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Future Interest: Examination (January 1970)

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FUTURE INTEREST

Examination

January 1970

Question 1 - 30 minutes

"T" died in 1964. He was survived by three sons, "A", "B", and "C". "A" is still alive, is married and has three children, "D", "E" and "F", all born after the death of T. "B" is still living but has no children. "C" is married and has two children, "G" and "H" both born prior to the death of "T".

At his death, T owned a large farm and a considerable amount of securities. He had written a will, which he prepared without any advice from a lawyer. The despositive provisions of the will which was properly probated were as follows:

"1. I give my farm property to my son "A" for his life or until such time as he ceases to farm the property. On his death to his issue, then living, forever, provided, the property continues to be used for farm purposes. Whenever the property ceases to be used for farm purposes it shall be turned over to those entitled to my residuary estate."

"2. The residue of my estate I give to my grandchildren".

Although "A" is a dedicated farmer, he and his three sons are very anxious to sell the property to a real estate developer who has offered a fantastic price.

Assume "A" and his sons, in preparation for the sale to the developer, took certain irreversible steps to give up farming forever. Identify all parties having an interest in the farm property as a result of those steps, and classify those interest.

Question 2 - Time 35 min.

You are asked to check the title of Blackacre for your client who is a prospective purchaser of blackacre. Your research reveals the following facts:

- (1) A had clear title to Blackacre when he died in 1932.
- (2) A left a will giving all of his property to his children, B and C, "and if they die without issue Blackacre shall go to my brother, D." B died at the age of 10 in 1937 and C died intestate in 1942 being survived by his son and sole heir, E.

Question 2 (cont'd)

- (3) In 1942, E. who was 24 years old at the time, executed and delivered a deed which conveyed "all of my right, title and interest in Blackacre to my wife, F, for life, remainder to my surviving children, and if I leave no children surviving me, Blackacre shall go to the Tricky Trust Company in trust for the children of G until they reach 21 at which time the Tricky Trust Company, shall transfer Blackacre to the children of G."
- (4) At the present time, D, E, F and G are alive. In addition, H, a son of E and F, and I and J, daughters of G, are living. G's first child, a son, K, died at the age of 20 leaving a wife, L. I is 27 years older than J.

From whom must your client get deeds or releases in order to get good title to Blackacre? Include in your discussion all interested parties and classify their interest, if any, in Blackacre.

Question 3 - Time - 40 min.

In 1952 Stu Simons executed a "trust instrument" which provided that certain assets would be held by the Pilot Trust Company in trust as follows:

"The Pilot Trust Company shall pay the income from the trust property to my sister, Belle, for her life, and upon her death it shall distribute the trust property to whomever Belle may appoint. Upon default of appointment the trust property shall be given to my heirs."

Stu reserved the power to revoke the trust. Stu died in 1956 leaving a will giving all of his property to the Red Cross. Belle was his sole heir at his death. Belle died in 1960. Her only heir (and the only relative of Stu that outlived Belle) was her cousin, George Gibson. Belle's will contained one dispositive provision which read: "I give all property of every kind and nature in which I have an interest to the children of Tom Tidwell, Earl Eaton and Fred Ferrin that reach 21." Tom, Earl and Fred were born in 1954, 1958 and 1960, respectively.

State and evaluate the argument or arguments, if any, that each of the following can reasonably advance in an attempt to obtain the trust property:

- (1) The Red Cross
 - (2) George
 - (3) Tom, Earl and Fred as representatives of their children
- (over)

Question 3 (cont'd)

- (4) Chris Credit, an unsatisfied creditor of Belle
- (5) Bill Bargain, who claims that in 1957 Belle promised in return for valid consideration to exercise the power in favor of him.

Question 4 - Time 30

irrevocable

Sol Simons created an irrevocable trust in 1948 which provided that certain assets would be held by a trust company for "my sister, Clara Simons, for her life, and upon her death the trust fund shall be distributed to the children of my cousin, Peter Petzel, who survive Clara Simons and reach their 25th birthday; if Peter has no children, or if no child of Peter survives Clara and reaches 25, the trust fund shall be distributed to my heirs."

- (1) Discuss all aspects of the claims of Paula, Ray Rule and Max Mason if Sol died leaving Clara as his nearest kin and a will giving all of his property to Ray Rule; Clara subsequently died leaving a will giving her property to Max Mason; Peter was Sol's sole remaining relative at Clara's death; and if Peter subsequently died without having had any children, and leaves a will giving his property to his wife, Paula.
- (2) Would the gift to Peter's children be valid if:
 - (a) Peter predeceased Sol leaving three-year-old twin sons?
 - (b) Clara predeceased Sol but Peter outlived Sol and had a 23-year old-son at Sol's death?

Question 5 - Time 45 min.

T, your client, has prepared written instructions for you concerning the disposition of his residuary estate.

"Residue to be equally divided among "A", the child of a friend, age 2, "B", my nephew, age 5, and "C", my stepson, age 9. Distribution of the funds is to be made to each 1/2 at age 21 and 1/2 at age 25. In the event any die before that their share shall go to their children and if none then to those remaining among "A", "B", and "C". However, there is to be no distribution of prin-

Question 5 (cont'd)

cipal until the youngest among "A", "B", and "C" attain age 21. Until that time the income from the fund shall be used for the education of all three. There shall be no need for any equal division of the income used for educational purposes".

T is determined to use the dispositive plan he has outlined. However, he is quite willing to accept any changes or additions which will not alter the basic plan he outlined.

Draft a provision disposing of the residue.