

1967

## Trusts & Estates: Final Examination (January 1967)

William & Mary Law School

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Part I. Suggested Time: 2 hours

Complete the blanks in the spaces provided, strike the incorrect alternative terminology in parentheses or in the multiple choices, and otherwise complete the following questions.

1. Statutes in many states protect against overreaching by certain charitable or religious organizations by providing

2. In Virginia it is (useless) (advisable) to have three witnesses to a will because

3. Facts: (1) D properly executes a will in 1951 which names his aunt, A, as sole beneficiary. (2) D properly executes a will in 1952 which names U, his uncle, as sole beneficiary, which will contains a clause expressly revoking all prior wills. (3) D in 1952 cuts the signature from the 1952 will. (4) D dies in 1966 survived by U, A, and his son, S.

Briefly discuss disposition of D's estate in Virginia

4. In Virginia, witnesses to a will must sign their names
  - (a) in presence of testator, but not necessarily in presence of each other.
  - (b) in presence of testator and each other.
  - (c) in presence of each other, but not necessarily in presence of testator.
5. If X dies intestate survived by two sons of his deceased son, S, and by three daughters of his deceased daughter, D, as his closest kin, the distribution of X's real estate which he had inherited from his deceased daughter would usually be ~~divided~~ as follows:
  - (a) ...
  - (b) ...
  - (c) ...
  - (d) ...
6. The doctrine of "Hotchpot" means
  - (a) ...
  - (b) ...
  - (c) ...
  - (d) ...
7. Decisions of Federal District Courts involving the taxation of trusts (are) (are not) usually quite helpful in understanding the law of trusts because:
  - (a) Federal tax law undergoes rather frequent changes.
  - (b) Judges of District Courts are generally among the best of judges in the country.
  - (c) The tax law relating to trusts may differ considerably from the general law of trusts.
  - (d) The state courts must follow federal decisions in matters relating to federal taxation of trusts.
8. D dies intestate, leaving his uncle, U, as next of kin. At D's death he had on deposit at Peninsula Bank and Trust Company \$6,000 in a special escrow account which was to serve as security for a loan obtained by D from L. D paid the loan in full the day before he dies. On that day L notified the bank that he released all claims to the account. If the bank became insolvent the next day and could pay depositors only 60% of deposits, N would have (no claim) (a full claim) (some claim) to the \$6,000 deposit, because
  - (a) ...
  - (b) ...
  - (c) ...
  - (d) ...

9. By his will X devised Redacre to T, trustee, to be held for an unnamed beneficiary for ten years and then to the unnamed beneficiary in fee, all income to the unnamed beneficiary for the ten year period. The will gave to T the power to name the beneficiary from among X's four children, A, B, C, and D. In default of appointment, the property to be paid free of trust to X. Is the trust valid? Why?

10. B, the life beneficiary of a spendthrift trust, in writing assigns his rights to future income to his creditor C who has, at great personal sacrifice, nursed B through a long illness. C (has) (does not have) a cause of action against T if T continues to pay all income to B after C has given T notice of the written assignments, because

11. Virginia (does) (does not) allow partial revocation.

12. A provision in a will stating: "The rest and residue of my real estate I devise in equal shares to those tenants working my farm at my death," will probably (be) (not be) enforced because

13. The basic distinction between a so-called constructive trust and a resulting trust is



14. The constructive trust is usually (easier to prove) (harder to prove) (not provable) by parol evidence, because

15. The doctrine of \_\_\_\_\_ states that a devise of particularly described realty cannot be satisfied when the described land is not a part of the estate at the decedent's death. If a court wishes to have the questionable devise fulfilled, it may label the devise a \_\_\_\_\_, and then reason that the doctrine does not apply to such devise.

16. The doctrine of satisfaction is usually confined to cases of (testacy) (intestacy); and the corresponding or analogous doctrine for cases of (intestacy) (testacy) is called \_\_\_\_\_

If D's duly probated will provides that "All the residue of my estate I bequeath to X, Y, and Z in equal shares," and if D's next of kin is his sister, S; and is Z is dead at the date of D's death; and if D's residuary estate consists of \$90,000 in bonds, the bonds should be distributed to \_\_\_\_\_ because

17. The legal doctrine which states that an apparently valid revocation of a will shall not be given effect is called by such names as:

The most descriptive term is \_\_\_\_\_ because the problem is basically a question of \_\_\_\_\_

18. When P pays T the full purchase price for an apartment building, and T conveys the apartment to D at P's request, the legal theory which might employ to recover the property from D is called \_\_\_\_\_

\_\_\_\_\_ ; and the fact that D is the daughter of P will (not affect) (increase) (decrease) P's burden of proof because

19. When an estate is not adequate to pay all creditors and beneficiaries, a usual order of \_\_\_\_\_ for an estate containing only personalty is:

20. The main differences between a so-called private trust and a so-called charitable trust are

21. Revocation by a change in circumstances is often called \_\_\_\_\_

\_\_\_\_\_ and some possible grounds are

22. The doctrine of \_\_\_\_\_ permits a previously revoked will to be probated. This doctrine (can) (cannot) be applied when all copies of the will have been completely destroyed because

23. Under the usual rule, the beneficiary of a definite sum of money should begin to receive interest on his \_\_\_\_\_ from the time

\_\_\_\_\_.  
Also if the sum is left in trust for A's life and then to B, A usually will be paid interest from the time \_\_\_\_\_

\_\_\_\_\_.  
When a state's statutes enumerate certain approved investments for fiduciaries such investments are called \_\_\_\_\_; and a fiduciary (may) (may not) safely invest in other items under the \_\_\_\_\_

\_\_\_\_\_ test. This usual latter test means



24. When a named insured is killed by a beneficiary of a \$10,000 life insurance policy the major legal factors to consider are:

25. If H married W in 1961 not knowing that W had a living husband and from whom she was never divorced and if H dies in 1963 leaving a will dated 1962 providing, "I leave all my estate to my wife, W," what legal theories could F, H's father, use to attempt to procure the property for himself?

PART II. (Suggested Time: 1 hour)

H and W were married in 1939, and in 1940 and 1941 two children (a daughter, D, and a son, S) were born to the marriage. Shortly before H entered the Army in 1942, H properly executed a will which reads:

(1) I bequeath all my personal property to D and S in equal shares.

(2) I devise all my real property to W."

When H returned from service in 1946 and learned that W wished to continue working as a tax driver, H became infuriated and obtained a divorce in 1947. As a part of the property settlement accompanying the divorce, W was awarded the family home, the only real estate owned by H. W was also given custody of the two children. Embittered by his war and marital experiences, H purchased a desolate farm, fortified the house, and regularly maintained an armed vigil to prevent any woman from entering the premises. In his few contacts with other people H steadily maintained that all women were subversive agents of a foreign power. In 1958, H duly executed a will which provided in full:

"(1) I bequeath all my personal property to my son, S.

(2) I devise all my real property to my brother, B, in fee."

H carried the signed copy of the will with him at all times in the pocket of a battle jacket which he wore in patrolling the electric fences of his farm. An unsigned carbon copy of the will was nailed to the wall of a watch tower which set atop his farm house. In 1963 H died in a brush fire, and the signed copy of the will was destroyed beyond the point of legibility.

At his death H owned the farm valued at \$16,000 and personal property valued at \$12,000. H is survived by W, S, D and N (the child of B who died in 1960). The court has been asked to probate both wills. Discuss the distribution of H's estate.