

# MAX ATTACKS™: ULTIMATE PROPERTY REVIEW

## PART I: CONCEPTS

### 1. Identify the Terms.™ Mind the clues.

**ALIENABILITY**  
[Clue: transferring/ selling]

**FEE SIMPLE ABSOLUTE**  
[Clue: forever]

**EQUITY 'IN PERSONAM'**  
[Clue: NOT in rem]

**FEALTY**  
[Clue: oath]

**FEE TAIL**  
[Clue: children]

**STATUTE OF USES, 1536**  
[Clue: executory]

**INCIDENTS OF TENURE**  
[Clue: obligations]

**LIFE ESTATE**  
[Clue: lifetime]

**DUKE OF NORFOLK, 1682**  
[Clue: Rule Against Perpetuities]

**SOCAGE TENURE**  
[Clue: non-military]

**WASTE**  
[Clue: alters property]

**JOINT TENANCY**  
[Clue: equality]

**SUBINFEUDATION**  
[Clue: subletting]

**'THE LAW FAVOURS  
EARLY VESTING'**  
[Clue: grantor's intentions]

**TENANCY IN COMMON**  
[Clue: shares in estate]

**QUIA EMPTORES, 1290**  
[Clue: subinfeudation, alienation]

**EQUITY**  
[Clue: flexibility]

**LEASE**  
[Clue: exclusive possession]

**RELIEF**  
[Clue: inheritance]

**USE**  
[Clue: trust]

**SEISIN**  
[Clue: two requirements]

**WILLS, 1540**  
[Clue: tenants' rights]

**FEOFTEE TO USES**  
[Clue: trusted friend]

**ESTATE FOR YEARS**  
[Clue: i.e. 7 years]

**FREEHOLD ESTATES**  
[Clue: three types]

**CESTUI QUE USE**  
[Clue: beneficiary]

**PERIODIC TENANCY**  
[Clue: i.e. year to year]

TENANCY AT WILL  
[Clue: nothing!]

LEASE ELEMENTS  
[Clue: land interest vs license]

LANDLORD/ TENANT OBLIGATIONS  
[Clue: lease term]

TENANCY AT SUFFERANCE  
[Clue: overstaying]

LEASE ALIENABILITY  
[Clue: subletting, limits]

LEASE TERMINATION  
[Clue: notice]

2. Ad Hoc Material.™ Fill in the blanks.

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WORD BANK: access, reasonable, mineral, lateral support, Magic Carrot©, riparian rights, emblements, fixture, riparian, flooding, trees, middle, middle, bank, water, extract, fish

- The \_\_\_\_\_ describes the principle: ‘Whoever owns the soil holds title all the way up to heavens and down to the depth of hell.’
- Rights to airspace aren’t indefinite; one owns airspace to a certain \_\_\_\_\_ point. Airspace disputes are two-fold: 1. Concern permanent stuff extending into air 2. Weird invasions super high up. Direct and substantial interference is more likely to occur with (CIRCLE DISPUTE)
- Rights below aren’t indefinite. The Crown may have \_\_\_\_\_ rights.
- NEYERS stated that *ad coelum* has three things: 1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_. Thank God we went over that in Torts.
- A \_\_\_\_\_ describes title to personal property subsumed into realty. *Quicquid plantatur solo* means what’s attached to the soil becomes a part of the soil. Observe parties’ intentions.
- Crops, legally called \_\_\_\_\_, aren’t fixtures—they’re temporary in nature. However, \_\_\_\_\_ are usually part of the land because they’re rooted in the land longer! Talk about a tree buster. A neighbour has the right to cut overhanging branches.
- \_\_\_\_\_ ownership extends to the average high-water mark. For non-tidal waterways, riparian rights extend to the river \_\_\_\_\_ which includes the river bed. Where a river flows between two adjacent properties, each owner owns to the river \_\_\_\_\_. In Canada, no one cares about the tidal/ non-tidal distinction.
- People do care about the whole navigable/ non-navigable thing. If a river is non-navigable, ownership extends to the river \_\_\_\_\_.
- Riverbed ownership gives the owner a *profit a piscary*, a right to \_\_\_\_\_.
- Riparian owners don’t own the \_\_\_\_\_! Rights to water use, *usufructuary rights* are: 1. To \_\_\_\_\_ water for ordinary uses and 2. Prevent \_\_\_\_\_.

