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Property I: Final Examination (January 14, 1971)

William & Mary Law School

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Final Examination

PROPERTY I

January 14, 1971

Mr. Scott
Mr. Williamson

Instructions:

The examination consists of eight problems of varying weight, totaling 100 points. Each problem states the weight to be given to such problem and a suggested time limit. The suggested time limits are based solely on a proportion of the total time for the entire examination equal to the percentage weight given to individual problems.

I. (20 minutes - 11 points)

In 1926, A took adverse possession of Blackacre in a jurisdiction which has the following statute:

"An action to recover title to or possession of real property shall be brought within twenty-one years after the cause thereof accrued, but if a person entitled to bring such action, at the time the cause thereof accrues, is within the age of minority, of unsound mind, or imprisoned, such person, after the expiration of twenty-one years from the time the cause of action accrues, may bring such action within two years after such disability is removed."

Such jurisdiction applies the majority common law view on all other points involved. In 1926, L had a life estate in Blackacre, R having the remainder in fee simple. L was a male, born in 1914, never married, was at all times sane, never imprisoned, and died in 1946. R was a male, born in 1924, never married, was at all times sane, never imprisoned, and died in 1967. In 1948, A purported to convey Blackacre to B by a written deed. B immediately entered into possession of Blackacre, and has continued, uninterrupted, to use and possess Blackacre in the same way as A at all times thereafter. In 1966, R purported to convey Blackacre by written deed to "X for life, remainder in fee simple to Y." In 1970, X brings an action to recover possession of Blackacre from B. What result? Discuss all issues fairly presented.

II. (20 minutes - 11 points)

Albert, an 80-year old widower, was critically injured in an automobile accident. While still in the hospital and in critical condition, Albert called his daughter Mary to his bedside and said to her: "Mary, I'm an old man and I don't expect to ever leave this room alive. Since you, your brother Harold and your sister Martha are all well-off financially, my will directs that all of my property shall go to my brother Arnold. However, it is my wish that your mother's wedding ring belong to you when I die. It's in my jewel case in the top of my closet, and when I die, you go and take it." Albert then took off his own wedding ring, handed it to Mary, and said: "I want you to see to it that Harold has this ring." Two days later, Albert, while still in critical condition from the injuries sustained in the accident, died from ptomaine food poisoning as a result of defective food served to him by the hospital. An autopsy conclusively established that Albert's death was in no way related to the injuries sustained in the accident. Two days after Albert's death, Mary took possession of her mother's wedding ring, and one week later, delivered her father's wedding ring to Harold. The executor of Albert's estate brings an action to recover possession of both rings, claiming that both are properly includable in Albert's estate. What result? Discuss all issues fairly presented.

III. (15 minutes - 8 points)

Peter, an ardent gun collector, while in attendance at a National Rifle Association convention, was approached by Sam Smith, an old army buddy Peter had not seen since 1945. After talking about the war for a short time, Sam indicated that he had an original "Walker Musket," a brand of hand-crafted musket used by George Washington's army during the Revolutionary War. Sam indicated that due to his current embarrassing financial condition, he wanted to sell the gun "real cheap." Peter inquired as to the meaning of "real cheap," and Sam replied "\$300.00 cash." Peter, having recently attended an auction where a Walker Musket, in similar physical condition, had sold for \$3,000.00, quickly indicated that he would be glad to help Sam out and would take it off his hands for \$300.00. Two hours later, Sam and Peter consummated the deal in Sam's hotel room. Anxious to show others his new possession, Peter took the gun to the convention display room, whereupon, Gerald, another member of the association attending the convention, examined the gun and immediately recognized the gun as belonging to him. Gerald demanded that Peter immediately return the gun to him, explaining that certain markings on the gun conclusively proved that it was his gun, being the same gun that Gerald had checked at the hotel desk the day before for safekeeping. Upon further investigation, Peter discovered that the gun did indeed belong to Gerald and that Gerald had placed the gun in the possession of the hotel for safekeeping. Apparently, Sam Smith had observed Gerald checking the gun at the desk, and after waiting around until the hotel clerk who had taken the gun from Gerald left for the day, approached another employee of the hotel, represented himself to be Gerald, and asked for "his gun back." The hotel clerk, not wishing to embarrass anyone by asking for identification, gave the gun to Smith. Peter, after learning the above facts, still refused to return the gun to Gerald. Shortly thereafter, Gerald filed suit against Peter for conversion, asking for damages in the amount of \$3,000.00, the true value of the gun. What result? Discuss all issues fairly presented.

