

Estates in Land and Future Interests
Midterm Exam - Spring 2003

Question 1:

O grants to A for life, then, if B survives A, to B for life, then to C and his heirs.

What is the state of the title?

A ___ Life Estate _____ B ___ vested remainder for life _____

C ___ Vested remainder in FSA _____ C's Heirs ___ nothing _____

O ___ Nothing _____

Reasons ___ "if B survives A" is surplusage for a life estate following a life estate _____

Question 2:

O grants Blackacre to A for life, then to B and her heirs while B is using Blackacre for a café, then to C and his heirs, however, if C does not marry by age 40, then C's estate ends.

What is the state of the title?

A _____ Life Estate _____ B ___ Vest. Rem. in FS (either Determinable or sub. to ex. int).

B's heirs ___ nothing _____ C ___ Ex. Int. (in FS subj. to cond. sub.) _____

C's heirs ___ nothing _____ O ___ Rt. of Entry (or reversion) _____

Reasons ___ This is 7-14, workbook _____

Question 2: (sorry about there being 2 question 2s.)
This is question 1 from the 2000 midterm (mostly)

A. O conveys Blackacre to A and the male heirs of his body and then to B and her heirs if B passes the bar exam of the State of Minnesota

What is the state of the title?

O__ Reversion_____ A__ Fee tail (male) _____

B____ Contingent Remainder_____ A's Female Heirs__nothing _____

B's Heirs__nothing_____ A's Male Heirs__Nothing _____

Other: _____

Reasons: _____

B. A has a Son, S. A's wife, W, dies in childbirth.

What is the state of the title?

O__ Reversion_____ A__ Fee Tail _____

B____ Contingent Remainder____ A's Heirs__Nothing _____

B's Heirs__Nothing_____ S: __Nothing _____

Other:_____

Reasons: _____

C. B then passes the Minnesota Bar

What is the state of the title?

O__ Nothing_____ A__ Fee Tail _____

B__ Vested Remainder in FSA____ A's Heir__Nothing _____

B's Heirs__ Nothing_____ S: __Nothing _____

Other:_____

Reasons:____ _____

D. A then marries W2, who has a Daughter, D, soon thereafter.

What is the state of the title?

O _____ Nothing _____ A ___ Fee Tail _____

B ___ Vested Remainder(In FSA) _____ D ___ Nothing _____

A's Heirs ___ Nothing _____ B's Heirs ___ Nothing _____

S _____ Nothing _____

S's Heirs ___ Nothing _____ W2 ___ Nothing _____

Other: _____

Reasons: _____

E. A dies and wills all of his property to his friend, Z.

What is the state of the title?

O _____ Nothing _____ A ___ Nothing _____

B ___ Vested Remainder in FSA _____ D ___ Nothing _____

A's Heirs ___ Nothing _____ B's Heirs ___ Nothing _____

S ___ Fee Tail _____ Z ___ Nothing _____

S's Heirs ___ Nothing _____ W2 ___ Nothing _____

Other: _____

Reasons: _____

Question 3:

O devises his gravel pits to A and his heirs as long as the gravel is being mined, and if the gravel is no longer mined, or when the gravel pits are exhausted (there is no more gravel to be mined), then to O's issue then living and their heirs.

It is likely that the pits will run out of gravel in 5 to 10 years.

What is the state of the title?

A ___ Fee simple Determinable _____ A's heirs ___ Nothing _____

O's issue ___ Nothing (RAP) _____ O's issue's heirs ___ Nothing _____

Other: ___ O (or O's estate): Possibility of Reverter _____

Reason: ___ Pits might not run out for a very long time, issue are children, then grandchildren, etc. _____

Question 4:

O grants to A for life, then to B for life, then to B's heirs and their heirs.

What is the state of the title?

A ___ Life Estate _____ B ___ Vested Remainder in Fee Simple Ab.

B's heirs ___ Nothing _____ B's heirs' heirs ___ Nothing _____

O ___ Nothing _____

Reason ___ Rule in Shelley's Case (see p. 118, workbook) _____

Question 5:

A. O grants to A for life, then to B and her heirs, but if C graduates from law school, then to C and her heirs.

What is the state of the title?

A Life Estate subject to Exec. Lim. B Vested Rem. in Fee subj. to divestment

B's heirs Nothing C Executory Interest (shifting)

C's heirs Nothing O Nothing

Reason: See Nelson & Wendel, A Possessory Estates . . . Primer (1996), p. 95-96

B. A dies.

What is the state of the title?

A Nothing B Fee Simple subject to an Exec. Lim.

B's heirs Nothing C: Shifting Exec. Interest

C's heirs Nothing O Nothing

Reason

Question 6:

O grants to A for life, then if B agrees in writing not to sell alcohol on the land to B and her heirs, but if B refuses to agree not to sell alcohol on the land, then to C and his heirs.

What is the state of the title?

A Life Estate B Contingent Remainder

B's heirs Nothing C (Alternative) Contingent Remainder

C's heirs Nothing O Reversion

Reason No abeyance of Seisin

Question 7:

A: O grants Blackacre to A for life, then to A's children and their heirs, but if A has no children alive at the time A dies, then to A's heirs.

What is the state of the title?

A ___ Life Estate and Con. Rem. ___ A's heirs ___ Nothing _____

A's children ___ Contingent Remainder _____ A's Children's heirs ___ Nothing _____

O ___ Reversion _____ Other _____

Reason ___ Rule in Shelley's case _____

B: A has a child, B.

What is the state of the title?

