

như vậy, thì bị Ông hân hoàng quả trách, họ sẽ bị ế ẩm, và lỗ lả trong buổi chợ hôm ấy.

Chết làm Phan Hoàng làng Kiêu Kỳ là sung sướng như vậy đó. Thời nay người ta thực tế hơn, có mong ước chẳng thì mong ước ăn cơm rau, ở nhà này, lấy vợ Nhật và chết thì hết làm gì được nữa rồi dù là chết ở góc cây đa làng Niêu Kỳ.

LE KHAC THI

## TRÁCH NHIỆM PE

trách nhiệm trên phương diện pháp lý của các P.E. gồm vài điểm tóm tắt đại cương dưới đây để Anh em có P.E hay sắp sửa có P.E. xem qua cho biết.

### LEGAL RESPONSIBILITY OF THE P.E.

In keeping with our recent series of articles on the legal responsibility of the Professional Engineer, the following article is presented. It was written by Mr. Eugene L. Bass, Esq. of The San Francisco Section of A.S.C.E. and printed in the November Civil Engineer Newsletter:

#### THE LAW AND CIVIL ENGINEERING

by Eugene L. Bass, Esq.

In the October issue of the *Civil Engineer Newsletter*, the topic of this column related to the long term liability of the professional engineer in a case where his design may have been negligent.

It was brought to this writer's attention that the article may have misled some inasmuch as there was no mention of statutes of limitation that may apply. For those who were concerned, some comments on applicable statutes of limitation would undoubtedly be of interest.

Statutes of limitation are legal time limits within which lawsuits must be filed. If a suit is not filed before expiration of the applicable statute of limitation, it is too late.

The California Civil Code contains statutes of limitations relating to bring actions against persons "... performing or furnishing the design, specifications, surveying, planning, supervision or ob-

servation or construction of an improvement to real property ..." Basically, the statute is four years or ten years after "substantial completion" depending upon whether the deficiency is patent or latent. The code defines a "patent deficiency" as one apparent by reasonable inspection and a "latent deficiency" as one not apparent by reasonable inspection.

While the statutes do provide a measure of protection to the engineer, they by no means offer complete security after ten years. For example, the ten-year latent defect statute does not apply to personal injury or wrongful death that may have occurred as a result of the deficiency. In addition, the ten-year statute does not apply to actions based upon willful misconduct or fraudulent concealment. There are also other technical exceptions to the general rules.

The definitions of "latent," "patent," and "apparent by reasonable inspection" are commonly open to interpretation when applied to a particular set of circumstances. If there is anything but a very clear case, the engineer may find himself having to defend a lawsuit and spending money to prove that as to him the statute of limitations expired.

The uncertainty as to the benefits to be derived from the statutes of limitation merely serves to affirm that the best policy is not to be negligent and to not be involved with a project that will later fail and cause damage or injury. You can control the former but may have little or no control over the latter.