‘Water, water, I need water!’—Marco Rubio



3. Registration. Burn the four factual combinations into your mind. Then, identify the notice types.

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FACT SCENARIO

Raphael and Marco register *Chevron Inc.*, a company incorporated under the *CBCA*. Their purpose is two-fold: 1. affirm rights 2. affirm valid title. The two don't read the worksheets posted on OWL; they keep on making registration mistakes regarding legal and equitable interests. Help them sort their \*\*\*\* out.

A. Raphael has a legal interest. He registers first; therefore, he is preferred by law. Marco is unsure of his interest. All he knows is that should Raphael sell *Chevron Inc.* to him, he will get nothing thanks to *nemo dat*. Raphael thinks Marco has an equitable interest. Marco insists he has a legal one. Who is correct?

ANSWER: \_\_\_\_\_

B. Raphael actually has an equitable interest in *Chevron Inc.* He forgets that Prime Minister Eminen, who is the Real Slim Shady, previously sold *Chevron Inc.* to Raphael first. Eminen later sold *Chevron Inc.* to Marco for a better deal. Marco is unaware of the first deal. If Marco has a legal interest, who does equity give title to? If Marco has notice of the deal with Raphael, who gets priority?

ANSWER 1: \_\_\_\_\_

ANSWER 2: \_\_\_\_\_

C. Suppose the two are actually in a mental state akin to automatism and completely get the facts wrong. In reality, Raphael gets a legal interest first and Marco gets an equitable interest. Raphael decides to commit a violent general intent offence against Marco's subsequent equitable interest triggering s.33.1 of the *Criminal Code*. Whose interest prevails?

ANSWER: \_\_\_\_\_

D. Both Raphael and Marco have equitable interests in *Chevron Inc.* There's no fraud. The first in time rule is triggered. Raphael gets his interest first. Whose interest is favoured?

ANSWER: \_\_\_\_\_

NOTICE TYPES

- Marco has real knowledge of Raphael's questionable relationship lifestyle choices \_\_\_\_\_
- Marco ought to have known about Raphael's dealings with Russia \_\_\_\_\_
- Agent Diego informed Marco, the principal of *Chevron Inc.*, of the dealings \_\_\_\_\_

WORD BANK: constructive notice, actual notice, imputed notice

4. Hurdle the Uncertainty.<sup>TM</sup> Circle the proper description of deed or title registration system.

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- DEED/ TITLE – Simple and efficient registration benefiting lenders and buyers. Less expensive
- DEED/ TITLE – Creates record of all docs about parcel. Records enter public domain
- DEED/ TITLE – Three types: 1. Race (to register) 2. Notice 3. Race-notice
- DEED/ TITLE – Originates from Australia, based on merchant shipping
- DEED/ TITLE – Aims to minimize reliance on public record

5. Deed registration scenarios. State who gets priority

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FACT SCENARIO

Wayne Gretzky, a talented Canadian hockey player with a lot of money, buys Tim Hortons. He mortgages it to Malcolm X, an American entrepreneur—the deal is unregistered. Gretzky → Malcolm X (unregistered)

Later, Gretzky mortgages with Clifford Sifton, Canada’s Minister of Interior. Due to Sifton’s stature, the deal is registered. Sifton has notice of the prior deal. Gretzky → Sifton (registered)

- A. Under the race system, \_\_\_\_\_ would get priority.
- B. Under the notice system, one must ask: did Sifton have notice of the prior deal? In our situation, \_\_\_\_\_ gets priority.
- C. Under the race-notice system, which is the most common system, priority is given to the party that 1. gets interest without notice 2. registers before. One needs both. If either is missing, the first interest prevails. In our situations, \_\_\_\_\_ gets priority.

