

Chapter 3

Estates and Future Interests

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Student Slides

A. Overview

Estate = Status

Modernizing property

“At common law” . . .

- c. 1100: Right of inheritance
(Only if conveyance uses magic words “and his heirs”)
- 1290: Right to transfer inter vivos
(*Statute Quia Emptores*)
- 1540: Right to devise
(*Statute of Wills*)

“In modern times” . . .

Classification of estates

- Present vs. future
- Freehold vs. nonfreehold
- The numerus clausus principle

Transferability of property

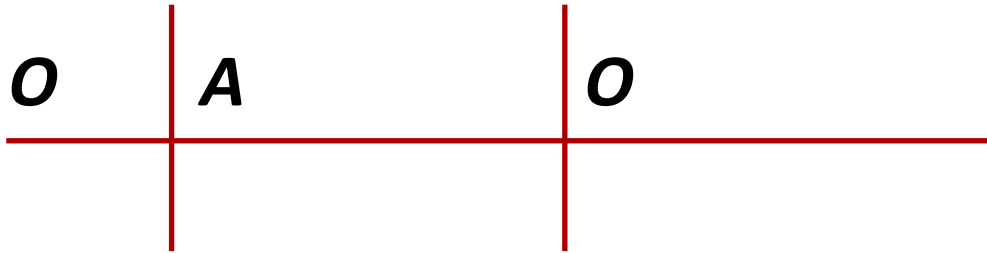
- During life
Inter vivos conveyance
- At death
Devise
Inheritance

B. Present Estates

1. The Basic Categories of Present Estates
2. Defeasible Present Estates

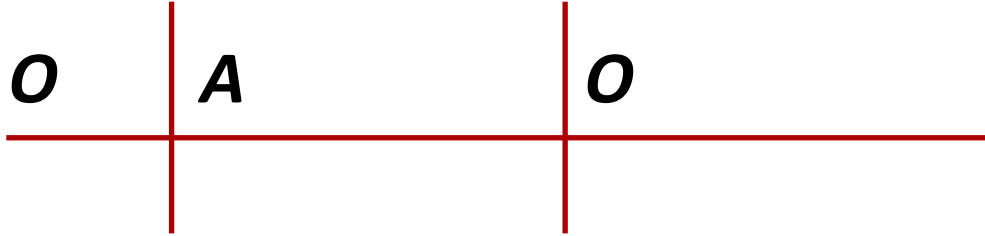
Test Your Understanding (p. 148)

- Problem 1: “To A” [for life?] [forever?]



Test Your Understanding (p. 148)

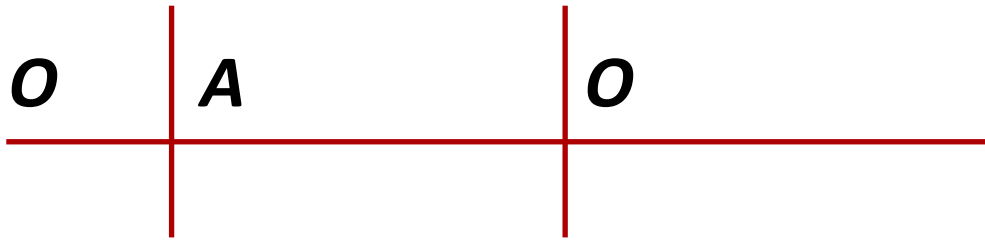
- Problem 2: “To A and her heirs.”



- *Do the heirs have a property interest?*
- *If A wants to sell the property, can her heirs stop the sale?*

Test Your Understanding (p. 148)

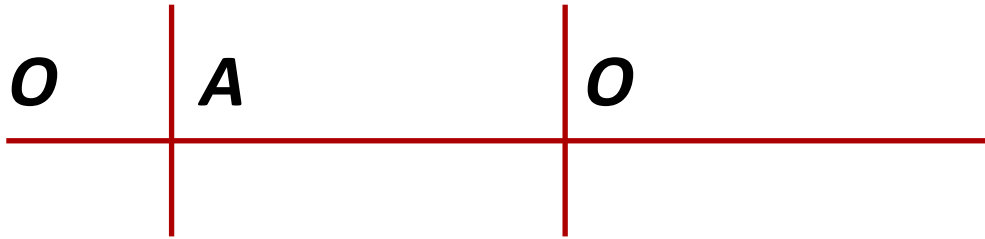
- Problem 3: “To A and the heirs of his body.”