A ___ Life estate and Cont. Rem. ___ A's heirs ___ Nothing _____

A's other children ___ Cont. Rem. _____ A's Children's heirs ___ Nothing _____

B ___ Vested Remainder (in FSA) subj. to open subject to Divestment _____

O ___ Nothing _____ Other _____

Reason _____

C: A then sells his interest to D

What is the state of the title?

A ___ Nothing _____ A's heirs ___ Nothing _____

A's other children ___ Cont. Rem. _____ A's Children's heirs ___ Nothing _____

B ___ Vested Remainder (in FSA) subj. to open subject to Divestment_ D_LE pur autre vie and Contingent Rem.

O ___ Nothing _____ Other _____

Reason _____

Question 8:

(This is the mystery in our Work Book modified from "Death Makes a Difference")

"Hello, yes, quick, send an ambulance to 416 Craddock Way. Please hurry!" Jim Brattle hung up the phone and turned again to face the situation he had found when he opened the door. He had come to see his client, Matilda Audley, with the sad news of her brother's death. But when he arrived, he found a horrible sight. Miss Matilda was lying on the floor in front of the hearth with the mantel clock in pieces beside her. She had an open wound on the side of her head. She appeared to be dead.

The ambulance arrived in minutes, but to no avail. Miss Matilda was definitely dead. Her lawyer of many years sank weakly into a chair to contemplate the events. The more he thought about it, the more amazed he was that these two deaths would come so close together. Miss Matilda's brother, Grant Twisden, had suffered a heart attack the week before, and he had been barely clinging to life since then. He had died at 6:15 this evening, and his doctor had called Jim right away.

"Jim, I have some bad news. Grant Twisden has just died. I know you're close to his sister. I understand that Miss Matilda's daughter, Jee, is out of town, and the only other child, a son, lives out of town. The grandson, Jee's son, was here a few minutes ago, but I can't find him now. I don't know who else to call. Would you go tell Miss Matilda about Grant's death? I don't want to tell her by phone. I know she had a stroke recently, and she shouldn't be alone when she hears the news."

Jim had left for Miss Matilda's house right away. He had knocked and waited, but no one came to the door. He stepped to the window, peered in, and saw her there, lying in front of the hearth. He broke in, tried unsuccessfully to find a pulse, and quickly placed the call to 911. The ambulance crew said it looked like she had a stroke, fell and hit her head, knocking the clock to the floor as she fell. They recorded the time of her death as 5:30, according to the time on the broken face of the mantel clock.

Sheriff Jack Thellusson arrived shortly after the ambulance crew, and Jim told him what he knew. The Sheriff thought it sounded strange, too. He and Jim had known each other for 30 years, starting back in the days when the Sheriff had been a rookie cop and Jim had been an up-and-coming young public defender. The Sheriff had developed a grudging respect for Jim in those days, which had ripened into a genuine friendship after Jim had joined a firm and started an estates practice.

Jim had barely had a chance to fill the Sheriff in when Miss Matilda's next door neighbor, Mr. Leake, arrived, carrying a paper bag. Jim looked up and saw the shocked expression on his face.

"What's happened?" he demanded. Jim told him it looked like Miss Matilda had a stroke. "Miss Matilda dead! It doesn't seem possible. I was talking to her less than an hour ago." Jim and the Sheriff exchanged glances.

"You say you were talking to her within the last hour?"

"Right. She called me just before I left work. I own the Village Butcher Shop, and she wanted me to bring her a couple of lamb chops for dinner. When she stopped driving, she got in the habit of asking me to bring her stuff when I came home from work, and I don't mind—uh, I didn't mind, that is."

"What time would you say she called?"

"Well, let's see. It must have been right after 6:00, because I had just locked the door when the phone rang."

The Sheriff took Jim into the hallway. "What do you make of this, Jim? It looks like somebody wanted us to think Matilda died earlier than she did. Do you think this has something to do with her brother's death? Would it be important somehow whether she predeceased him?"

"I don't know, Jack. But I think it bears looking into. I drafted Miss Matilda's will, and I can tell you she didn't have anything to leave any. Her will gives this old house to her two kids, Jee and Barton, but that's about all there was. And this house is more of a liability than an asset. I'll tell you what. Why don't you get me a copy of Grant Twisden's will? I'll bet his estate is worth about three million. Let's see what his will says."

"Good idea. I'll see if I can get it tomorrow morning, and I'll bring it to your office right away."

The next morning, the Sheriff dropped by Jim's office with a copy of Grant Twisden's will. Jim skimmed through the usual boilerplate clauses until he came the dispositional clause. He read it carefully. It said, "I leave three million dollars in trust, and I direct the trustees to pay the income to my sister Matilda's children for their lives. On their deaths, I direct my trustee to dissolve the trust and pay over the principle to their children. After these bequests have been made, I leave whatever is left of my estate to the Bibb County Food Bank."

Jim was quiet for a few moments. Then he said, "Jack, I have a theory . . ."

Solve the mystery. (Hint: the murder was committed by the person who had the greatest financial interest in the outcome.)

The clause in Grant's will is in the form:

T to M's children for life, then to M's Grandchildren.

If M is alive at the time of the devise, then the remainder in the Grandchildren fails under the Rule Against Purpetuities (M could have another child, Jee and her brother could die, and the class of Grandchildren could remain open too long). In which case after Jee and her brother die, the \$3M would go to the food bank. On the other hand, if M is dead when T dies, then all of M's children are mesuring lives, and the class of M's grandchildren will close at the end of the life of the last of the children, and so it would be OK under the rule. Thus Jee's son would get all (or some large portion) of the \$3M. So he did it.