6. Easements. Fill in the blanks.

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WORD BANK: profit, different owners, have, do, ownership, grant, accommodation, dominant/ subservient tenement, easement, incorporeal hereditaments, consent

\_\_\_\_\_ are non-physical stuff you own. You must acquire it with \_\_\_\_\_. The term describes interest in land which you can inherit; yet, can’t exclusively possess. The broad category is divided into two parts:

- A. \_\_\_\_\_. This is a right enjoyed by a person over his neighbour’s property with no right of possession. For instance, light in *FONTAINEBLEAU* is an example. An easement has four requirements. First, \_\_\_\_\_. The DT is land gaining the easement benefit; the easement is appurtenant (benefits) to the DT. The ST is land subject to the easement. Second, \_\_\_\_\_. The new land must make land better. Third, \_\_\_\_\_. One can’t own both the DT and ST. Fourth, \_\_\_\_\_. Easements can’t be passed by possession; they must be subject to a grant. One must get consent to have an easement.

Easements have two limitations. First, an easement can’t be a right to \_\_\_\_\_ something done by another. It’s a right to \_\_\_\_\_ something/ not do something. Second, an easement can’t arise to land \_\_\_\_\_. *Copeland* states that a parked car isn’t yours!

- B. \_\_\_\_\_. This describes one’s right to take stuff from a neighbour’s property, such as turf, turkeys, wood, or fish.

INCORPOREAL HEREDITAMENTS

EASEMENT

PROFIT

LIMITATIONS

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

7. Extra information about easements and boundaries. See slides.

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- An easement is a right of use over property of another. An easement is called \_\_\_\_\_ when it benefits the land. For instance, Rudy Giuliani (servient tenant) grants McLachlin J (dominant tenant) right to walk over ST from McLachlin’s party house to Highway 401. McLachlin J’s easement is \_\_\_\_\_ because privilege of crossing Rudy Giuliani’s property benefits her.
- However, an easement will be in \_\_\_\_\_ when it benefits a person. In that case, there is no DT but always a ST.
- Easements can be positive or negative. A positive easement allows McLachlin J (dominant tenant) to DO something to ST—doesn’t include right of removal. A negative easement prevents Rudy Giuliani (servient tenant) from doing something on ST. For instance, Rudy Giuliani can’t build a Statue on ST.
- Easement can be by \_\_\_\_\_: can use land for 21 years.
- Profits may be \_\_\_\_\_ to DT or in gross.
  
- When neighbours can’t determine boundary, use CONVENTIONAL LINE DOCTRINE
  - Land must adjoin, must have dispute, must have agreement, boundary recognition
- *Ad Medium Aqua* Rule
  - Owner of land through which non-tidal stream flows owns \_\_\_\_\_ of stream unless reserved
- ACCRETION Doctrine
  - Where boundary changes gradually, boundary shifts
  - Exception: \_\_\_\_\_ shifts. No changes

8. Match Them Covenants.™

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COVENANT	Reaps promise benefits, person entitled. <i>The world takes a collective sigh of relief</i>
DOMINANT OWNER	Prevents use of land; i.e. can’t keep sheep on land; can’t build Trump Tower Servient owner can comply by <u>doing nothing</u>
SERVIENT OWNER	Subject to burden of covenant
COVENANTOR	Makes promise, person bound. <i>Joy promises to not walk around naked</i>
COVENANTEE	Personal covenants; don’t touch + concern the land
COVENANTS IN GROSS	Enjoys benefit of covenant
NEGATIVE COVENANT	Requires covenantor to <u>do</u> something; i.e. show me the ‘money’
POSITIVE COVENANT	Promise made by landowner to do/ not to do something in relation to land. Not enforceable at CL; restrictive covenants may be enforceable in equity ( <i>TULK</i> )

9. *TULK* skit for memorization. Focus: benefits/ burdens on successors

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T-DOG: Hey, E-Man, I'll sell you ma land bro. You just can't build no buildings on it.

E-MAN: Let's do it!

[*E-MAN suffers a disease of the mind and dies. E-MAN has successor, MOX-R 2000*]

E-MAN: Oh, I am slain!

MOX-R-2000: I? Won't build on the land? No freakin way!

Held: T-DOG wins. It's inequitable to allow MOX-R-2000 to build. Too bad, so sad.