- *What happens if A's bloodline dies out and then O dies?*

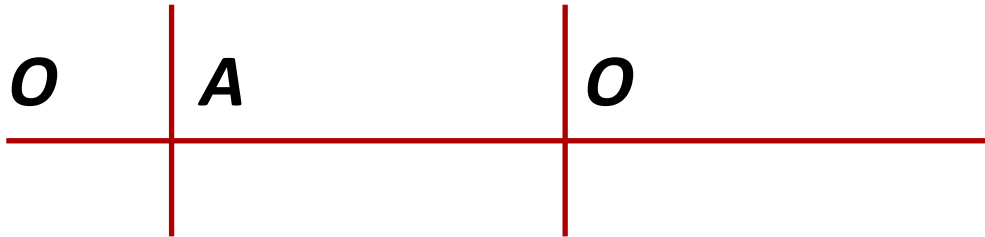
Test Your Understanding (p. 148)

- Problem 4: “To A *to live in*” [surplusage?] [O’s intent?]



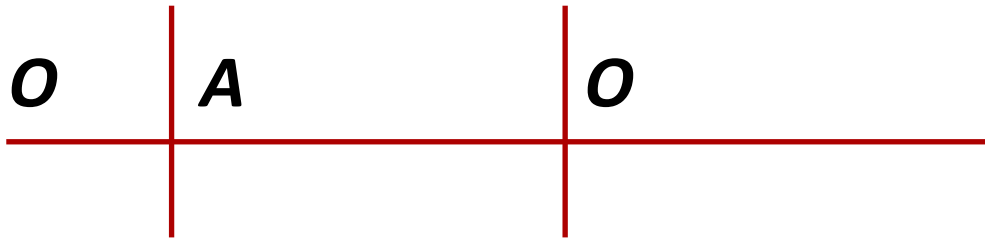
Test Your Understanding (p. 148)

- Problem 5: “To A *forever*” [surplusage?] [O’s intent?]



Test Your Understanding (p. 148)

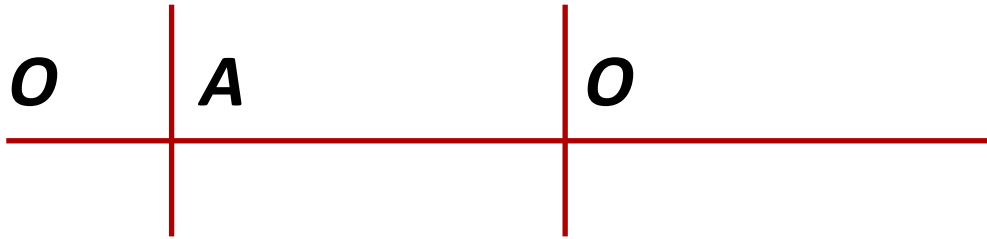
- Problem 6: “To A for the life of X.”



- *What is X's interest?*
- *What happens when X dies?*
- *What if O is also dead?*
- *What happens if A dies before X?*

Test Your Understanding (p. 148)

- Problem 7: “To A for 10 days.”



White v. Brown (p. 148)

- “I wish Evelyn White to have my home . . .
to live in
and *not to be sold.*”
- “I also leave my personal property to Sandra White Perry. My house is not to be sold.”

