the trust non-charitable. However, in discussing the effect of the illegality of the trust fund on the gifts to the beneficiaries, the court conceded, arguendo, that the beneficiaries were charitable. The trustee petitioned the United States Supreme Court for certiorari, claiming that the real basis for the decision was the Florida court's feeling that the beneficiaries were not legitimate charities, and that the decision operated as a deprivation of religious liberty. See the trustee's brief on petition for writ of certiorari in the United States Supreme Court.

[2] 28 So. 2d 890 (Fla., 1946), cert. den. sub nom. Union Trust v. Genau, 67 S. Ct. 1085 (1947).

[3] Cheshire, Modern Law of Real Property 468–70 (1944).

The modern era of the development of these rules began with the rule against perpetuities. The modern rule is stated solely in terms of the vesting of future interests within a period of lives in being and twenty-one years,[4] having been created to meet the ingenuity of the conveyancers, who discovered that under the Statute of Uses an indestructible future interest might be created,[5] enabling property owners to decree devolution of their property into the distant future. This made it possible for the ultimate ownership of property to remain unsettled for long periods of time, and it was believed that this tended to tie up property in a legally or practically inalienable condition throughout these periods.[6] The rule against perpetuities was for the most part adequate to meet this need because it effectively limited the period during which this uncertainty of ownership might continue.

But because the rule was concerned solely with the vesting of future interests it was inapplicable to the problems created by the advent of those modern trusts in which all interests vested within the permitted period.[7] Under these trusts, it was possible for property to be conveyed to designated trustees who were to manage the property to insure the specified enjoyment by the designated beneficiaries, and the law had no weapons with which to control the period of time during which this divison of interests in the property might continue. It is not clear why the courts were concerned about limiting the duration of the trust.[8] The earliest cases merely stated that the trust of indefinite duration was void as a "perpetuity," without any discussion as to what perpetuities were or why they were evils.[9] Objections to the perpetual trust are still crystallizing, but they seem to be centered about the notions that the trust of indefinite duration effectively restricts the alienability of the property involved, and that it unreasonably deprives the beneficiary of full enjoyment of the property.

It is clear that where the trustee or the cestui is prohibited by the terms of the trust from transferring his respective interest, common law sentiments regard-

[4] "No interest is good unless it must vest, if at all, not later than twenty-one years after some life in being at the creation of the interest." Gray, Rule against Perpetuities § 201 (1942).

[5] Pells v. Brown, Cro. Jac. 590 (1620).

[6] Gray, op. cit. supra note 4, at §§ 119, 121.5, 121.7; 2 Simes, Law of Future Interests §§ 477–80 (1936); 4 Rest., Property 2123–33 (1944).

[7] Story v. First National Bank and Trust Co., 115 Fla. 436, 156 So. 101 (1934); Gray, op. cit. supra note 4, at § 232; 1 Bogert, Trusts and Trustees § 214 (1935); 1 Tiffany, Law of Real Property §§ 396–97 (1939).

[8] Mere duration of interests in property, without more, has not troubled the courts. The most obvious example of the perpetual interest is the fee simple absolute. Leaseholds of indefinite or perpetual duration have been freely allowed. Monbar, Inc. v. Monaghan, 18 Del. Ch. 395, 162 Atl. 50 (1932); Columbia Ry. Gas and Electric Co. v. Jones, 119 S.C. 480, 112 S.E. 267 (1921); Crowe v. Wilson, 65 Md. 479, 5 Atl. 427 (1886). Similarly, divided interests in the form of easements and profits have been permitted to exist without definite limits on their duration. 2 Simes, op. cit. supra note 6, at § 509.