*Takeaways*

- To bind successors, a covenant must: 1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_
- Follow common-sense logic to modify covenants (i.e. have an agreement, own both tenements)

10. Indigenous perspectives. Identify the Terms.<sup>TM</sup>

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ROYAL PROCLAMATION 1763



Affirmed in

TREATY OF NIAGARA 1764

LEGAL TRADITION

LAND TITLE

SUI GENERIS

DELGAMUUKW



Applies

TSILHQOT'IN

DUTY TO CONSULT

FIDUCIARY DUTY

11. Write It Off.™ Complete PART I of the Ultimate Review by writing an essay

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Article 11 of UNDRIP recognizes the rights of Indigenous peoples to maintain and protect their unique cultures. Moreover, the Article further states that states shall provide redress to Indigenous peoples, which may include restitution. To what extent has Canada's gov't embraced the spirit of UNDRIP? Your essay must be nuanced in considering temporal, theoretical, and practical considerations.

PART II: DRILL BABY DRILL

WORDS OF PURCHASE

Identify.

O → A and his heirs

Allan → Beaver and his heirs

Anni → Lucas and his heirs

Matt → Ryan and his heirs

FEE SIMPLE ABSOLUTE

O → A and his heirs

O → A

Julie → Stephen

Maxim → Anna

FEE SIMPLE CONDITION  
SUBSEQUENT

O → A on condition that land is used for Church purposes

Alec → Aiden on condition that land is used for LSD trafficking

Future interest: \_\_\_\_\_  
Held by: \_\_\_\_\_

Joe → Donald on condition that land is used for capturing extremist groups

Future interest: \_\_\_\_\_  
Held by: \_\_\_\_\_

WORDS OF LIMITATION

Identify.

O → A and his heirs

Allan → Beaver and his heirs

Anni → Lucas and his heirs

Matt → Ryan and his heirs

FEE SIMPLE DETERMINABLE

O → A and his heirs so long as land used for Church purposes

Jacob → Gabe and his heirs so long as land used for playing Hockey

Future interest: \_\_\_\_\_  
Held by: \_\_\_\_\_

FEE SIMPLE EXECUTORY  
INTEREST

O → A and his heirs, but if land ceases to be used for Church purposes, then to B and his heirs

Lauren → Elliot and his heirs, but if land ceases to be used for London Hall purposes, then to Sarah and her heirs

Future interest: \_\_\_\_\_  
Held by: \_\_\_\_\_

Connor → Jesse and his heirs, but if land ceases to be used for Handmade Band purposes, then to Maxwell and his heirs

Future interest: \_\_\_\_\_  
Held by: \_\_\_\_\_

FREEHOLD ESTATES:

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

Susie → Bernie and his heirs so long as land used for campaign purposes

Future interest: \_\_\_\_\_  
Held by: \_\_\_\_\_

Paul → Kyle and his heirs so long as land used for BYOB parties

Future interest: \_\_\_\_\_  
Held by: \_\_\_\_\_

FEE TAIL

O → A and heirs of his body

Simon → Tim and heirs of his body

Future interest: \_\_\_\_\_  
Held By: \_\_\_\_\_

David → Zach and heirs of his body

Future interest: \_\_\_\_\_  
Held by: \_\_\_\_\_

Maxim → Dave and heirs of his body

Future interest: \_\_\_\_\_  
Held by: \_\_\_\_\_



LIFE ESTATES

O → A for life  
 O → A for life and then to B

Kyle → Jacob for life

Future interest: \_\_\_\_\_  
 Held by: \_\_\_\_\_

Jenny → Wade for life and then to Andrew

Future interest: \_\_\_\_\_  
 Held by: \_\_\_\_\_

ESTATE FOR YEARS

O → A for period of 10 years  
 O → A for period of 10 years, and then to B

Juan → Diego for period of 10 years, and then to Rodrigo

Future interest: \_\_\_\_\_  
 Held by: \_\_\_\_\_

Lee → Choi for period of 54 years

Future interest: \_\_\_\_\_  
 Held by: \_\_\_\_\_

SCRABBLE

O → A for life.  
 A has a \_\_\_\_\_. O retains a \_\_\_\_\_.  
 A is \_\_\_\_\_.

