

TITLE STANDARD NO. 409

PROBLEM:

May the examiner consider a valid joint tenancy to have been created subsequent to August 8, 1953 where the applicable joint tenancy language is mentioned only in the consideration clause?

RECOMMENDATION:

Yes

DISCUSSION:

This Standard, first adopted August 31, 1961, answered the Problem in the negative with the following discussion: “While the intent to create a joint tenancy may be argued in this situation, the examiner should not assume that the court would necessarily carry its dicta in *Palmer v. Flint, et al*, 156 Me. 103 (1960) to such extremes.” The Title Standards Subcommittee is now of the view that Title Standard No. 409 was overly conservative given the liberal view of the creation of joint tenancies expressed in *Palmer v. Flint*, 156 Me. 103, 161 A.2d 837 (1960). See Title Standard No. 408.

NOTE: August 8, 1953 is the date of the first liberalizing amendment of the original 1821 statute (now 33 M.R.S. §159) that set a preference for tenancies in common. (The amendment obviated an intervening conveyance to a straw person to preserve the unities of time and title for an owner to create a joint tenancy in self and another.)