[9] Thomson v. Shakespeare, 1 De. G. F. & J. 399 (1860); Carne v. Long, 2 De. G. F. & J. 75 (1860).

ing free alienability are offended.[10] However, there has also been objection to those trusts in which the parties are fully empowered to convey their interests,[11] and it has been effectively argued that the very division of the trust into legal and equitable parts makes the trust interests unattractive to potential purchasers.[12] Consequently, the trust is said to operate as an indirect restraint on alienation. The objection to the trust of indefinite duration might be adequately explained by this line of argument were it not that the courts have gone one step further in striking down trusts in which all interests were vested, in which all parties were fully authorized to convey their interests, and in which the trust property involved no tangibles, but rather a sum of wealth in the form of money or near-monies.[13] The concept of alienability has usually been invoked to prevent the fettering of individual units of property rather than to achieve fluidity or greater velocity in the circulation of property.[14] Nevertheless, it seems possible that even where there is only a segment of wealth involved, and there cannot possibly be the traditional forms of restraints on alienation, the fact that a *trustee* is handling the wealth will have inhibitory effects upon expenditures and investments, producing results akin to those produced by the traditional restraints. Unless this rationalization can be accepted, it would appear that the policy of eliminating restraints on alienation is not sufficient to explain the bases for limitations on the duration of private trusts.[15]

Undue postponement of the cestui's enjoyment of the legal estate is much more promising as a rationale of the objections to the perpetual trust.[16] The law has always sought to guarantee to those who have an exclusive, indefeasible interest in property the fullest possible enjoyment of the property, and the trust necessarily involves the limitation of the cestui's enjoyment to such as the settlor has directed. It has been strongly felt that the cestui who has an exclusive, indefeasible right to the enjoyment of the trust property should not be required to limit his present enjoyment, but should be allowed to use and dis-

[10] See 1 Bogert, op. cit. supra note 7, at § 220.

[11] Ibid., at § 218.

[12] Ibid.; 2 Simes, op. cit. supra note 6, at § 553; Cleary, Indestructible Testamentary Trusts, 43 Yale L.J. 393 (1934).

[13] It appears to be difficult for the authorities in this field to recognize the possibility of absolute separation of the enjoyment of property from its ownership. In this connection, it has been suggested that interests involved in this type of trust represent a new system of property tenure resembling the situation found in the modern corporation, in which the shareholders possess beneficial interests in the corporation's economic assets without actual possession or control of the assets. Cleary, Indestructible Testamentary Trusts, 43 Yale L. J. 393, at 397 n. 18 (1934); Berle and Means, The Modern Corporation and Private Property (1932).

[14] Gertman v. Berdick, 123 F. 2d 924, 926 (App. D.C., 1941).

[15] Bogert, op. cit. supra note 7, at § 218.

[16] Ibid.; Gray, op. cit. supra note 4, at §§ 121–21.8; Kales, Future Interests, §§ 732–38 (1920).

pose of the property as he wishes at the earliest possible time.[17] This objection to the indefinite duration of the trust seems to be universally applicable to the cases involved in the problem, and it is believed that it has been a consideration of at least equal importance to the objections based on inalienability, in the development of the rule or rules limiting the duration of the private trust.

Some jurisdictions apparently have reached the conclusion that a trust of indefinite duration, without more, need not be prohibited,[18] but the weight of authority is inclined to establish definite limits to the life of the private trust. The precise nature of the rules developed in the United States is obscure because of confusion as to the reasons behind the rules,[19] and a tendency incorrectly to invoke the rule against perpetuities to solve the problem, as in the instant case. In England a clear-cut solution has been reached by permitting the cestui who has exclusive and indefeasible interests in the trust, and who is sui juris, to demand the conveyance of the legal estate to himself at any time.[20] There is no problem of the perpetual trust because there is no indestructible trust. Most American jurisdictions have followed the opposite holding, as expressed in *Claflin v. Claflin*,[21] and have refused to violate the settlor's intent by permitting the premature destruction of the trust by the cestui. But these very jurisdictions have developed rules limiting the duration of trusts, the majority rule appearing to be that a private trust may be created to last for a period of lives in being and twenty-one years only.[22] This period having been chosen by analogy to the perpetuity rule period,[23] there has been considerable confusion of the two rules,[24] this confusion being based upon the similarity of the time periods

[17] See Saunders v. Vautier, Cr. and Ph. 240 (1841); In re Couturier, [1907] 1 Ch. 470; Huber v. Donoghue, 49 N.J. Eq. 125, 23 Atl. 495 (1892); Rector v. Dalby, 98 Mo. App. 189, 71 S.W. 1078 (1903); Story v. First National Bank and Trust Co., 115 Fla. 436, 156 So. 101 (1934).