O → A for life, then to B.  
 A has a \_\_\_\_\_. B has a \_\_\_\_\_.

O → A for life, then to B for life.  
 A has a \_\_\_\_\_. B has a \_\_\_\_\_ which will vest as \_\_\_\_\_ upon A's death. O retains \_\_\_\_\_.

O → A for the life of B.  
 A has a \_\_\_\_\_ that naturally terminates on death of B. O's reversion vests in possession. B takes nothing.

O → A for the life of B, then to C.  
 A has a \_\_\_\_\_ which also naturally terminates on death of B. O has not retained reversion, \_\_\_\_\_ is held by C. C's interest will vest in possession on death of B as \_\_\_\_\_.

RULE IN SHELLEY'S CASE

When deed/ will conveys interest to grantee and future interest to that grantee's heirs, RSC applies. Heir's interest instead goes to grantee. An intermediate interest blocks merger.

O → A for the life, then to A's heirs  
 Interest: \_\_\_\_\_

O → A for the life, then to B for life, then to A's heirs  
 Interest: \_\_\_\_\_

Ann → Bob for life, then to Bob's heirs  
 Interest: \_\_\_\_\_

Ann → Bob for life, then to heirs of Bob's body  
 Interest: \_\_\_\_\_

Ann → Bob for life, then to Cathy for life, then to Bob's heirs  
 Interest: \_\_\_\_\_

Ann → Bob for life, then to Cathy for life, then to Cathy's heirs  
 Interest: \_\_\_\_\_

Ann → Bob for life, remainder to Bob's heirs. It is my intent that RSC doesn't apply.  
 Interest: \_\_\_\_\_

DOCTRINE OF WORTHIER

Grantor's heirs don't acquire interest. Instead, grantor retains interest as reversion.

O → A for the life, then to O's heirs

Ann → Bob for life, then to Ann's heirs  
 Bob has a \_\_\_\_\_. Ann has \_\_\_\_\_ following the life estate, and her heirs will have \_\_\_\_\_.

Ann → Bob for life. Later, Ann conveyed her interest to her heirs following Bob's life estate.  
 Application? YES/ NO

WASTE TYPES

WASTE causes injury/ damage to land. This harms future interests.

1. \_\_\_\_\_  
Failure to act
2. \_\_\_\_\_  
Changes character of property even if beneficial
3. \_\_\_\_\_  
Affirmative axn (cutting timber, depleting mine)
4. \_\_\_\_\_  
Severe form of malicious/ wanton destruction

WASTE TYPES

1. \_\_\_\_\_  
Failure to act
2. \_\_\_\_\_  
Changes character of property even if beneficial
3. \_\_\_\_\_  
Affirmative axn (cutting timber, depleting mine)
4. \_\_\_\_\_  
Severe form of malicious/wanton destruction

REVERTER

A possibility of reverter always follows FSD. Reverter automatically terminates FSD upon breach

O → A so long as property is used as animal shelter  
O has a \_\_\_\_\_. Follows \_\_\_\_\_.

O → A so long as property is used as animal shelter  
O has a \_\_\_\_\_. Follows \_\_\_\_\_.

Ann → Bob and his heirs so long as land is used as farm  
Ann has a \_\_\_\_\_. Follows \_\_\_\_\_.

Julie → Adam and his heirs while land is used for school  
Julie has a \_\_\_\_\_. Follows \_\_\_\_\_.

Jacob → Andrea and her heirs while land is used for hunting  
Jacob has a \_\_\_\_\_. Follows \_\_\_\_\_.

Austin → Connor and his heirs while land is used for rocking out to indie music  
Austin has a \_\_\_\_\_. Follows \_\_\_\_\_.

Kate → Moe so long as land is used for spaceship landings  
Kate has a \_\_\_\_\_. Follows \_\_\_\_\_.

