

## CLASS OUTLINE 15 – ANSWERS

### *Problem 1a.*

G has nothing. A has a present possessory estate in fee simple absolute.

### *Problem 1b.*

G has nothing. A has a present possessory estate in fee simple absolute. Note: There is no difference between 1a and 1b under the modern statutory presumption. At common law, in 1a, A would have a life estate and G a reversion.

### *Problem 1c.*

A has a present life estate. G has a reversion in fee simple.

### *Problem 1d.*

D has nothing, neither do his heirs or devisees. A has a present possessory estate in fee simple absolute.

### *Problem 1e.*

A has a present life estate. D has a reversion in fee simple which passes to his heirs or devisees.

### *Problem 1f.*

The only case where there is any difference in result at common law is 1a. The presumption that a conveyance was only for life did not apply at common law to devisees.

### *Problem 1g*

Because all competent drafters use the words ‘and his/her heirs’ or use a statutory form that explicitly says that it conveys a fee simple unless a lesser interest is specified. Hence, there are a number of jurisdictions where the problem has not arisen recently.

*Problem 2.* We didn’t do these in class but here are the answers:

South Carolina (and 2 others):

- (a) Assuming that A never had any issue, the fee reverts to the heirs or devisees of D (6) or passes to B (7).
- (b) A’s heirs or devisees take a fee simple absolute.
- (c) C gets a fee simple absolute.
- (d) C gets a conditional fee, conditioned upon A’s having issue. The estate will revert to D’s heir or devisees (6) or pass to B (7), if A dies without having issue.

Del., Me., Mass., R.I. (for deeds):

- (a) The land reverts to the heirs or devisees of D (6) or passes to B (7).
- (b) The issue take a fee tail limited to the heirs of A’s body.
- (c) and (d) C takes a f.s.a.

Conn., Ohio, R.I. (for wills):

- (a) The land reverts to the heirs or devisees of *D*.
- (b) The issue take a f.s.a.
- (c) and (d) *C* takes a fee tail limited to the heirs of *A*'s body (in effect, but not in form, an estate *pur autre vie*). (Conn. and Ohio have cases so holding; R.I. allows *C* to take a fee simple.)

Six States:

- (a) The land reverts to the heirs or devisees of *D* (6) or passes to *B* (7).
- (b) *A*'s issue take a f.s.a.
- (c) *C* has an estate *pur autre vie*; *A*'s issue a contingent remainder in fee. (Contingent and on there being issue (d) and on their surviving *A* (c and d).)
- (d)

Twenty-five states (f.s.a. half):

- (a) and (b) *A*'s heirs or devisees take a f.s.a.
- (c) and (d) *C* takes a f.s.a.

Twenty-five states (executory interest half):

- (a) *A*'s heirs or devisees take a f.s.a. (6); *B* takes a f.s.a. by way of executory interest (7).
- (b) *A*'s heirs or devisees take a f.s.a.
- (c) *C* takes a fee simple absolute (6); *C* takes a fee simple subject to an executory and interest that will fall in if *A* dies without surviving issue (7).
- (d)

*Problem 3a.*

*A* – present fee simple determinable

*G* – possibility of reverter

*B* – nothing or a possibility of reverter depending on whether the court follows what seems to be the English rule or what seems to be the American rule.

*Problem 3b.*

*A* – present fee simple on a condition subsequent

*G*'s heirs (after his/her death) – right of entry or nothing depending on whether the court follows the rule that an attempt to convey a right of entry destroys it

*B* – nothing.

*Problem 3c.*

*A* – present fee simple determinable (preferable on the language) or fee simple on a condition subsequent if the court indulges in the presumption of *Storke*. If it's a f.s.d. results are the same as 3a. If it's a fee on a condition subsequent, neither *G* nor *B* has anything because a right of entry was not specifically retained, and *A* has a fee simple absolute.