[18] O'Rourke v. Beard, 151 Mass. 9, 23 N.E. 576 (1890); Baker v. Stern, 194 Wis. 233, 216 N.W. 147 (1927); Pulitzer v. Livingston, 89 Me. 359, 36 Atl. 635 (1896).

[19] "Restraints on use and enjoyment have nothing to do with restraints on the right of alienation. It is true that property subject to such a restriction may be less marketable and bring a smaller price. It is, nevertheless, freely alienable in the absence of any restriction to the contrary. . . . . These several incidents of ownership must be carefully distinguished. As the restrictions are against the policy of the law they are to be strictly construed, and no case can be found deciding that a restraint on one interest has any effect on the other. The right of enjoyment, however, has been confused with the right of alienation." Foulke, Treatise on the Rules against Perpetuities, Restraints on Alienation, and Restraints on Enjoyment § 486 (1909).

[20] Saunders v. Vautier, Cr. and Ph. 240 (1841). Of course, if there are several beneficiaries who together have an exclusive and indefeasible interest, they may join to terminate the trust.

[21] 149 Mass. 19, 20 N.E. 454 (1889).

[22] Fitchie v. Brown, 211 U.S. 321 (1908); Davis v. Rossi, 326 Mo. 911, 34 S.W. 2d 8 (1930); O'Hare v. Johnston, 273 Ill. 458, 113 N.E. 127 (1916); see also 1 Bogert, op. cit. supra note 7, at § 218; 2 Simes, op. cit. supra note 6.

[23] Kales, op. cit. supra note 16, at § 183; 1 Bogert, op. cit. supra note 7, at § 218.

[24] Bigelow v. Cady, 171 Ill. 229, 48 N.E. 974 (1897); Siedler v. Syms, 56 N.J. Eq. 275, 38 Atl. 424 (1897); Williams v. Herrick, 19 R.I. 197, 32 Atl. 913 (1895); Barnum v. Barnum,

involved, the resemblance between the perpetual trust and the unbarrable fee tail, which first bore the name "perpetuity,"[25] and the fact that both rules are said to be concerned with the prevention of inalienability of property.[26] This confusion has been unfortunate in that courts have tended to apply a mechanical rule of lives in being plus twenty-one years to the duration of trusts, without regard to the actual nature of the interests involved, and have been prone to void *ab initio* any trust created to endure beyond the permitted period, destroying all interests of the designated beneficiaries in favor of the heirs at law of the settlor.[27] Although it is believed that the courts may be justified in reaching the conclusion that the duration of the trust should be limited, the complete destruction of the trust and of the beneficiaries' interests thereunder seems unduly harsh. The English rule seems preferable because it limits the period during which property may be held inalienable, and at the same time accelerates rather than destroys the beneficiaries' enjoyment. The American rule has been applied even when inalienability has not been apparent, and has eliminated whatever restraints there might be only at the expense of violating the settlor's intent and the beneficiaries' expectations. It is submitted that whatever goals the courts may have in mind might be more equitably achieved either by accepting the English rule or by permitting the trust to run for the permitted period and then making it destructible at the instance of the beneficiaries.[28] It is believed that the only justification for the American rule as applied in extreme form by the Florida court in the instant case is that it is consistent with the rule against perpetuities.[29] While consistency of these rules is perhaps de-

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26 Md. 119 (1866); but see Gambrill v. Gambrill, 122 Md. 563, 89 Atl. 1094 (1914), which reversed a long line of Maryland decisions beginning with the Barnum case, by holding that the rule against perpetuities relates only to the commencement, and not to the duration, of an interest.