WASTE TYPES

1. \_\_\_\_\_  
Severe form of malicious/wanton destruction
2. \_\_\_\_\_  
Changes character of property even if beneficial
2. \_\_\_\_\_  
Affirmative axn (cutting timber, depleting mine)
4. \_\_\_\_\_  
Failure to act

RIGHT OF RE-ENTRY/  
POWER OF TERMINATION

Follows FS subject to condition subsequent. Right of re-entry must be stated explicitly: **not automatic!**

O → A, but if property is not used as animal shelter, then O may re-enter  
O has a \_\_\_\_\_. Follows \_\_\_\_\_.

Lindsay → Rachel for life, but if liquor is ever sold on land, Lindsay may re-enter and repossess  
Rachel has \_\_\_\_\_. Lindsay has both \_\_\_\_\_ + \_\_\_\_\_.

Sarah → Justin for ten years, but if LSD is ever sold on the land, Sarah may re-enter and repossess  
Justin has \_\_\_\_\_. Sarah has both \_\_\_\_\_ + \_\_\_\_\_.

Kyle → Adrian for seven years, but if cocaine is ever sold on the land, Kyle may re-enter and repossess  
Adrian has \_\_\_\_\_. Kyle has both \_\_\_\_\_ + \_\_\_\_\_.

Is right to re-entry automatic?  
YES/ NO

WASTE TYPES

1. \_\_\_\_\_  
Changes character of property even if beneficial
2. \_\_\_\_\_  
Failure to act
3. \_\_\_\_\_  
Severe form of malicious/wanton destruction
4. \_\_\_\_\_  
Affirmative axn (cutting timber, depleting mine)

REVERSION

Occurs when grantor hasn't conveyed all his interest in land. A contingent remainder is NOT a property interest\*

O → A for life  
O has \_\_\_\_\_ following A's life estate.

Ann → Bob for life, remainder to Cathy.  
Ann doesn't have \_\_\_\_\_. After Bob's life estate terminates, Cathy will have \_\_\_\_\_.

Ann → Bob for life, then to Cathy if she survives Bob, otherwise to Dan.  
Ann has a \_\_\_\_\_ because Cathy and Dan have only \_\_\_\_\_ which aren't property interests.

FUTURE INTERESTS  
CREATED IN GRANTOR:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

INDEFEASIBLY VESTED  
REMAINDER

Created in 1. Ascertainable person 2.  
Not subject to condition precedent.  
Applies to all vested remainders.

O → A for life and then to B  
and his heirs  
B's interest is vested in \_\_\_\_\_,  
NOT vested in possession. During  
A's life, B doesn't hold \_\_\_\_\_. On  
A's death, B is \_\_\_\_\_ of land

Jack → Ann for life, then to  
Bob.  
Bob's remainder will become  
\_\_\_\_\_ after Ann dies + remainder  
will not divest Ann

Kim → Ron for life, then to  
Sheego for life  
Sheego has \_\_\_\_\_.

VESTED REMAINDER  
SUBJECT TO DEFEASANCE

1. Ascertainable person 2. Condition  
can make remainder go, 'Bye-Bye!'

O → A for life, then to B and  
his heirs; but if B dies before  
A, then to C and her heirs  
B has \_\_\_\_\_.

Gillian → Clint for life, then to  
Dave, but if Dave marries, to  
Zabby  
Dave has \_\_\_\_\_. Zabby has  
executory interest.

Jacqui → Rory for life, then to  
Mason if he survives Jacqui  
Mason has \_\_\_\_\_.

Devanie → Ann for life; if Bob  
survives Ann, then to Bob  
Bob has \_\_\_\_\_.

VESTED REMAINDER  
SUBJECT TO OPEN

Remainder given to class of people; at  
least one class member is ascertainable  
+ more can be added

O → A for life, then to A's  
children  
A's children have \_\_\_\_\_. A can  
have more children.

Mark → Matt for life, then to  
Matt's children  
Matt's children have \_\_\_\_\_. Matt  
can have more children.

Rebecca → Erin for life, then to  
Erin's children  
Erin's children have \_\_\_\_\_. Erin can  
have more children.

CONTINGENT REMAINDER

Remainder is **either** 1. Unascertainable  
2. Subject to condition precedent.  
**Either/ or.**

O → A and then to B's heirs

O → A for life, then to B and  
his heirs if B reaches age of 18  
Unknown: \_\_\_\_\_.

