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Future Interests: Final Examination (Summer 1959)

William & Mary Law School

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I

In 1950 Grantor deeded Blackacre to his wife, W, "To have and to hold unto the said W during her natural life, with reversion to me in the event that she should die before I do, and, should she survive me, then remainder to my heirs at her death." G died in 1959 survived by W and his only child, S. By his will, executed in 1958, he devised all of his real property to his wife, W. After G's death W conveyed all of her right, title and interest in Blackacre to X. At W's death who is entitled to the fee in Blackacre as between X and S?

II

F devised Blackacre in State B to his son, S, for life, "remainder to such of S's children as he should by will appoint, and in default of appointment, to such person or persons as would, under the laws of State B, inherit the same as the heirs of S if he had died intestate seized in fee, but in no event shall S have the power of disposal of the fee in Blackacre other than to his children." S then deeded all of his right, title and interest in Blackacre to X, not a child of S's. May S effectively appoint the fee in Blackacre to his children by will?

III

In a jurisdiction adhering to the Rule of Destructibility, Farmer devised his farm "to my wife, W, for life, remainder to be shared as tenants in common by such of my daughters as should marry husbands whose primary occupation is farming, or whose husbands should become farmers within one year after my wife's death." F was survived by W and two daughters. D1 married a farmer shortly after F's death, and D2 married a farmer within one year after W's death. What disposition should be made of the farm?

IV

T set forth in his will, "So far as it is within my power to do so I wish to secure for my descendants the availability of a sectarian school of our family faith which they may attend and there receive their educations. I therefore devise Schoolacre to the Trustees of the X School upon the express condition that it shall never admit as students persons of any other religious faith." Fifty years later the Trustees of X School have decided to expand and become non-sectarian. T's family have long since left the community and their whereabouts are unknown. The Trustees have made substantial improvements to the property and seek your advice as to how the School's interest in Blackacre may be affected by the contemplated change. What is your analysis?

V

Father's will established a trust for son, S, under which S was given a life interest in the whole of the trust properties and a testamentary general power to appoint the remainder, and in default of exercise, remainder to daughter, D, S's sister. The trust properties comprised: Delaware residential property, F's domicile at the time of his death; farm property in Virginia; and 500 shares of General Motors common stock. S subsequently moved to the Virginia farm where he was domiciled at the time of his death. Shortly before his death S executed a will, properly testamentary under the laws of both Virginia and Delaware, whereby he bequeathed, "\$5,000 to my sister, D"; "all of my General Motors stock to my wife, W"; and "all the rest and residue of my property of whatsoever kind and wheresoever situated I give, devise and bequeath to my children equally." At the time of making his will and at the time of his death S's personal assets consisted of 100 shares of General Motors preferred stock, worth \$15,000; \$25,000 in cash and other personalty; and no realty. The trust properties are worth: GM common stock, \$50,000; Delaware residence, \$50,000; Virginia farm \$75,000. A Virginia statute provides: "A devise or bequest shall extend to any real or personal estate, as the case may be, which the testator has power to appoint as he may think proper and to which it would apply if the estate were his own property, and shall operate as an execution of such power, unless a contrary intention shall appear by the will." Delaware has no such statute. Assuming that claims and administration expenses are negligible, what dispositions should be made of the appointive properties?