[25] 1 Bogert, op. cit. supra note 7, at § 218.

[26] Professor Simes believes that the rule against indefinite duration of trusts may be considered to be a branch of the perpetuities rule, because both are designed to minimize indirect restraints on alienation. 2 Simes, op. cit. supra note 6, at § 553.

[27] 1 Bogert, op. cit. supra note 7, at § 218; see Bigelow v. Cady, 171 Ill. 229, 48 N.E. 974 (1897); Siedler v. Syms, 56 N.J. Eq. 275, 38 Atl. 424 (1897); Williams v. Herrick, 19 R.I. 197, 32 Atl. 913 (1895); but see Simes, op. cit. supra note 6, at § 557.

[28] Another way of stating the same conclusion is that the duration of trusts should be subject only to internal attack (by the beneficiaries to accelerate their own enjoyment) and never to external attack (by strangers to the trust seeking to void the entire trust). Cleary, op. cit. supra note 13.

[29] The discussion is based upon acceptance of the Florida court's holding in the instant case that the trust is dominantly private. This holding greatly complicates the problem because it has been uniformly held that a perpetual charitable trust is valid. 2 Bogert, op. cit. supra note 7, at § 352; 2 Simes, op. cit. supra note 6, at § 554. The court's view is probably founded upon the belief that the testatrix provided for only one-half of the annual income to go to the charities, while the other one-half was to be reinvested in the trust corpus in order to create a tremendous concentration of wealth bearing her family names, of which society would be forced to take notice. This interpretation seems greatly strained. So far as can be

sirable, the attempt to achieve consistency by expansion of doctrines based on public policy far beyond the actual requirements of that policy is not sound.

It is unfortunate that the court in the instant case did not state the grounds for its decision more clearly. Although its holding is worded in terms of the rule against perpetuities, the actual basis for its decision may be the antipathy of the court to the provision for accumulation of one-half the annual income in perpetuity. The problem of the accumulation can exist only where there are no rules limiting the duration of the trust or where the period during which courts will permit accumulations is shorter than that during which they will permit a trust to endure, because a limitation upon the duration of a trust automatically limits the period of accumulation.[30] Furthermore, the objections to trusts for accumulation are identical to objections to trusts of indefinite duration, except that there is a possible additional objection to the accumulation, based upon the social and economic evils purportedly arising from the potentially tremendous concentration of wealth in what amounts to a "dead hand."[31] Almost all juris-

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determined from the instrument itself, the sole purpose of the memorial fund was to generate income for the charitable gifts. In construing the nature of a trust as charitable or private, the court does not look to the motive or intention of the settlor, but rather only to the net results of the trust in action. 2 Bogert, op. cit. supra note 7, at § 364. Similar provisions in wills have been examined by the Florida courts and by those of other jurisdictions, and no case has been found holding that provision for accumulation of half the income indicates an intent by the settlor to create a private memorial of the trust fund. See Pelton v. First Trust and Savings Bank, 98 Fla. 748, 124 So. 169 (1929); Reasoner v. Herman, 191 Ind. 642, 134 N.E. 276 (1922); St. Paul's Church v. Attorney-General, 164 Mass. 188, 41 N.E. 231 (1895).

[30] Accumulations of Income at Common Law, 54 Harv. L. Rev. 839 (1941); Simes, Statutory Restrictions on Income Accumulation, 7 Univ. Chi. L. Rev. 409 (1940).