O → A for life, then to B and  
his heirs if B reaches the age of  
19, but if B doesn't meet the  
condition at time of A's death  
then to C and his heirs  
Have alternative \_\_\_\_\_ remainders.

Law favours early vesting.

Can't know living person's heirs

Can't have gap in seisin

Hafsah → Ann for life, then to  
Bob if he survives Ann  
Requirement met: \_\_\_\_\_

Sam → Ted for life; if Dale  
survives Ted, then to Dale  
Requirement met: \_\_\_\_\_

Gabe → Sia for life, then to  
Cary if she survives Sia,  
otherwise to Ben  
Sia and Cary have \_\_\_\_\_  
contingent remainders. Contrast with  
vested remainder subject to  
defeasance\*

Anna → Bruno for life, then to  
Arlen's children. Has no kids.  
Arlen's children have \_\_\_\_\_.  
Requirement met: \_\_\_\_\_.  
When Arlen has child, future interest  
becomes vested remainder \_\_\_\_\_.

SPRINGING EXECUTORY  
INTERESTS

Unlike remainders, future interest cuts  
short/ divests interests of grantor.

O → A and his heirs if he  
graduates from Western Law

Keith → Harry when he turns 21  
years

SHIFTING EXECUTORY  
INTERESTS

Future interest cuts short/ divests  
interests of grantee.

O → A and his heirs, but if C  
gets married, then to C and her  
heirs.

Keith → Harry for so long as  
land is used for Star Wars  
battles, then to Bryn.

EQUITY, USES, STATUTE OF USES1290 Statute of *Quia Emptores*

- Tenants must alienate land by substitution, not subinfeudation
- More revenue flows to Crown
- Uses substantially hit Crown's wallet! Less money!
- Crown wants to pass legislation to bring money back

## 1536 Statute of Uses

- Where any person is **seised** of lands to use, confidence or trust of any **other** person or corporation, the later person or corporation shall be deemed in lawful seisin, estate and possession of the lands for the same estate

## 1540 Statute of Wills

- Tenants got will rights
- Land can be devised
- Landowners can get *feoffees* to hold land for uses for their benefit during their life, then as written in will

USES

O → F+G to the use of A and his heirs  
F+G are legal \_\_\_\_\_ to uses. A is \_\_\_\_\_. A holds an equitable FSA.

O → F+G to the use of A for A's life and then to B and his heirs

F+G are legal \_\_\_\_\_ to uses. F+G own legal \_\_\_\_\_. A holds \_\_\_\_\_ life estate. B holds equitable \_\_\_\_\_.

ACTIVE USE EXCEPTION

O → F+G to the use of A and his heirs such that F+G and their heirs shall collect rents and profits for benefit and use of A and his heirs.

F+G have active \_\_\_\_\_ in favour of A. Use not executed by statute. F+G remain legal \_\_\_\_\_. A has \_\_\_\_\_ FSA.

USES

Ariel → Brian and his heirs for the use of Carol and her heirs

Equity compels Brian to put land to Carol's \_\_\_\_.

A → B and his heirs for the use of C for life, and then for the use of D and his heirs if D survives C, or if D does not survive C, then to the use of E and her heirs.

- B has legal \_\_\_\_\_
- C has equitable \_\_\_\_\_
- D has equitable \_\_\_\_\_ remainder in FS
- E has alternative equitable \_\_\_\_\_ remainder in FS
- Without uses, A has equitable \_\_\_\_\_

1536 STATUTE OF USES

Cuts off use + transforms interest of *cestui* into that of legal owner.  
Makes **executory interest** possible.

A → B and his heirs for the use of C and her heirs

- Statute gives seisin to \_\_\_\_\_
- Instead of B having legal FS and C having equitable FS, C has \_\_\_\_\_ FS

A → B and his heirs

- Before Statute, A has legal FS and B has \_\_\_\_\_ FS
- Now, B has \_\_\_\_\_ FS

A → B and his heirs for the use of C for ten years

- A has use for \_\_\_\_\_ following C's ten years

A → B for ten years for the use of C for ten years

- Statute \_\_\_\_\_ apply: B not seised to use of C
- Feoffee, B, must have a freehold estate

BLAST FROM THE RECENT PAST

A → B and his heirs for the use of C for life, and then for the use of D and his heirs if D survives C, or if D does not survive C, then to the use of E and her heirs.