IV. (25 minutes - 14 points)

In 1960, Arnold and Elizabeth, husband and wife, owning Blackacre in fee simple as tenants in common, joined in a conveyance of Blackacre in trust "to our son Robert for his life, then to Robert's wife Mary for her life, then to our grandchildren in fee simple who reach the age of twenty-one." In 1965, Arnold died, devising all of his property to his son Robert in fee simple. Arnold was survived by his wife Elizabeth, Robert, Robert's wife Mary, and two grandchildren, Robert, Jr., age 9 and Linda, age 6, Robert, Jr. and Linda being the children of Robert and Mary. In 1968, Mary died survived by Elizabeth, Robert, Robert, Jr. and Linda. In 1969, Robert conveyed all of his "right, title and interest" in Blackacre to ABC Corporation. Two days later, Robert died survived by Elizabeth, Robert, Jr. and Linda. What is the state of the title immediately following the death of Robert? Discuss all issues fairly presented.

V. (35 minutes - 20 points)

Gus Smith owned several unfurnished apartment buildings in downtown Marshall. One of the apartments was leased to Tom Cromwell on January 1, 1970 under a one year lease which was automatically renewable unless two months notice was given by either party before the end of the term. The lease contained an express covenant by Tom to pay rent in stipulated monthly amounts of \$150.00. The apartment that Tom rented was generally in good condition except for the bathroom, where a leaking water pipe had caused several inches of water to form on the bathroom floor. Tom, throughout January and February, 1970, repeatedly requested Gus to repair the pipe, but Gus refused to do so, stating finally "It's your apartment, fix it yourself." Several weeks later, on February 15, 1970, Mabel Shrew, Tom's mother-in-law, slipped and fell while combing her hair in the bathroom and suffered grievous personal injuries. Because of Gus's refusal to repair the leaking pipe and Mabel's serious injuries, Tom failed to pay the rent reserved in the lease for March and April 1970.

The City of Marshall Housing Code provides in relevant part:

"The lessor of a building intended for the occupation of human beings must, in the absence of an agreement to the contrary, put it into a tenantable condition and repair all subsequent dilapidations which render it untenable If within 30 days after a violation of this section has been reported to and certified by the Housing Authority, the lessor has failed to repair, then he shall be subject to prosecution pursuant to Section 19.1-31," (which provides for a fine from \$100 to \$500).

(a) On February 24, 1970 Mabel instituted a suit in the Corporation Court of the City of Marshall to recover \$25,000 from Gus for personal injuries caused by his negligent failure to repair the leaking pipe. What result? Discuss all issues.

(b) On April 12, 1970, after giving the appropriate 5 days notice as required by statute, Gus brings a summary eviction action against Tom for nonpayment of rent. Tom consults you and asks what arguments, if any, you can raise on his behalf as defenses to this action by Gus?

VI. (20 minutes - 11 points)

In 1968, Frank Lawrence, owner of Blackacre, leased it to Jerry Jones for ten years at a rental of \$2,400 per year payable in advance in monthly installments of \$200 each on the first day of each month. The lease provided that Jerry would not assign without the written consent of Frank and that Jerry would keep the premises insured for the benefit of Frank. Several months later, Jerry obtained Frank's written permission to assign the lease to Mike Poor. A year later Mike finding the property no longer useful in his business assigned the lease to Sam Salinas without Frank's knowledge or consent. Sam failed to keep up the insurance. In the meantime Frank sold the reversion to S. Legree. Legree paid the insurance premiums and sued Mike Poor for the amount thereof. Legree also ordered Sam Salinas to get off the premises as soon as he found out about the second assignment.

(a) Is Mike liable for the insurance payments?

(b) Is Sam under a duty to vacate the premises?

Give reasons in each case.

VII. (20 minutes - 11 points)

A devised Blackacre "to X after the death of my son, S." A had no residuary clause in his will, and at the time of his death S, and S's sister, D, were his only heirs. S died a few hours after A died survived by his widow, W, and by his sister, D.

What was the state of the title on A's death? On S's death? Discuss all issues fairly presented.

VIII. (25 minutes - 14 points)

Classify the following interests by identifying what estate, if any, each named individual has received. Explain briefly your reasons for the conclusions you have reached.

(a) X, the owner of Blackacre, conveyed it in 1965 "to A and his heirs so long as it shall be used for religious gatherings and no longer, and if A and his heirs ever cease to use Blackacre for religious gatherings, X or his heirs may re-enter as of X's original estate." In 1970, A built and began operating a saloon on Blackacre. What is the state of the title?

(b) X, the owner of Blackacre, conveyed it in 1970 "To A for life, remainder in fee simple to A's heirs one day after A's death."

(c) X, the owner of Blackacre in fee, devised it in 1965 "To T for life, remainder to T's children in fee who should live to be 21 year of age. When T died in 1970 he left three children, A, B and C all under 21. All the children lived to be 21. What is the state of the title on T's death?

(d) X, the owner of Blackacre in fee, conveyed it in 1970 to A and B as tenants in common for life, remainder to the heirs of A.