

There follows an objective examination which I gave many years ago on estates and future interests. It depends on the common law system largely unreformed, and I have already said that I will not test you on merger and destructibility, the fee tail and the Rule in Shelley's case. The exam does provide good practice on the common law system for those of you who want to practice. If you wish, I will go over the answers (which are included after the questions) at a Question and Answer Session. In 2017 a student in the class answered the questions according to modern law, and then wrote explanations for her answers. I added some comments. You may view that document [here](#).

December 16, 1969

Student Number _____

Property, Section 3

(Prof. Donahue)

Part I

DO NOT REMOVE THIS PAPER FROM THE ROOM

First write your student number in the space above. The suggested time for this part of the examination is thirty-five minutes. The papers will be collected after 90 minutes. Be sure to save enough time for Parts II and III.

This Part of the examination consists of objective, multiple choice questions. Your answers are to be indicated on these pages. After each statement of facts are one or more propositions, each of which ends by presenting a series of alternatives. You are to choose the correct alternatives and indicate your choices by underlining them. In some instances more than one alternative is correct, in which case you should underline more than one answer to each question. Do not mark more than those alternatives which you think are correct for each question, for incorrect answers will be counted against you.

Throughout this Part you are to assume that O has, at the time of the conveyance or devise, a fee simple absolute in certain land, and that the conveyance or devise in each problem adequately describes the land. You should also assume that the Anglo-American common law is in force, including the so-called common law statutes such as Quia Emptores, De Donis, the Statute of Uses, and the Statute of Frauds. You should further assume that a Statute of Wills is in force. All conveyances or devises referred to in the fact situations below may be assumed to operate so as to allow the creation of executory interests without the specific declaration of a use; for example, as a bargain and sale in the case of inter vivos conveyances, or as a devise operating under the Statute of Wills. You should assume that in any conveyance or devise, a fee simple absolute is conveyed unless the language describes a lesser estate. Unless otherwise stated, all persons named in grants are living and no conditions have been fulfilled.

O conveys land "to A for life, remainder to B, C, and D." B, C, and D are A's heirs apparent at law.

1. A has: (a) a life estate (b) a fee simple absolute (c) a fee tail (d) none of the above.
2. B, C, and D have: (a) a vested remainder in fee simple (b) a contingent remainder in fee simple (c) nothing (d) none of the above.
3. O has: (a) a reversion (b) a possibility of reverter (c) a right of entry (d) none of the above.

After the preceding conveyance, *A*, a widower, dies suddenly at the age of 91, devising the land “to my mistress, *E*, for life, remainder to *B*, *C*, and *D*.”

4. *B*, *C*, and *D* have: (a) a vested remainder in fee simple (b) a vested remainder in fee tail (c) a contingent remainder (d) none of the above.
5. *B*, *C*, and *D* are or will be: (a) joint tenants (b) coparceners (c) tenants in common (d) tenants by the entirety (e) you can't tell.
6. *E* has: (a) a life estate (b) dower rights (c) nothing (d) none of the above.
7. This problem involves the application of: (a) the Rule in Shelley's Case (b) the Statute of Uses (c) the Statute De Donis (d) the Doctrine of Worthier Title (e) none of the above.

O conveys land “to *A* for life remainder to *A*'s 21 year old children but if *A* has no 21 year old children at his death, then to *C* and his heirs.” *A* has three children *D*, *E*, and *F*, none of whom is 21.

8. *D*, *E*, and *F* have: (a) a vested remainder subject to open (b) an executory interest (c) a contingent remainder (d) a vested remainder subject to complete defeasance (e) nothing (f) none of the above.
9. *C* has: (a) a vested remainder for life (b) a contingent remainder in fee (c) an executory interest (d) nothing (e) none of the above.
10. *C*'s heirs have: (a) a contingent remainder in fee (b) an executory interest (c) nothing (d) none of the above.
11. *O* has: (a) a remainder (b) a reversion (c) a possibility of reverter (d) nothing (e) none of the above.

O grants land “to *A* for life, remainder to my heirs.”

12. *O*'s heirs take: (a) a remainder by descent because it is “worthier” to take an interest by descent (b) no interest at all because the remainder merges with *O*'s reversion (c) a freehold interest (d) none of the above.

O conveys land “to *A* and his heirs. If, however, the land is used for other than agricultural purposes, the land shall go to *B* and his heirs.”

13. *A* has: (a) a fee simple determinable (b) a fee simple absolute (c) a fee simple subject to a right of entry (d) none of the above.
14. *B* has: (a) a right of entry (b) a reversion (c) an executory interest (d) a possibility of reverter (e) nothing.

15. *O* has: (a) a right of entry (b) a reversion (c) an executory interest (d) a possibility of reverter (e) nothing.

O conveys land “to *H* and *W*, as husband and wife, and their heirs.”

13. *H* and *W* have: (a) estates for life (b) a fee simple (c) an estate as joint tenants (d) an estate by the entirety.

After the preceding conveyance, *H* conveys his entire interest in the land to *X* and then dies the next day.

17. *X*: (a) is a tenant in common (b) is a joint tenant (c) is sole owner in fee simple (d) has nothing.

O conveys land “to *A* for life, remainder one day after *A*’s death to the first son of *A* living at the time of this grant to attain a college degree for life, remainder to *E*.” *A* has three sons at the time of the grant *B*, *C*, and *D*.

18. *B*, *C*, and *D* have: (a) a vested remainder (b) a contingent remainder (c) an executory interest (d) nothing (e) none of the above.

19. *O* has: (a) a reversion (b) a possibility of reverter (c) a right of entry (d) nothing (e) none of the above.

20. *A* has: (a) a life estate (b) a fee simple absolute (c) a base or qualified fee (d) a fee simple subject to an executory limitation (e) none of the above.

A and *E* now convey all their right title and interest in the land to *C*. *B* attains a college degree, the first of the three brothers to do so. *A* dies. What is the state of the title two days after *A*’s death?

21. *O* has: (a) a reversion (b) a possibility of reverter (c) a right of entry (d) nothing (e) none of the above.

22. *B* has: (a) a life estate (b) a fee simple absolute (c) a base or qualified fee (d) a fee simple subject to an executory limitation (e) none of the above.

23. *D* has: (a) a vested remainder (b) a contingent remainder (c) an executory interest (d) nothing (e) none of the above.

Answers

1. a
2. a Remember the Rule in Shelley's Case only applies if the words "A's heirs" are used in the instrument.
3. d
4. d They have a present estate in fee simple.
5. a common law presumption
6. c
7. e This question bothered people. The thought pattern I was looking for was "You don't apply the Rule in Shelley's Case unless there is a remainder limited to the heirs of the life tenant.
8. c
9. b
10. c
11. b
12. d *O*'s heirs take no interest at all. *O* has a reversion by the Doctrine of Worthier Title.
13. b I also gave credit for (d). What *A* has is a fee simple subject to an executory interest, but the interest is void because it violates the Rule against Perpetuities.
14. e
15. e
16. b
and
d
17. d
18. c It must be because it cuts off *O*'s one day reversion.
19. a
20. a [Query 1: What does *E* have? A1: The logic (though the authorities aren't clear) suggests that it must be an executory interest, since it will follow a gap in seisin. Query 2: Is the contingent interest in *B*, *C* and *D* good? A2: Yes, because they are living persons at the time of the grant.]
21. d

22. a

23. d