- B has legal \_\_\_\_\_
- C has equitable \_\_\_\_\_
- D has equitable \_\_\_\_\_ remainder in FS
- E has alternative equitable \_\_\_\_\_ remainder in FS
- Without uses, A has equitable \_\_\_\_\_

O → F+G to the use of A for A's life and then to B and his heirs

F+G are legal \_\_\_\_\_ to uses. F+G own legal \_\_\_\_\_. A holds \_\_\_\_\_ life estate. B holds equitable \_\_\_\_\_.

RULE AGAINST PERPETUITIES

No interest is good unless it must vest, if at all, within **21 years** of some life in being at a time of creation of interest

Apply Rule to:

1. \_\_\_\_\_
2. \_\_\_\_\_

Say it again, Stephen:

1. \_\_\_\_\_
2. \_\_\_\_\_

A → B for life, then to B's children who reach 25

- Valid? \_\_\_\_\_
- Why? \_\_\_\_\_

A → grand kids when they reach 21

- Valid? \_\_\_\_\_
- Why? \_\_\_\_\_

A → B for life, remainder to B's children for their lives, and upon death of last of them, remainder to children who are living at time of B's death and their heirs

- Is gift valid when B dies? \_\_\_\_\_
- Why? \_\_\_\_\_
- Example uses \_\_\_\_\_ remainder

A → B for life, remainder to B's children for their lives, and upon the death of last of them, remainder to their children and heirs

- Death of last child may be \_\_\_\_\_ than 21 years after death of all lives
- B may have more children
- Is gift valid? \_\_\_\_\_
- Example uses \_\_\_\_\_ remainder

A → B and his heirs, but if liquor is ever sold, then to C and her heirs

- Is gift valid when B dies? \_\_\_\_\_
- Why? \_\_\_\_\_
- Example uses \_\_\_\_\_ interest

A → B and his heirs once my will is probated

- Is gift valid? \_\_\_\_\_
- Example uses \_\_\_\_\_

A → B for life and then to all his children when they reach 25. B has son who is now 25

- Is gift valid? \_\_\_\_\_
- \_\_\_\_\_ remainder used

O → A and his heirs so long as liquor is not sold on premises

- Does Rule apply? \_\_\_\_\_
- Why? \_\_\_\_\_

O → A and his heirs, but if liquor is ever sold, then to B and her heirs

- B's shifting executory interest valid? \_\_\_\_\_
- Cross out
- O has \_\_\_\_\_

O → A and his heirs so long as liquor is not sold on the premises, *but if it is*, then over to B and his heirs

- Cross out
- O has \_\_\_\_\_

O → Church of A in fee simple so long as the property is used for church purposes, and if it is no longer so used, then over to B

- Cross out
- O has \_\_\_\_\_

O → A for life, then to A's children jointly for their lives

- Children have \_\_\_\_\_ remainder

O → A and his heirs, but if C gets married, then to C and her heirs

- Any issues? \_\_\_\_\_

O → A for life, then to A's children jointly for their lives, then to those of A's grandchildren who are alive at the time of death of A's last surviving child

- A may still have more kids, may live \_\_\_\_\_ 21 years after others die
- Cross out

A → B for life, then to B's widow for her life, then to B's issue then living

- Works? \_\_\_\_\_
- Cross out

A → B 15 years from today if gravel pit still in operation

- Works? \_\_\_\_\_

A → grand children of B who reach 21. B is dead

- Works? \_\_\_\_\_
- Is B alive, works? \_\_\_\_\_

A → my descendants alive at death of X, Y, Z

- X, Y, Z function as measuring lives
- Works? \_\_\_\_\_

'Life in being' is human. Includes one conceived, not born. Doesn't include animals.

MISSION COMPLETED!

CONGRATULATIONS. You will do really well. Have an incredible summer. MB

SPACE FOR END NOTES