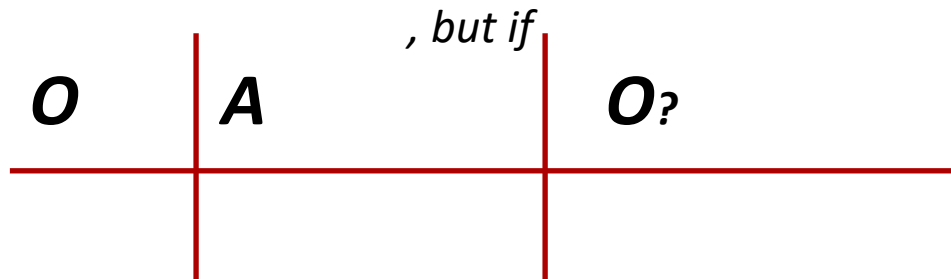
<i>Jessie</i>	<i>Evelyn</i>	<i>Jessie</i>
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B. Present Estates

1. The Basic Categories of Present Estates
2. Defeasible Present Estates
3. A System for Labeling Estates and Future Interests

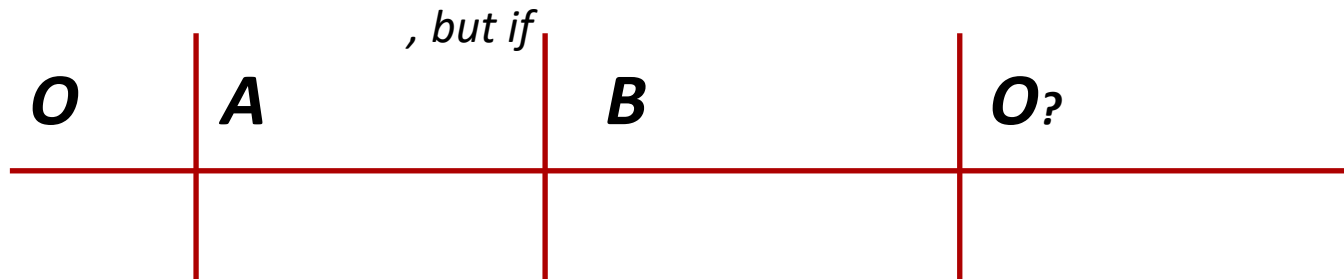
Test Your Understanding (p. 162)

- Problem 1: “To A and her heirs, but if alcohol is ever sold on the premises, then O has the right to re-enter.”



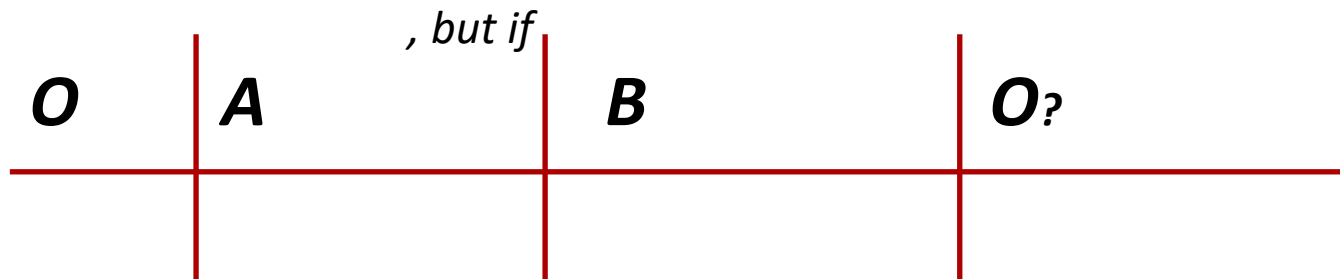
Test Your Understanding (p. 162)

- Problem 2: “To *A* and his heirs, but if *A* dies without issue living at his death, then to *B* and her heirs.”



Test Your Understanding (p. 162)

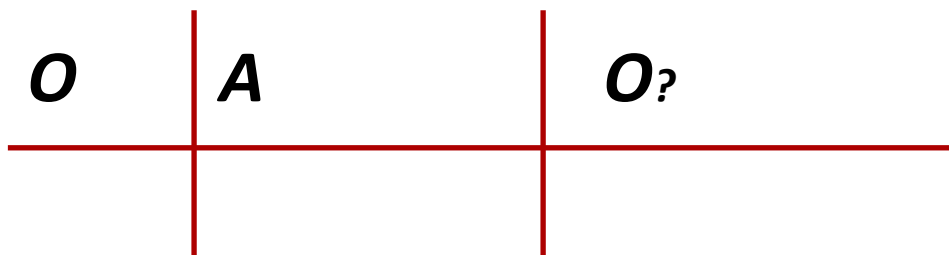
- Problem 3: “To A for life, but if B attains 21 during A’s life, to B upon attaining 21.”