[31] In Hillyard v. Miller, 10 Pa. 326, 336 (1849), Gibson, J., was fearful that a perpetual accumulation "would ultimately draw into its vortex all the property in the state." The ambiguity of most courts in handling the accumulation problem possibly reflects anxiety in dealing with potentially astronomical sums. Surprisingly enough, most accumulations which have slipped through the courts have proved to be dismal failures. See Leach, Cases on Future Interests 802 (1935), for the story of the Thellusson accumulation. In the trust involved in Moeller v. Kautz, 112 Conn. 481, 152 Atl. 886 (1931), a trust fund of $1,000,000 yielded in fifteen years a total accumulation of only $350,000, with the annual net income tending to drop progressively. Despite the nightmares mathematicians may conjure up with compound interest tables, there has been remarkably little attempt by economists to analyze the precise effects of vast accumulations on the economy, or the possible "automatic controls" the economy might throw into action to check or neutralize the effects of the accumulation. In an elaborate brief, counsel in Gertman v. Burdick, 123 F. 2d 924 (App. D.C., 1941), attempted to convince the court that economic considerations demanded that the particular accumulation be barred, but despite attempts to show deleterious effects of the accumulation upon government financing and consumer purchasing power, no arguments beyond superficial conjecture were presented. The court pointed out in its decision that we are not sufficiently versed in economic cause and effect to know precisely what will lead us to prosperity, and that the problem remains one for the legislature. Nor is the typical accumulation necessarily a Fort Knox or "dead hand." As long as the funds of the trust are being expended in some form of investment they are serving economically useful purposes, and the courts need not be concerned with weighing the relative value to society of an overcoat purchased by the beneficiary as compared with corporate or government securities purchased by the trustee. Ibid., 933.

dictions[32] have established by statute[33] or decision rules limiting the period during which accumulations may continue, the prevailing rule established by the courts being the period of lives in being plus twenty-one years.[34] However, the courts have been much more liberal in dealing with provisions for accumulation than in handling the problem of the perpetual trust, in their tendency to void accumulation provisions only as to the excess, and to use a *cy pres* doctrine to effectuate the settlor's intent so far as possible.[35] This is especially true in cases involving an accumulation for charitable purposes, in which the accumulation has generally been permitted to continue without definite time limitation, subject to the supervision and control of a court of equity.[36] It is significant that the Florida Supreme Court in the instant case completely ignored the question of the accumulation, which was certainly the most objectionable feature of the trust, in order to base its decision upon the rule against perpetuities under which the court was able to destroy the whole trust arrangement without the embarrassment of attempting to analyze the accumulation provisions quantitatively and of applying *cy pres* doctrines to preserve as much of the trust as possible.[37]

The Florida court's decision in this case marks a long step[38] in the direction

[32] The common law had no rule against accumulations. Thellusson v. Woodford, 4 Ves. 227 (1799), 11 Ves. 112 (1805); 1 Bogert, op. cit. supra note 7, at § 215.

[33] Thirteen states have adopted statutes limiting accumulations. The general trend of legislation is to broaden the exceptions to the restrictions on accumulations. See Simes, Statutory Restrictions on Income Accumulation, 7 Univ. Chi. L. Rev. 409 (1940).

[34] Gertman v. Burdick, 123 F. 2d 924 (App. D.C., 1941); Moeller v. Kautz, 112 Conn. 481, 152 Atl. 886 (1931); 1 Bogert, op. cit. supra note 7, at § 215.

[35] Gaess v. Gaess, 132 Conn. 96, 42 A. 2d. 796 (1941); Hussey v. Sargeant, 116 Ky. 53, 75 S.W. 211 (1903). It would seem that the accumulation, being further removed from the rule against perpetuities than is the perpetual trust, is much less likely to receive mechanical treatment. The courts seem to realize that the objection is merely quantitative, and attempt to analyze quantitatively the fact situation resulting from the accumulation trust.

[36] Authorities cited note 29 supra. "No trust has been found where provision for an accumulation for charity has been held void." 2 Simes, op. cit. supra note 6, § 591 at 519. See also St. Paul's Church v. Attorney-General, 164 Mass. 188, 41 N.E. 231 (1895); Tincher v. Arnold, 147 Fed. 665 (C.C.A. 7th, 1906); Woodruff v. Marsh, 63 Conn. 125, 26 Atl. 896 (1893); Quinn v. Peoples Trust and Savings Co., 223 Ind. 317, 60 N.E. 2d 281 (1945).