- *Did O retain an interest in the property?*

Test Your Understanding (p. 162)

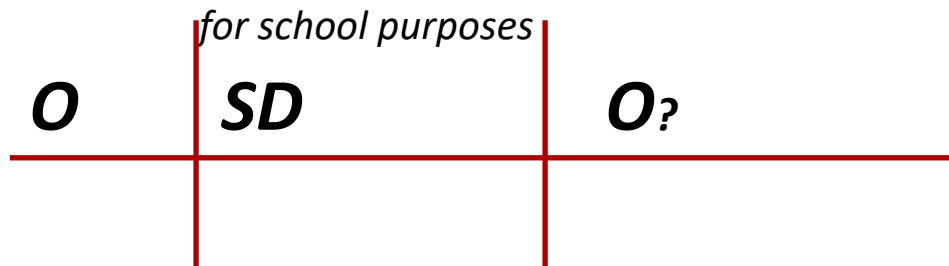
- Problem 4: “To A and her heirs, A’s interest to begin seven years from the date of this deed.”



- *Who holds the present estate?*
- *Does O hold a term of years? Why or why not?*

Test Your Understanding (p. 162)

- Problem 5: “To the local school district for school purposes.”



- “*For school purposes*”: *Words of condition? Words of duration? Something else?*

Test Your Understanding (p. 162)

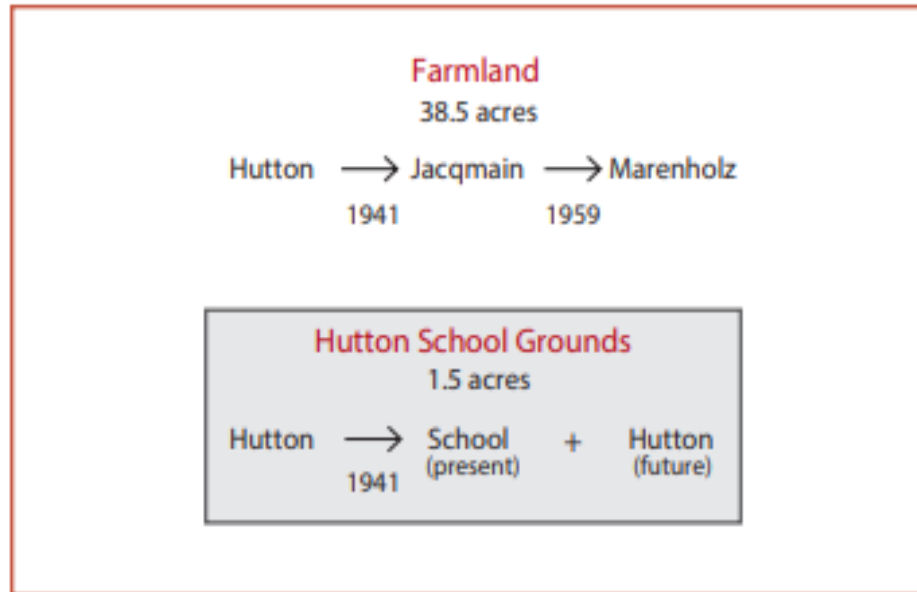
- Problem 6:

“I wish Evelyn White to have my home to live in and not to be sold. . . . My house is not to be sold.”

- *Redraft as FS/CS*
- *Omit restraint on alienation?*

Mahrenholz v. School District

(p. 162)



Plaintiffs' 1st argument (and court's resolution)?

<i>Hutton</i>	<i>School</i>	<i>Hutton → J → Mahrenholz</i>
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Plaintiffs' 2nd argument (and court's resolution)?

<i>Hutton</i>	<i>School</i>	<i>Harry</i>
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