[37] Courts frequently strain the construction of the trust instrument to avoid quantitative analysis of the duration aspects. It is highly probable that the court in the instant case ignored the accumulation issue because it would be much more difficult to call the trust an accumulation for private purposes than a trust for private purposes, especially in view of the tradition of attempting to effectuate the settlor's intent in the accumulation cases.

[38] Powers of testamentary disposition have been steadily expanding in Anglo-American law, but at the same time restrictions have been imposed limiting the control which testators may exercise over future generations. Scott, Control of Property by the Dead, 65 U. of Pa. L. Rev. 527, 632 (1917). The courts have long been urged to take bold steps in the direction of limiting the testator's control over future generations. 40 Col. L. Rev. 1430 (1940), noting Burdick v. Burdick, 33 F. Supp. 921 (Dist. Col., 1940). Vinson, J., in Gertman v. Burdick, 123 F. 2d 924 (App. D.C., 1941), vigorously refused to take such a step by limiting the duration of an accumulation to less than lives in being plus twenty-one years, on the ground that the courts are ill-equipped to solve these problems in a manner conducive to

of eliminating control by the dead, and many will regard this as a wise move. However, it is believed that since the law permits testamentary dispositions of property, and permits settlors to dispose of their property through trust arrangements, the rules of law which have been established to limit their powers should be carefully defined and scrupulously observed by the courts.[39] The limitations within which one may pass his property to future generations should be primarily matters for legislative determination, since the subject is intimately connected with deep-seated notions about the nature of our economic and social structures. Where necessity has caused the courts to create their own rules, they should be applied with understanding as to the nature of the rules, in order that formalization of the concepts will not cause interference by the courts with otherwise valid and socially unobjectionable property dispositions.[40]

Insurance—Exclusion Clauses—Airplane Passenger Not Engaged in "Aeronautical Flight"—[Federal].—The plaintiff was the beneficiary of a life insurance policy issued to her husband in 1928. The policy contained a provision for double indemnity if the death of the insured resulted from an accident, provided it did not result "from an aeronautical flight."[1] The insured was killed when the airplane in which he was a passenger crashed. The defendant paid the face value of the policy, but denied further liability. The plaintiff then brought an action to recover the additional indemnity. On appeal to the Court of Appeals of the district of Columbia, *held*, the death of the insured was not a result of an "aeronautical flight" within the meaning of the clause excluding liability. Summary judgment for defendant reversed. *Clapper v. Aetna Life Ins. Co.*[2]

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orderly development in the law. In placing the matter squarely before the legislature, he pointed out that apparently only thirteen legislatures have thought the problem serious enough to warrant legislation.

[39] The Florida Court in the instant case has gone far beyond, and contrary to, its previous holdings. In Pelton v. First Trust and Savings Bank, 98 Fla. 748, 124 So. 164 (1929), it was held that a trust to pay one-half the annual income to charity, and to accumulate the other half in perpetuity, was void as to the accumulation, but the gift of annual income to the charity was sustained. In Story v. First National Bank and Trust Co., 115 Fla. 436, 156 So. 101 (1934), the court held that a private trust created to run beyond the perpetuity period is not void, that the rule against perpetuities does not apply to the duration of trusts, and that the effect of an invalid restraint on alienation is merely to accelerate enjoyment.

[40] The power of courts to redefine common law principles in the light of fundamentally altered conditions, in the absence of legislation, is well established. Funk v. United States, 290 U.S. 371 (1933). But "there is no higher duty which rests upon a court than to carry out the intentions of a testator when the provision is not repugnant to settled principles of public policy and is otherwise valid." Shelton v. King, 229 U.S. 90, 101 (1913).

[1] "If the death of the insured occurs . . . . from bodily injuries effected solely through external, violent and accidental means . . . . [and] not . . . . from an aeronautical flight or submarine descent . . . . the Company will pay. . . . ." Clapper v. Aetna Ins. Co., 157 F. 2d 76 (App. D.C., 1946).

[2] 157 F. 2d 76 (App. D.C., 1946).